

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
RICHARD PRESTON, M.D.)
)
Kansas License No. 04-14476)
_____)

Docket No. 13-HA00016

PROPOSED DEFAULT ORDER REVOKING LICENSURE

NOW on this 8th day of February, 2012, comes on for hearing before the Kansas State Board of Healing Arts (“Board”), the Petition for discipline filed against the medical license of Richard C. Preston, M.D. (“Licensee”) by the Petitioner Board. Petitioner appears by and through Seth Brackman, Associate Litigation Counsel. Licensee fails to appear.

Pursuant to the authority granted to the Board by 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 Proposed Default Order Revoking Licensure in the above-captioned matter. Having the agency record before it, and considering the evidence and the statements and arguments of Petitioner, the Board makes the following findings, conclusions and order:

1. Licensee is licensed to practice medicine and surgery in the State of Kansas and presently holds an “exempt” license designation.
2. Licensee’s last know mailing address as provided to the Board is: **Confidential**
Confidential Great Bend, KS 67530.
3. **Confidential**
Confidential

4. Confidential
Confidential

5. A conference hearing Confidential
Confidential was scheduled for October 19, 2012, at which Licensee failed to appear and failed to notify the Board prior to the conference hearing that he would be unable to attend, and was therefore held in default.

6. On or about October 24, 2012, the Board issued a Proposed Default Order Confidential which became effective as final Order on November 5, 2012, for Licensee's failure to file a motion to vacate the Default Order.

7. On or about October 19, 2012, *Ex Parte* Emergency Order of Suspension was issued in this matter by the Presiding Officer which emergently and temporarily suspended the exempt license of Licensee's based on the Board's finding that Licensee's continuation in practice presented an imminent danger to the public health, safety or welfare, due to his inability to practice the healing arts with reasonable skill and safety to patients Confidential
Confidential

8. A conference hearing on the *Ex Parte* Emergency Temporary Suspension was scheduled for December 19, 2012, at which Licensee failed to appear and failed to notify the Board prior to the conference hearing that he would be unable to attend, , and was therefore held in default.

9. On or about January 3, 2013, the Board issued a Proposed Default Order Continuing Emergency Suspension of License and Granting Leave to File Disciplinary Petition.

10. On January 4, 2013, a Petition was filed against Licensee's license seeking disciplinary action.

11. A conference hearing on the Petition was scheduled to take place in this matter on February 8, 2013, and a Notice of Hearing was sent to Licensee's last known mailing address on January 18, 2013.

12. Licensee failed to appear at the conference hearing on February 8, 2013, and failed to notify the Board prior to the conference hearing that he would not be able to attend.

13. Upon review of the evidence during the conference hearing, the Board accepts the facts alleged in the Petition and adopts and incorporates such facts herein by reference.

14. Confidential
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15. Upon review of the evidence during the conference hearing, the Board concludes that Licensee failed to furnish the Board, its investigators or representatives with information legally requested by the Board, Confidential
Confidential

16. Upon review of the evidence during the conference hearing, the Board concludes that Licensee violated a lawful order previously entered by the Board, Confidential
Confidential

17. Upon review of the evidence during the conference hearing on the Petition, the Board finds that the facts do not support a conclusion that Licensee committed fraud or misrepresentation in securing a renewal license in violation of K.S.A. 65-2836(a), based on

Licensee's explanation for his "no" answer to the renewal application question **Confidential**
Confidential

18. The Board concluded that Licensee's failure to appear at the conference hearing scheduled for February 8, 2013, constitutes default pursuant to K.S.A. 77-520.

19. The Board finds the following aggravating circumstances are present in this case: Licensee's failure to cooperate with the Board's request **Confidential** Licensee's failure to comply with a Board order **Confidential** the potential for harm to patients; and the Board's inability to put remedial or protective measures in place **Confidential**
Confidential

20. As a mitigating factor, the Board finds that Licensee has no fault **Confidential** and that **Confidential** may have contributed to the violations found herein. However, the Board concludes that the aggravating factors, most importantly, the need to protect patients, outweighs the mitigating circumstances in this matter.

21. The Board looks to the "Guidelines for the Imposition of Disciplinary Sanctions" for guidance in exercising its discretionary authority to determine the appropriate sanction in this matter. The Board concludes that evaluation of Licensee's conduct under Category 7A of the sanctioning grid, when the aggravating and mitigating factors are considered, supports revocation of Licensee's license.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee is hereby held in DEFAULT pursuant to K.S.A. 77-520.

IT IS FURTHER ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee's license to practice medicine and surgery in the State of Kansas is hereby **REVOKED.**

IT IS SO ORDERED THIS 20th DAY OF FEBRUARY, 2013, IN THE CITY OF
TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

KANSAS STATE BOARD OF HEALING ARTS


Kathleen Selzler Lippert, Executive Director

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Proposed Default Order. This order will become effective as a Final Order of the Board ten calendar days (7 days plus 3 days for mailing) following service of this order, as indicated in the attached Certificate of Service, unless within that ten (10) day period Licensee files a written request to vacate this order and states the grounds relied upon. Any such request shall be sent to the attention of Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612, and must be received by the close of business on the tenth (10th) day.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **PROPOSED DEFAULT ORDER REVOKING LICENSURE** was served this 20th day of February, 2013, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Richard Preston, MD
Confidential
Great Bend, KS 67530

and a copy was hand-delivered to:

Seth Brackman, Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

and the original was filed with the office of:

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



Cathy Brown, Executive Assistant