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

KS State Board of Healing Arts

**In the Matter of**  
**Thomas M. Prose, M.D.**  
  
**Kansas License No. 04-29921**

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**KSBHA Docket No. 15-HA00010**

**FINAL ORDER**

**NOW** on this 11<sup>th</sup> day of December, 2015, the above-captioned matter comes before the Kansas State Board of Healing Arts (“Board”) on Licensee’s Petition for Review of Initial Order. Thomas M. Prose, M.D. (“Respondent”) appears in person, and through counsel, Blake H. Reeves. The Petitioner agency appears through Reese Hays, Litigation Counsel, and Anne Barker Hall, Associate Litigation Counsel. Members of the Board recused from participation in the proceedings were Dr. Durrett, Dr. Laha, and Mr. Macias, as these members served on the Disciplinary Panel.

Pursuant to the authority granted to Board by the Kansas Healing Arts Act, 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.*, specifically K.S.A. 77-527, the Board hereby enters this Final Order in the above-captioned matter. After reviewing the Initial Order, the parties’ briefs, and the agency record in this matter; giving due regard to the presiding officer’s opportunity to observe the witnesses and to determine the credibility of witnesses; hearing the arguments of the parties; and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

**Procedural History**

1. Petitioner filed a three-count Petition requesting disciplinary action against Licensee’s Kansas medical license on July 17, 2014.

2. Formal hearing proceedings were held before a duly appointed Presiding Officer, Sandra L. Sharon, of the Office of Administrative Hearings (“OAH”) on July 8, 2015.

3. On September 30, 2015, the Presiding Officer issued an Initial Order which was filed with the Board on October 1, 2015. The Initial Order imposed a 30-day license suspension, a \$2,499.00 fine, and assessed the costs of the proceedings against Respondent in an amount to be determined under a Statement of Costs to be filed by Petitioner. The Initial Order is attached hereto as Appendix A.

4. On October 2, 2015, Petitioner filed Petitioner’s Statement of Costs requesting that Respondent be assessed \$6,464.35 for the costs of the proceedings.

5. On October 19, 2015, Respondent filed Licensee’s Petition for Judicial Review of Initial Order and Request for Oral Argument (“Petition for Review”). The Petition for Judicial Review alleged that the Initial Order contained erroneous findings of fact and conclusions of law as they relate to Counts I and II of the Petition and, consequently, that the disciplinary sanctions imposed were erroneous.

6. On October 20, 2015, the Board gave notice to the parties that it would hear oral arguments on the Petition for Review and issued a briefing schedule.

7. On December 11, 2015, the Board heard oral arguments from both parties on the Petition for Review.

### **Findings**

8. The Board adopts and incorporates herein by reference Findings of Fact 1, and 3 through 13, made by the Presiding Officer in the Initial Order.

9. The Board declines to adopt Finding of Fact 2, and instead finds that General Medicine is a professional corporation organized in the State of Michigan in approximately 1984 to 1985, to operate as a provider of health care services to post-hospitalist patients. General Medicine has affiliated organizations operating in five states, including Kansas. General Medicine is registered to do business in the State of Kansas as General Medicine of Kansas, P.A.

10. The Board additionally finds that the costs incurred by the Board in the proceedings are shown to be \$6,464.35, as set forth in Petitioner's Statement of Costs and the attached invoices for court reporter services and OAH services. Respondent does not dispute the evidence of the costs incurred in the proceeding.

#### **Applicable Law**

11. The Board adopts and incorporates herein by reference the summary of the applicable law set forth in paragraphs 1 through 3 of the Initial Order.

12. The Board modifies paragraph 4 of the summary of the applicable law to state as follows: In administrative proceedings before the Kansas Board of Healing Arts, unless otherwise preempted by statute or regulation, the burden of proof is a preponderance of the evidence. The Petitioner must show by a preponderance of the evidence that its petition should be granted.

13. K.S.A. 65-2846 provides that costs may be assessed against a licensee if the Board's order is adverse to the licensee.

#### **Discussion**

14. The Board adopts and incorporates herein by reference paragraphs 1 through 5 of the Discussion in the Initial Order.

### **Conclusions of Law**

15. The Board adopts and incorporates herein by reference Conclusions 1 regarding Count I in part and modifies this conclusion in part with respect to the determination that Respondent committed conduct likely to deceive the public on his renewal application in 2009. The Board concludes that the evidence presented was insufficient to demonstrate that Respondent has committed conduct likely to deceive the public on his 2009 renewal application in violation of K.S.A. 65-2836, as further defined by K.S.A. 65-2837(b)(12).

16. The Board adopts and incorporates herein by reference Conclusions 2 regarding Count II in part and modifies this conclusion in part with respect to the determination that Respondent committed conduct likely to deceive the public on his renewal application in 2010. The Board concludes that the evidence presented was insufficient to demonstrate that Respondent has committed conduct likely to deceive the public on his 2010 renewal application in violation of K.S.A. 65-2836, as further defined by K.S.A. 65-2837(b)(12).

17. The Board adopts and incorporates herein by reference Conclusions 3 and 4 regarding Count III.

### **Conclusion**

18. The Board adopts and incorporates herein by reference the Conclusion set forth in the Initial Order, with the exceptions of the two violations of K.S.A. 65-2837(b)(12) discussed above. The Presiding Officer's application of the Board's "Guidelines for the Imposition of Disciplinary Actions" is unaffected by the Board's denial of the two alleged violations of K.S.A. 65-2837(b)(12).

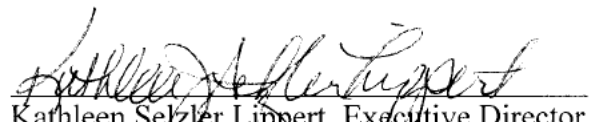
19. The Board further concludes that the decision of the Board in this matter is adverse to Respondent, and that as such, the full amount of the costs of the proceeding should be assessed against Respondent as authorized by K.S.A. 65-2846.

**IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS** that Respondent's license to practice medicine and surgery in Kansas shall be **SUSPENDED** for thirty (30) days from February 1, 2016, through March 1, 2016.

**IT IS FURTHER ORDERED** that Respondent is hereby fined \$2,499.00, due and payable to the Board in full on March 1, 2016. Payment shall be submitted to the attention of: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level, Suite A, Topeka, Kansas 66612.

**IT IS FURTHER ORDERED** that pursuant to K.S.A. 65-2846, the costs of the proceeding are hereby assessed against Respondent in the amount of \$6,464.35, due and payable to the Board in full on March 1, 2016. Payment shall be submitted to the attention of: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level, Suite A, Topeka, Kansas 66612.

**IT IS SO ORDERED THIS 11 DAY OF JANUARY, 2016, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**

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

### **NOTICE OF APPEAL 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 State 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 and correct copy of the above and foregoing **FINAL ORDER** was served this 11<sup>th</sup> day of January, 2016, by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Thomas M. Prose  
**Confidential**  
Novi, Michigan 48375

Blake H. Reeves  
Polsinelli, P.C.  
900 W. 48<sup>th</sup> Place, Ste. 900  
Kansas City, MO 64112

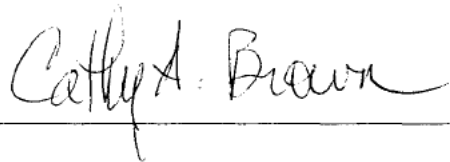
And a copy was delivered to:

Anne Barker Hall, Associate Litigation Counsel  
Reese Hays, Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

Compliance Coordinator  
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.

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

FILED *CAE*  
OCT 01 2015  
KS State Board of Healing Arts

In the Matter )  
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of )  
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THOMAS M. PROSE, M.D., )  
Kansas License No. 04-23708 )  
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Docket No.: 15-HA00010

OAH No.: 15HA0005

**INITIAL ORDER**

NOW on this 8<sup>th</sup> day of July 2015, this matter comes on for formal proceedings upon the Petition filed by the Kansas State Board of Healing Arts (Board or Petitioner) on July 17, 2014. Anne Barker Hall and Reese H. Hays appear for the Board. The respondent, Thomas M. Prose, MD, appears in person and through his attorney, Blake H. Reeves. Sandra L. Sharon was the appointed Administrative Law Judge/presiding officer pursuant to K.S.A. 77-514.

Following the hearing the parties submitted written closing arguments. This case is now ripe for an Initial Order.

**FINDINGS OF FACT**

1. The respondent has been licensed to practice medicine and surgery in the State of Kansas since 2003.
2. The respondent is the President and Senior Medical Director of General Medicine, P.C. (General Medicine). General Medicine is a professional corporation registered in the State of Kansas. It is located in Novi, Michigan.
3. General Medicine provides post-hospital care for individuals, including sub-acute care, rehabilitation, skilled nursing care, long term care, assisted living, and the like.
4. The respondent does not normally provide medical care. He oversees quality of care and is the last person to be contacted in on-call situations. It was Dr. Prose's testimony that he had not submitted a bill for his medical services in 20 years.
5. General Medicine has a management team that addresses areas such as billing, credentialing, clinical care, and recruiting.



6. Dr. Prose filed a license renewal application with the Board of Healing Arts of the State of Kansas on June 12, 2009. On this 2009 renewal application, where asked about the work setting of his practice site, the answer was long term nursing or other facility. When asked, "How many hours of direct patient care do you provide at this work site in a typical week?" The answer was 40. Under Disciplinary Questions it asked:

C. In the past twelve months, has any disciplinary action been initiated or taken against you by a State licensing agency or other State or government agency, or have you surrendered or consented to limitation of license to practice in any State or Country?

Dr. Prose indicated N for no. Further, under Disciplinary Questions, it asked:

G. In the past twelve months, do you know of any investigation by or any allegations, complaints, or charges concerning you made to any licensing agency or State or government agency?

Dr. Prose indicated N for no.

7. Dr. Prose filed a license renewal application with the Board of Healing Arts of the State of Kansas on June 23, 2010. On this 2010 renewal application, where asked about the work setting of his practice site, the answer was long term nursing or other facility. When asked, "How many hours of direct patient care do you provide at this work site in a typical week?" Dr. Prose answered 40. Under Disciplinary Questions it asked:

C. In the past twelve months, has any disciplinary action been initiated or taken against you by a State licensing agency or other State or government agency, or have you surrendered or consented to limitation of license to practice in any State or Country?

Dr. Prose indicated N for no. Further, under Disciplinary Questions, it asked:

G. In the past twelve months, do you know of any investigation by or any allegations, complaints, or charges concerning you made to any licensing agency or State or government agency?

Dr. Prose indicated N for no.

8. Dr. Prose filed a license renewal application with the Board of Healing Arts of the State of Kansas on June 13, 2011. On this 2011 renewal application with the Board, where asked about the work setting of his practice site, the answer was physician partnership or group practice. When asked, "How many hours of direct

patient care do you provide at this work site in a typical week?" Dr. Prose answered 40. Under Disciplinary Questions it asked:

- C. In the past twelve months, has any disciplinary action been initiated or taken against you by any State government agency, or have you been denied a license, had any adverse action taken on your license, surrendered or consented to limitation of your license to practice in any state or country?

Dr. Prose indicated N for no. Further, under Disciplinary Questions, it asked:

- F. In the past twelve months, do you know of any investigation by or any allegations, complaints, or charges concerning you made to any licensing agency or State or government agency?

Dr. Prose indicated N for no.

9. Dr. Prose filed a license renewal application with the Board of Healing Arts of the State of Kansas on May 18, 2012. On this 2012 renewal application with the Board, where asked about the work setting of his practice site, an answer was not provided. Where asked, "How many hours of direct patient care do you provide at this work site in a typical week?" Dr. Prose answered 40. Under Disciplinary Questions it asked:

- C. In the past twelve months, has any disciplinary action been initiated or taken against you by a State licensing agency or other State or government agency, or have you surrendered or consented to limitation of license to practice in any State or Country?

Dr. Prose indicated No. Further, under Disciplinary Questions, it asked:

- F. In the past twelve months, do you know of any investigation by or any allegations, complaints, or charges concerning you made to any licensing agency or State or government agency?

Dr. Prose indicated No.

10. Dr. Prose filed a license renewal application with the Board of Healing Arts of the State of Kansas on June 10, 2013. On this 2013 renewal application with the Board, where asked about the work setting of his practice site, the answer was partnership/group practice office. Where asked, "How many hours of direct patient care do you provide at this work site in a typical week?" Dr. Prose answered 40. Under Disciplinary Questions it asked:

- C. In the past twelve months, has any disciplinary action been initiated or taken against you by a State licensing agency or other State or government agency, or have you surrendered or consented to limitation of license to practice in any State or Country?

Dr. Prose indicated No. Further, under Disciplinary Questions, it asked:

- F. In the past twelve months, do you know of any investigation by or any allegations, complaints, or charges concerning you made to any licensing agency or State or government agency?

Dr. Prose indicated No.

11. On or about August 11, 2009, Dr. Prose and General Medicine entered into an Integrity Agreement with the Office of Inspector General of the Department of Health and Human Services. The agreement became final on September 9, 2009 by signature of Gregory E. Demske, Assistant Inspector General for Legal Affairs.
12. The preamble of the integrity agreement reads in part as follows:

1. PREAMBLE

Thomas Prose (Prose) **and** General Medicine, P.C. (General Medicine) hereby enter into this Integrity Agreement (IA) with the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) to promote compliance with the statutes, regulations, program requirements, and written directives of Medicare, Medicaid, and all other Federal health care programs...This IA applies to Prose, General Medicine, any entity in which Prose has an ownership or control interest at any time during the term of the IA...Contemporaneously with this IA, Prose and General Medicine are entering into a Settlement Agreement with United States. (emphasis added)

13. The Settlement Agreement was in the amount of \$1,100,000.00 and included the five year corporate Integrity Agreement. The agreement settled allegations against the respondent and General Medicine, P.C. for billing Medicare for medical services performed by Nurse Practitioners and Clinical Nurse Specialists as though those services were performed by a physician and for slow refunding, when applicable.

APPLICABLE LAW

1. K.S.A. 65-2836 provides, a licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured or placed under probationary conditions, or an application for a license or for reinstatement of a

license maybe denied upon a finding of the existence of any of the following: (a). The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license. (b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency. (f) The licensee has willfully or repeatedly violated this act,...(r) The licensee has failed to furnish the board, or its investigators or its representatives, any information legally requested by the board. (s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a government agency or department or a professional association or society for act or conduct similar to acts or conduct which would constitute grounds for disciplinary action on under the section.

2. Unprofessional conduct is defined at K.S.A. 65-2837(12) to include conduct likely to deceive, defraud or harm the public.
3. The Kansas State Board of Healing Arts has established Guidelines for the Imposition of Disciplinary Actions. It contains a grid for Category of Offense, Sanctioning Goals, Explanation of Case Types and instructions on how to apply the grid.
4. In administrative tribunals, unless otherwise preempted, the burden of proof is a preponderance of the evidence. The Board must show by a preponderance of the evidence, or just more than fifty percent of the weight of the evidence, that it's Petition should be granted.

### DISCUSSION

1. The respondent's argument is that the Integrity Agreement does not address him personally or as a licensee, but instead is directed to General Medicine with him as the President and Senior Medical Director. The Integrity Agreement is entitled Integrity Agreement between the Office of Inspector General of the Department of Health and Human Services and Thomas Prose **and** General Medicine, P.C. The first sentence of the Preamble of the Integrity Agreement reads, "Thomas Prose (Prose) **and** General Medicine P.C. (General Medicine) hereby enter into this Integrity Agreement (IA) with the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS)..." This language does not address Thomas Prose **as** President of General Medicine. The language is clear. It says "and". "And" is a conjunction used to join two separate items. In this case, it means Thomas Prose and General Medicine. It does not mean Thomas Prose for and on behalf of General Medicine. It does not mean one or the other. The agreement is signed by Thomas Prose on behalf of Thomas Prose and by Thomas Prose on behalf of General Medicine, P.C. Thomas Prose is clearly an independent party to the contract.

2. On Certificates of Compliance signed on October 25, 2010 and October 27, 2011, and submitted to the Office of the Inspector General, Thomas M. Prose, M.D. signs individually and as President and Senior Medical Director for General Medicine, P.C. Again, Thomas Prose is clearly an independent party to the contract.

The respondent argues that the Integrity Agreement he entered into with the Office of the Inspector General is not discipline. Unfortunately, “discipline is not defined by the State of Kansas’ Healing Arts Act.” When a word or phrase is not defined by statute, its common usage is employed. The Merriam-Webster dictionary at [www.merriam-webster.com/dictionary](http://www.merriam-webster.com/dictionary) defines discipline as “control that is gained by requiring that rules or orders be obeyed and punishing bad behavior”. Black’s Law Dictionary defines discipline as, “correction, chastisement, punishment, penalty.”

3. The settlement between the OIG and the respondent and General Medicine includes The Integrity Agreement. The Preamble of this agreement contains the following language: “

“...to promote compliance with the statutes, regulations, program requirements, and written directives of Medicare, Medicaid, and all other Federal health care programs...”

Along with the Integrity Agreement, which identifies and imposes compliance with rules [mainly 42 U.F.C. § 1320a-7b(f)], a \$1,100,000.00 penalty was paid to the Office of the Inspector General. These actions are not remedial. These actions go beyond remedial in that they are designed to require obedience to rules and impose a penalty. The action by the Office of the Inspector General is disciplinary in nature.

4. The respondent’s position that he correctly answered the questions on his renewal application and has not been disciplined is disingenuous. For example, the respondent continued to claim that the Integrity Agreement did not address him personally. The respondent continued this insistence in light of the fact that the Integrity Agreement clearly and separately identifies him in the title and in the Preamble. He signed the Integrity Agreement once on behalf of himself and a second time on behalf of General Medicine. Further, the respondent signed individually **and** as President of General Medicine on two certifications of compliance. The respondent fails to admit to a fact when it is clear and in front of him. Another example which calls into question the candor of the respondent is, in each of his renewal applications he indicated he saw up to 40 patients per week. However, at hearing, he indicated he had not billed for services that he had personally rendered in more than 20 years. The respondent’s credibility is at issue.

5. The respondent argues that not only must the Board show by a preponderance of the evidence that its petition is correct, but that the evidence must be substantial and competent as outlined in *Lacy v. Kansas Dental Bd.*, 274 Kan.1031, 1037, 58 P.3d 668, 673 (2002). The Integrity Agreement and the renewal applications are relevant and furnish a substantial basis of fact and support, by a preponderance of the evidence, Counts I & II of the Board's petition.

## CONCLUSIONS OF LAW

### Count I

1. As to the respondent's position that he was not obligated to give any answer other than "No" where he was asked on his June 12, 2009 renewal application under disciplinary question C:

C: In the past twelve months, has any disciplinary action been initiated or taken against you by a State licensing agency or other State or government agency, or have you surrendered or consented to limitation of license to practice in any State or Country?

This is correct. The date of the renewal application is June 12, 2009. There was no action taken by the Office of the Inspector General against the respondent at that time.

However, on the 2009 renewal application, disciplinary question G:

G. In the past twelve months, do you know of any investigation by or any allegations, complaints, or charges concerning you made to any licensing agency or State or government agency?

In June 2009, the respondent was well aware of the investigation concerning him and General Medicine. In June 2009, the respondent was aware of the investigation and had been working with the Office of the Inspector General on this matter. The "No" answer given by the respondent is a misrepresentation to secure a renewal of his license and likely to deceive. The Board has shown by a preponderance of the evidence the respondent has violated the State of Kansas' Healing Arts Act at K.S.A. 65-2836 as follows:

- (a) by making a misrepresentation in applying for a renewal license and failing to notify the board of the OIG's investigation regarding him when he submitted his renewal application.
- (b) by committing unprofessional and dishonorable conduct by as defined in K.S.A. 65-2837(b)(12) by likely to deceive the public on his renewal application.

- (r) by failing to furnish the board information legally requested on his renewal application.

### Count II

2. In June 2010, the respondent was well aware of the action taken by the Office of the Inspector General, and that he was under an Integrity Agreement. When the respondent answered No to Disciplinary Question C:

C: In the past twelve months, has any disciplinary action been initiated or taken against you by a State licensing agency or other State or government agency, or have you surrendered or consented to limitation of license to practice in any State or Country?

The respondent's answer was incorrect. This incorrect answer is a misrepresentation made to secure renewal of his license and likely to deceive.

The respondent's 2010 renewal application is dated June 23, 2010. Within 12 months of June 2010, the respondent was well aware of an investigation which occurred during 2009 and lead to the Integrity Agreement of September 2009. When the respondent answered No to Question G under Disciplinary Questions:

G. "In the past twelve months, do you know of any investigation by or any allegations, complaints, or charges concerning you made to any licensing agency or State or government agency?

The respondent's answer was incorrect. The Integrity Agreement was not entered into until September 2009. In the twelve months prior to the June 2010, there was an active investigation concerning him. The Board has shown by a preponderance of the evidence the respondent has violated the State of Kansas' Healing Arts Act at K.S.A. 65-2836 as follows:

- (a) by making a misrepresentation in applying for a renewal license and failing to notify the board of the OIG's investigation regarding him when he submitted his renewal application.
- (b) by committing unprofessional and dishonorable conduct by as defined in K.S.A. 65-2837(b)(12) by likely to deceive the public on his renewal application.
- (f) by willfully or repeatedly intentionally failing to disclose the OIG investigation and/or Integrity Agreement on his renewal application.
- (r) by failing to furnish the board information legally requested on his renewal application.

- (s) by failing to report sanctions or discipline taken against him by a governmental agency, OIG.
- (t) by failing to report the Integrity Agreement with OIG he signed which would constitute grounds for disciplinary action under the Kansas Healing Arts Act.

### Count III

- 3. The respondent filed renewal applications with the Board on June 13, 2011, May 18, 2012 and June 10, 2013. Once again, Under Disciplinary Questions, the respondent indicates that in the past 12 months he has not had any disciplinary action initiated against him by State licensing agency or other State or government agency or that he had not agreed or consented to any limitation of his license. Pursuant to the evidence in record, the respondent correctly answered no. The question specifically asks for any action that may have been initiated within the last twelve months. The action of the OIG is beyond the time frame in the question.
- 4. Further, on the renewal applications filed with the board on June 13, 2011, May 18, 2012, and June 10, 2013 where asked if in the past twelve months if he knows of any investigation , allegations, complaints, or charges concerning him, the respondent correctly answered no. Again, the question specifically asks for any action that may have been initiated within the last twelve months. The initiation of the OIG investigation is beyond the time frame of the question.

### CONCLUSION

Count I of the Board's Petition is affirmed, as discussed above.  
Count II of the Board's Petition is affirmed, as discussed above.  
Count III of the Board's Petition is denied, as discussed above.

The Board's Imposition of Disciplinary Actions (August 2008) outline sanctions in a grid like formation. Section II of the guidelines provides instructions for applying the sanctioning grid to specific circumstances. The Board's position that the category of offense in this matter is 2B is correct. Multiple violations have been shown. This advances the plotting on the grid, one column to the right. Mitigating or aggravating factors are included in the Board's sanctioning process. Multiple instances of perjury are the basis for the board's allegation of aggravating factors. If mitigating or aggravating factors are shown, there is further advancement on the grid one more column to the right.

Perjury is a crime affecting government functions, K.S.A. 21-5903. The board must show that it has secured a conviction under this statute in order to have perjury as an aggravating factor. It has not. Aggravating circumstances have not been shown. This plots the correct discipline at 2B, column four.



Pursuant to the Board's Guidelines for the Imposition of Disciplinary Actions, a 30 day suspension is hereby ordered and a \$2,499.00 fine is imposed against the respondent.

Cost of these proceedings shall be assessed against the respondent pursuant to K.S.A. 65-2846.

**IT IS SO ORDERED.**

APPEAL RIGHTS

Pursuant to K.S.A. 77-527, either party may appeal this initial order. A petition for review must be filed within 15 days from date of this initial order. Failure to timely request review may preclude further judicial review. If neither party requests a review, this initial order becomes final and binding on the 30<sup>th</sup> day following its mailing. Petitions for review shall be mailed or personally delivered to: Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level, Suite A, Topeka, KS 66612.



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Sandra L. Sharon  
Administrative Law Judge/Presiding Officer

CERTIFICATE OF SERVICE

On Sept. 30, 2015, I mailed a copy of this Initial Order to:

Thomas M. Prose, M.D.

**Confidential**

Novi, MI 48375

Blake H. Reeves

Attorney at Law

POLSINELLI

900 W 48TH Place, Suite 900

Kansas City, MO 64112

Kathleen Selzler Lippert, Executive Director

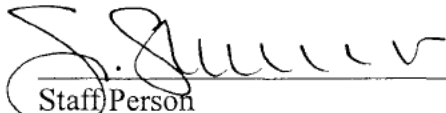
Seth K. Brackman, Associate Litigation Counsel

Anne B. Hall, Associate Litigation Counsel

Kansas Board of Healing Arts

800 SW Jackson, Lower Level – Suite A

Topeka, KS 66612



Staff Person

Office of Administrative Hearings

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Topeka, KS 66612

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