

**EFFECTIVE AS A
FINAL ORDER**

DATE: 4/22/15

FILED

CND

APR 03 2015

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

KS State Board of Healing Arts

In the Matter of)

KSBHA Docket No. 15-HA 00077

Howard B. Reife, D.P.M.)

Kansas License No. 12-00124)

SUMMARY ORDER

NOW ON THIS 3rd day of April, 2015, 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.

Pursuant to K.S.A 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for hearing is made within fifteen (15) days of service.

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. Howard B. Reife, D.P.M., ("Licensee") was originally issued license number 12-00124 to practice podiatry in the state of Kansas on or about June 18, 1976. Licensee's current license designation is active, and such license was last renewed on or about August 27, 2014.
2. Licensee's last known mailing address to the Board is: 5600 W. 95th Street, Suite 215, Overland Park, Kansas 66207.
3. On or about September 9, 2013, Licensee completed his 2013 Renewal Application with the Board.
4. Licensee answered "Yes" to Disciplinary Question D, which states, "In the past 12 months have any privileges related to your profession as a healthcare provider been suspended,

restricted, limited or voluntarily surrendered or has any peer review or professional association initiated or taken any action against you?"

5. Centers for Medicare & Medicaid Services ("CMS") learned of thirty-five (35) billing errors between March 2008 and December 2011 resulting in an overpayment of Two Hundred Eighty-Three Dollars and Fifty-One Cents (\$283.51).

6. Based upon the billing errors, the Wisconsin Physicians Service Insurance Corporation ("WPS"), a Medicare Administrative Contractor, revoked Licensee's billing privileges effective May 16, 2012.

7. Licensee submitted a Corrective Action Plan, but it was rejected. After the appeals process was completed, the starting date of the revocation was modified to June 17, 2012.

8. Licensee would be eligible for billing privileges beginning June 17, 2014.

9. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board's Disciplinary Panel's Appointed Member. The Disciplinary Panel's Appointed Member authorized and directed the issuance of this Summary Order and the specific disciplinary sanctions.

Applicable Law

10. K.S.A. 65-2006(a) of the Kansas Podiatry Act states in pertinent part:

"The board, upon hearing, may revoke, suspend or limit any license or permit to practice podiatry . . . or may publicly or privately censure a licensee or permittee, if the person holding or applying for such license or permit is found by the board to: . . .

(2) have engaged in unprofessional or dishonorable conduct or professional incompetency."

11. K.S.A. 65-2006(c) applies the definition of unprofessional conduct listed in K.S.A. 65-2837(b) to the Podiatry Act, which defines “unprofessional conduct” as:

“(12) Conduct likely to deceive, defraud or harm the public. . . .

(18) Obtaining any fee by fraud, deceit or misrepresentation.”

Conclusions of Law

12. The Board finds that Licensee violated K.S.A. 65-2006(a)(2), as further defined by K.S.A. 65-2837(b)(12), when Licensee or Licensee’s agent made thirty-five (35) billing mistakes between March 2008 and December 2011 resulting in an overpayment of Two Hundred Eighty-Three Dollars and Fifty-One Cents (\$283.51).
13. The Board finds that Licensee violated K.S.A. 65-2006(a)(2), as further defined by K.S.A. 65-2837(b)(18), by obtaining Two Hundred Eighty-Three Dollars and Fifty-One Cents (\$283.51) when Licensee or Licensee’s agent made thirty-five (35) billing errors between March 2008 and December 2011.
14. The Board finds that the revocation of Licensee’s billing privileges by WPS, on behalf of CMS, for a period of no less than two (2) years is conclusive evidence of Licensee’s aforementioned violations.
15. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
16. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a) in that the use of summary proceedings does not violate any provision of law and the protection of the public interest does not require the Board to give notice and opportunity to participate to person other than Licensee.

17. The actions of a fine and public censure are within the scope of The Board of Healing Arts of the State of Kansas Guidelines for Imposition of Disciplinary Sanctions for the violations set forth above.


IT IS, THEREFORE, ORDERED that Licensee is **FINED** Five Hundred Dollars and Zero Cents (\$500.00) for violating K.S.A. 65-2006(a)(2) of the Kansas Podiatry Act as further defined by K.S.A. 65-2837(b)(12) and K.S.A. 65-2837(b)(18). Such fine shall be paid to the “Kansas State Board of Healing Arts” in full on or before September 1, 2015. All monetary payments, which shall be in the form of cashier’s check or money order, relating to this Summary Order shall be mailed to the Board by certified mail addressed to: Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level, Suite A, Topeka, Kansas 66612.

IT IS FURTHER ORDERED that Licensee is **PUBLICLY CENSURED** for violating K.S.A. 65-2006(a)(2) of the Kansas Podiatry Act as further defined by K.S.A. 65-2837(b)(12) and K.S.A. 65-2837(b)(18).

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 2 day of April, 2015.

KANSAS STATE BOARD OF HEALING ARTS


Kathleen Selzler Lippert,
Executive Director

FINAL ORDER 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 22nd day of April, 2015 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Howard B. Reife, DPM
5600 W. 95th Street, Ste. 215
Overland Park, KS 66207

And a copy was hand-delivered to:

Seth K. Brackman, Associate Litigation 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

Office of the General Counsel
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