

**EFFECTIVE AS A FINAL ORDER**

DATE: 9/12/18

FILED **BV**

AUG 24 2018

**BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS**

KS State Board of Healing Arts

In the Matter of

Docket No. 19-HA 00016

Neil Pitzer, M.D.  
Kansas License No. 04-36362

**SUMMARY ORDER**

NOW ON THIS 24th day of August 2018, this matter comes before Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A. 77-537.

Pursuant to K.S.A 77-537 and K.S.A. 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within 15 days of service. Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law, and order are made for and on behalf of the Board:

**Findings of Fact**

1. Neil Pitzer, M.D. ("Licensee") was issued License No. 04-36362 on April 4, 2013 and is and has been entitled to engage in the practice of medicine and surgery in Kansas, having last renewed such license on June 28, 2018.
2. Licensee's last known mailing address to the Board is: [REDACTED]  
Silverthorne, Colorado 80435.
3. Licensee's license to practice medicine and surgery in Kansas is currently Active.
4. During all times relevant to the facts set forth in this Summary Order, Licensee held an Active license to practice medicine and surgery in Kansas.

5. On December 20, 2017 and April 18, 2018, the Board requested Licensee to provide proof of compliance with the Kansas Health Care Stabilization Fund (“KHCSF”), as required by K.S.A. 40-3404. The Board included instructions on how to contact KHCSF and warned that a failure to provide proof of compliance may result in a fine or suspension of Licensee’s license to practice medicine and surgery in Kansas.
6. On or about June 28, 2018, Licensee renewed his license online as Active. Licensee’s renewal application stated, “as a condition of providing professional services in Kansas, whether or not physically located in Kansas, each person with an active license must pay the annual surcharge to the Kansas Health Care Stabilization Fund (KHCSF).” (emphasis in original). Licensee was asked, “have you paid the annual surcharge to the KHCSF?” to which he answered “no.”
7. On or about July 23, 2018, a search of the KHCSF showed Licensee was not in compliance.
8. On or about July 26, 2018, a letter was sent to Licensee’s address of record and email providing all the prior correspondence sent to Licensee and giving him a deadline of August 13, 2018 to come into compliance with KHCSF and pay the annual premium charges due.
9. On or about August 9, 2018, Board staff received the mailed July 26, 2018 letter that was sent to Licensee’s address of record back with a label stating: “RETURN TO SENDER INSUFFICIENT ADDRESS UNABLE TO FORWARD.”
10. Licensee has not submitted an address change request form updating the address he provided on his 2018 renewal application.

11. As of August 16, 2018, Licensee had failed to provide the Board proof of compliance with KHCSF as required by K.S.A. 65-2809(c) and has not been compliant with KHCSF since on or before May 9, 2017.

**Applicable Law**

12. Under the Kansas Healing Arts Act, K.S.A. 65-2809(c),

“The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments there to, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.”

13. K.S.A. 40-3402(a) states:

“A policy of professional liability insurance approved by the commissioner and issued by an insurer duly authorized to transact business in this state in which the limit of the insurer’s liability is not less than \$200,000 per claim, subject to not less than a \$600,000 annual aggregate for all claims made during the policy period, shall be maintained in effect by each resident health care provider as a condition of active licensure or other statutory authorization to render professional service as a health care provider in this state, unless such health care provider is a self-insurer. . .”

14. Under K.S.A. 65-2836, a license may be revoked, suspended or limited, or the licensee may be publicly censured or placed under probationary conditions, upon a finding of the existence of any of the following grounds:

(b) The licensee has committed an act of unprofessional or dishonorable conduct . . . as defined in K.S.A. 65-2837, and amendments thereto.

(y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a, and amendments thereto.

(z) The licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404.

15. K.S.A. 65-28,126 states:

(a) It shall be the duty of each licensee to notify the state board of healing arts in writing within 30 days of any changes in the licensee's mailing and practice address.

(b) A penalty in the amount not to exceed \$100 for the first violation of subsection (a) and \$150 for each subsequent violation of subsection (a) may be assessed by the state board of healing arts under the provisions of K.S.A. 65-2863a, and amendments thereto. . .

#### Conclusions of Law

16. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

17. The Board finds that Licensee violated K.S.A. 65-2836(b), in that Licensee has committed unprofessional and/or dishonorable conduct in his failure to meet the requirements for KHCSF compliance in his initial licensure and renewal, as set forth in K.S.A. 65-2809.

18. The Board finds that Licensee violated K.S.A. 65-2836(y), in that Licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto, and further required by K.S.A. 65-2809.

19. The Board finds that Licensee violated K.S.A. 65-2836(z), in that Licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404, and further required by K.S.A. 65-2809.

20. The Board finds that Licensee violated K.S.A. 65-28,126(a), in that Licensee failed to provide the Board in writing within 30 days of any changes in the licensee's mailing and practice addresses.

21. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that

the use of summary proceedings does not violate any provision of law, and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee.

**IT IS HEREBY ORDERED** that Licensee is **INDEFINITELY SUSPENDED** until either Licensee changes his status from Active to Inactive or Exempt, or until such time he obtains and maintains a policy of professional liability insurance as required by K.S.A. 40-3402 and 40-3403a, and provides proof of payment of premium surcharges required under K.S.A. 40-3404.

**IT IS FURTHER HEREBY ORDERED** that Licensee is assessed a **CIVIL FINE** in the amount of \$500.00 for violations of the Kansas Healing Arts Act. Such fine shall be paid to the “Kansas State Board of Healing Arts”, in full, on or before October 15, 2018. All monetary payments, which shall be in the form of check or money order, relating to this Summary Order shall be mailed to the Board certified and addressed to:

Compliance Coordinator  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level – Suite A  
Topeka, Kansas 66612

**PLEASE TAKE NOTICE** that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 24th day of August 2018.

**KANSAS STATE BOARD  
OF HEALING ARTS**

 #23266  
for Kathleen Selzler Lippert  
Executive Director

**NOTICE OF RIGHTS**  
(Pursuant to K.S.A. 77-542)

Licensee is entitled to a hearing pursuant to K.S.A. 77-537 and K.S.A. 77-542 of the Kansas Administrative Procedure Act ("KAPA"). If Licensee desires a hearing, within 15 days from the date of service of this Order, Licensee must file a written request for a hearing with the office of the Executive Director at:

Kathleen Selzler Lippert, Executive Director  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level – Suite A  
Topeka, Kansas 66612

If Licensee requests a hearing, the Kansas State Board of Healing Arts will notify the Licensee of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing before commencement of the same. If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing pursuant to K.S.A. 77-542. Pursuant to K.S.A. 77-613(e), the Executive Director is the agency officer designated to receive service of petition for judicial review on behalf of the agency.

**FINAL ORDER NOTICE OF RIGHTS**

**PLEASE TAKE NOTICE** that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Kathleen Selzler Lippert, Executive Director, Kansas Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true copy of the foregoing **FINAL ORDER** was served this 12 day of September, 2018 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Neil Pitzer, MD  
[REDACTED]  
Silverthorne, CO 80435

And a copy was hand-delivered to:

Susan Gering, Deputy Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

Licensing Administrator  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

Office of the General Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

And the original was filed with the office of the Executive Director.

*Amber Cox*  
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For *Amber Cox* Beth Visocsky, Operations Manager