

SEP 12 2017

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
STEVEN L. PUDERBAUGH, D.O.)
)
Kansas License No. 05-23056)
_____)

KSBHA Docket No. 17-HA00065

FINAL ORDER REVOKING LICENSE

NOW on this 10th day of August 2017, comes on for conference hearing before the Kansas State Board of Healing Arts (“Board”) the Petition for Discipline filed against Steven L. Puderbaugh, D.O.’s (“Licensee”) license to practice osteopathic medicine in the State of Kansas. Susan Gering, Deputy Litigation Counsel (“Petitioner”), appears on behalf of the Petitioner Board. Licensee appears in person and through counsel, Tom Theis.

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 Final Order in the above-captioned matter. After reviewing the agency record, hearing the statements and arguments of the parties, receiving evidence, and being otherwise advised in the premises, the Board makes the following findings, conclusions and order:

1. Licensee is or has been entitled to engage in the practice of osteopathic medicine in the State of Kansas, having been issued License No. 05-23056 on approximately December 8, 1989, and having renewed such license from Federal Active to Exempt on October 28, 2016.

2. On or about June 14, 2017, a Petition was filed alleging Dr. Puderbaugh had violated several provisions of the Healing Arts Act K.S.A. 65-2801, *et seq.* The Petition alleged Dr. Puderbaugh violated K.S.A. 65-2836(b), by having engaged in professional and/or dishonorable conduct; K.S.A. 65-2836(c), by having been convicted of a felony offense; K.S.A.

65-2836(e), [REDACTED] K.S.A.

65-2836(i), [REDACTED]

[REDACTED] K.S.A. 65-2836(p), by having prescribed, sold, administered, distributed or given a controlled substances to any person for other than a medically accepted or lawful purpose; K.S.A. 65-2836(u), by having surrendered his authority to utilize controlled substances issued by any state or federal agency; K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), by having committed conduct likely to deceive, defraud or harm the public and K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(23) by having prescribed, dispensed, administered or distributed a prescription drug or substance, including a controlled substance, in an improper or inappropriate manner, or for other than a valid medical purpose, or not in the course of the licensee's professional practice.

3. On or about April 18, 2016, while on a leave of absence from his employment at the VA's St. Joseph Community-Based Outpatient Clinic, Dr. Puderbaugh wrote a prescription for 240 20 mg tabs of oxycodone for Patient 1. On this same date, Patient 1 presented the prescription to a CVS pharmacy.

4. Due to irregularities with the prescription, CVS staff contacted the clinic to speak with Dr. Puderbaugh, but spoke with Dr. Puderbaugh's nurse. CVS was informed that Dr. Puderbaugh was on a leave of absence and that Patient 1 was not in the VA system.

5. Dr. Puderbaugh's nurse contacted him about the prescription. Dr. Puderbaugh informed his nurse that Patient 1 was an old friend of his who was an army veteran who was just out of the military and had not obtained his benefits yet. Further information showed that Patient 1 was not in the VA Medical Center database and had never been seen by Dr. Puderbaugh as a patient.

6. [REDACTED]

7. On or about October 26, 2016, Dr. Puderbaugh surrendered his DEA registration to prescribe scheduled controlled substances.

8. On or about October 28, 2016, Dr. Puderbaugh submitted an application for designation change to the Board for consideration. Dr. Puderbaugh wished to change his license designation from federally active to exempt. Dr. Puderbaugh stated that he wished to continue to engage in professional activities such as consultation, teaching, and treatment of family and friends without compensation.

9. On or about November 10, 2016, Dr. Puderbaugh plead guilty to a Class D Felony of fraudulently attempting to obtain a controlled substance. On or about December 7, 2016, Dr. Puderbaugh was sentenced to probation for a term of three (3) years.

10. [REDACTED]

11. [REDACTED]

12. The Board finds that Dr. Puderbaugh does not dispute the material facts alleged in the Petition [REDACTED] and unauthorized prescribing of controlled substances, or his felony conviction.

13. The Board finds that Dr. Puderbaugh does dispute the allegation that his ability to practice the healing arts with reasonable skill and safety to patients is impaired [REDACTED] [REDACTED] and that he further disputes that he had not been sufficiently rehabilitated to warrant the public trust.

14. Dr. Puderbaugh offers Exhibit 1 to the Board for consideration. No objection to the exhibit is offered by deputy litigation counsel. Exhibit 1 was admitted.

15. The Board concludes that Licensee's acts and conduct constitute a violation of K.S.A. 65-2836(c).

16. The Board concludes that Licensee's acts and conduct constitute a violation of K.S.A. 65-2836(e).

17. The Board concludes that the evidence presented did not demonstrate that Licensee violated K.S.A. 65-2836(i).

18. The Board concludes that Licensee's acts and conduct constitute a violation of K.S.A. 65-2836(p).

19. The Board concludes that Licensee's acts and conduct constitute a violation of K.S.A. 65-2836(u).

20. The Board concludes that Licensee's acts and conduct constitute a violation of K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12).

21. The Board concludes that Licensee's acts and conduct constitute a violation of K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(23).

22. The Board concludes the evidence presented demonstrated aggravating factors in that Dr. Puderbaugh wrote no less than 12 prescriptions to Patient 1 for other than a medically or lawful purpose, in that Dr. Puderbaugh wrote the prescriptions for Patient 1 for Patient 1 to fill and then give the pills to Dr. Puderbaugh [REDACTED]

23. The Board concludes that the evidence presented demonstrated mitigating factors [REDACTED]

24. As such the Board finds that the weight of the aggravating and mitigating factors cancel each other out.

25. The Board finds that Dr. Puderbaugh's evidence did not rise to the level of clear and convincing evidence that Dr. Puderbaugh has been sufficiently rehabilitated to warrant the public trust.

26. In contemplating the appropriate measure of discipline for Licensee's various violations of the Healing Arts, the Board considers its public protection purpose to be of paramount importance. Punishing Licensee for his actions is also a necessary action due to the severity of his actions.

27. The Board concludes that the appropriate discipline for Dr. Puderbaugh's violation of K.S.A. 65-2836(c), is revocation of his license to practice osteopathic medicine in the State of Kansas.

28. The Board concludes that the appropriate discipline for Dr. Puderbaugh's violation of K.S.A. 65-2836(e), is a 90-day suspension and a fine of \$2500.

29. The Board concludes that the appropriate discipline for Dr. Puderbaugh's violation of K.S.A. 65-2836(p), is a 180-day suspension.

30. The Board concludes that the appropriate discipline for Dr. Puderbaugh's violation of K.S.A. 65-2836(u), is an 89-day suspension.

31. The Board concludes that the appropriate discipline for Dr. Puderbaugh's violation of K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), is a 89-day suspension.

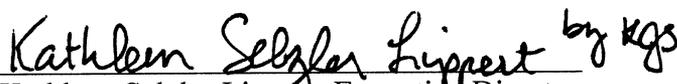
32. The Board concludes that the appropriate discipline for Dr. Puderbaugh's violation of K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(23), is a one-year suspension.

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

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee's license to practice osteopathic medicine is hereby **REVOKED**.

IT IS SO ORDERED THIS 11th DAY OF SEPTEMBER 2017, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

KANSAS STATE BOARD OF HEALING ARTS


Kathleen Selzler Lippert, 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 and correct copy of the above foregoing **FINAL ORDER** was served this 12th day of September 2017 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Steven L. Puderbaugh, DO
[REDACTED]
St. Joseph, MO 64506

Tom Theis
Foulston Siefkin, LLP
534 S. Kansas Ave. #1400
Topeka, KS 66603

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

John Nichols, 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