

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

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FILED  
JAN 10 2018  
KS State Board of Healing Arts

In the Matter of )  
Kirk D. Potter, D.O. )  
 )  
Kansas License No. 05-33528 )  
\_\_\_\_\_ )

Docket No. 17-HA00024

**FINAL ORDER TERMINATING SUSPENSION, MODIFYING CONSENT  
ORDER AND REINSTATING LICENSURE**

NOW on this 8<sup>th</sup> day of December 2017, comes before the Kansas State Board of Healing Arts (“Board”) the request of Kirk D. Potter, D.O. (“Licensee”) for termination of the suspension and reinstatement of his license to practice medicine and surgery. Phoenix Anshutz, Associate Litigation Counsel, appears on behalf of the Petitioner Board. Licensee appears in person and with counsel, Patricia Dengler.

Pursuant to the authority granted to the Board, K.S.A. 65-2801 *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, the Board hereby enters this Final Order in the above-captioned matter. After reviewing the agency record, hearing the statements and arguments of the parties, receiving exhibits into evidence, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and orders:

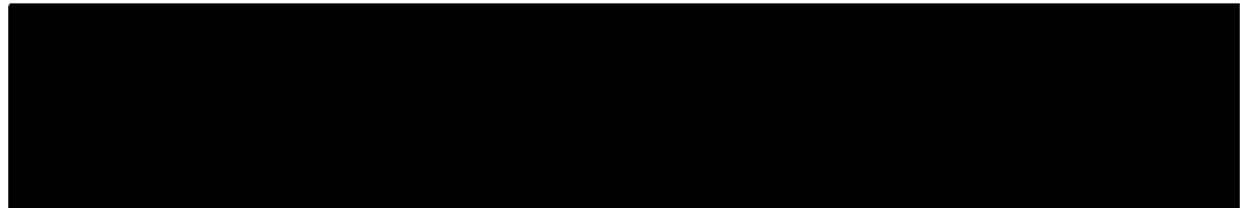
**Findings and Conclusions**

1. Dr. Potter entered into a non-disciplinary Consent Order with the Board on October 13, 2015 to resolve allegations regarding arrests for driving under the influence and [REDACTED]  
[REDACTED]

2.



3.




4.



5. On November 4, 2016, Petitioner filed a Petition for an Ex Parte Emergency Order of Suspension. The Ex Parte Emergency Order was granted, and Dr. Potter's license was emergently suspended.

6. On March 6, 2017, Dr. Potter's emergency suspension on his license was lifted and a Final Order Suspending License was entered on April 18, 2017, which suspended Dr. Potter's license for at least 6 months, effective April 14, 2017. Those findings and conclusions stated in paragraphs 1 through 27 of the April 18, 2017 Final Order Suspending License are incorporated here by reference.

7. On September 8, 2017, Dr. Potter submitted a Motion to Terminate Suspension and Reinstate License with the Board.

8.  from August 14, 2015, through May 30, 2017 showing Dr. Potter was compliant with the Consent

Order [REDACTED]

9. [REDACTED]

10. [REDACTED]

11. [REDACTED]

12. Further evidence was submitted in the form of exhibits attached to the instant motion and supplemental exhibits filed with the Board on October 23, 2017.

13. The response to the instant motion filed by the Board's Litigation Counsel did not oppose the motion. At hearing, the Board's Litigation Counsel did not oppose the motion.

14. After evaluating the above referenced facts and evidence, and after considering the pleadings, statements of counsel, and the agency record, the Board finds that Dr. Potter has met his burden to demonstrate sufficient evidence of rehabilitation to a degree where he is able to practice with reasonable skill and safety and warrant the public trust as a licensed physician. In coming to this finding, the Board has applied and considered the factors set forth in *Vakas v. Kansas Bd. Of Healing Arts*, 248 Kan. 589 (1991).

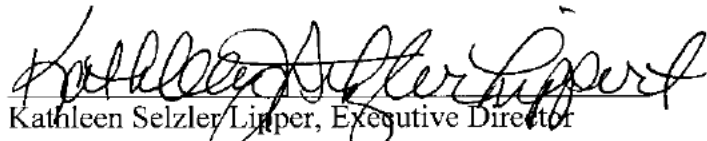
**IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS** that the Motion is granted and Dr. Potter's license is reinstated subject to the following conditions: [REDACTED]

[REDACTED]

**IT IS FURTHER ORDERED** that the Board shall maintain jurisdiction over this matter to issue further order(s) deemed necessary and appropriate in the circumstances.

**IT IS SO ORDERED THIS 10 DAY OF <sup>Jan</sup> ~~DECEMBER~~ 2018, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**

**KANSAS STATE BOARD OF HEALING ARTS**

  
Kathleen Selzler Lipper, Executive Director  
Kansas State Board of Healing Arts

## NOTICE OF RIGHTS

**PLEASE TAKE NOTICE** that this is a Final Order. A Final Order is effective upon service, and service of a Final Order is complete upon mailing. Pursuant to K.S.A. 77-529, Licensee may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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 TERMINATING SUSPENSION, MODIFYING CONSENT ORDER AND REINSTATING LICENSURE** was served this 10<sup>th</sup> day of January, 2018, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

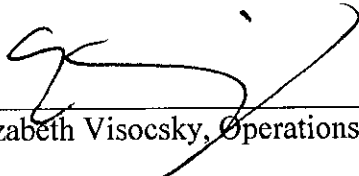
Kirk Potter, D.O.  
217 E. 32<sup>nd</sup> Street  
Hays, Kansas 67601

Patricia M. Dengler  
Gilliland & Hayes, LLC  
1300 Epic Center  
301 N. Main  
Wichita, Kansas 67202  
*Attorney for Licensee*

and a copy was hand-delivered to:

Phoeniz Anshutz, Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612  
*Attorneys for Petitioner*

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

  
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Elizabeth Visocsky, Operations Manager