

**EFFECTIVE AS A
FINAL ORDER**

DATE: 9/3/13

FILED
AUG 19 2013
CAB

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

KS State Board of Healing Arts

In the Matter of)
)
Shawn A Pomeroy, D.C.)
License No. 01-04574)
_____)

Docket Number: 14-HA00020

SUMMARY ORDER

NOW ON THIS 16 day of Aug, 2013, 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. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

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. Shawn A Pomeroy, D.C. ("Licensee"), 6254 E 37th St N #110, Bel Aire, KS 67220, is licensed to practice as a doctor of chiropractic in the State of Kansas, License No. 01-04574, and has been so licensed since October 17, 1998.

2. Pursuant to K.A.R. 100-15-1, Licensee's license to practice as a doctor of chiropractic in the State of Kansas expires on December 31 of each year. On or about December 31, 2012, Licensee submitted an application for licensure renewal.

3. Pursuant to K.S.A. 65-2809 and K.A.R. 100-15-5, each Licensee desiring to renew a license to practice as a doctor of chiropractic shall certify upon renewal the completion of one of the following: (1) A minimum of 50 hours of continuing education, with a minimum of 20 Category I hours and a maximum of 30 Category II hours, earned July 1, 2011 through

December 31, 2012; (2) a minimum of 100 continuing education hours, with a minimum of 40 Category I hours and a maximum of 60 Category II hours, earned July 1, 2010 through December 31, 2012; or (3) a minimum of 150 hours of continuing education, with a minimum of 60 Category I hours and a maximum of 90 Category II hours, earned July 1, 2009 through December 31, 2012.

4. Pursuant to K.A.R. 100-15-6, each Licensee shall maintain documentation of completion of the continuing education requirements for at least four (4) years following the date of certification, and provide proof of satisfactory completion to the Board upon request.

5. Licensee was randomly selected to provide verification of compliance with the continuing education requirements.

6. On or about March 11, 2013, a letter was mailed to Licensee requesting that Licensee provide, no later than April 12, 2013, the records relied upon when Licensee certified completion of the required continuing education.

7. On or about April 17, 2013, Licensee informed the Board that he did not have the required 20 hours of Category I hours. He did submit proof of 30 hours of Category II hours.

8. On or about April 26, 2013, the Board sent a letter informing Licensee that he was short 40 hours of Category I and requested the remaining hours by May 17, 2013.

9. A second notice was sent to Licensee by certified mail on or about April 29, 2013, requesting that Licensee provide, no later than May 17, 2013, the records relied upon when Licensee certified completion of the required continuing education.

10. The certified second notice was signed for by a representative for Licensee on May 2, 2013.

11. On or about May 15, 2013, Licensee submitted 20 hours of continuing education towards the 40 hours that was owed.

12. As part of the renewal process, Licensee certified that the rules regarding the continuing education requirements and the Board's procedures for auditing continuing education compliance had been read. Licensee further certified that the completion of the required hours had been achieved and that documentation of the completed continuing education would be maintained for a four-year period and produced to the Board upon request.

13. By failing to provide documented evidence of completion of the continuing education requirements, Licensee violated K.S.A. 65-2836(k) by violating any lawful order or rule and regulation of the Board, specifically K.A.R. 100-15-5 and K.A.R. 100-15-6.

14. Further, Licensee violated K.S.A. 65-2836(r) by failing to furnish to the Board, or its investigators or representatives, any information legally requested by the Board.

15. In addition to any other penalty prescribed under the Healing Arts Act, K.S.A. 65-2863a authorizes the Board to assess a civil fine in an amount not exceeding \$5,000 for the first violation of the Healing Arts Act.

IT IS, HEREBY ORDERED BY THE KANSAS STATE BOARD OF HEALING ARTS THAT:

16. Licensee is hereby assessed a CIVIL FINE for failure to comply with the Board's legal request for information.

17. Licensee is hereby ordered to pay the assessed CIVIL FINE pursuant to K.S.A. 65-2863a in the amount of **\$500.00**. The total amount of **\$500.00** shall be due on or before September 15, 2013.


18. Licensee shall make all payments payable to the Kansas State Board of Healing Arts and send all payments to the attention of: Licensing Audit Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

19. Licensee shall complete 20 continuing education hours and submit proof of completion to the Board within 90 days following service of this Summary Order.

20. Licensee's license shall be suspended for failure to provide proof of the continuing education requirements and/or payment of the fine within the timeframe specified above.

21. The Board shall maintain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

IT IS SO ORDERED THIS 16 DAY OF Aug, 2013, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts

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, the Kansas Administrative Procedure Act. If Licensee desires a hearing, Licensee must file a written request for a hearing with:

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

This request must be filed within fifteen (15) days from the date of service of this Order. 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. 77-613. In the event Licensee files a petition for judicial review, pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Kansas State Board of Healing Arts is:

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

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 4th day of Sept., 2013 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Shawn A. Pomeroy, D.C.
6254 E. 37th St. N #110
Bel Aire, KS 67220

And a copy was hand-delivered to:

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

Katy Lenahan, Licensing Administrator
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.



Cathy Brown, Executive Assistant