

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

In the Matter of)
Leonard A. Rubinstein, M.D.)
) **KSBHA Docket No. 14-HA00042**
Application for Kansas Licensure)
 _____)

FINAL ORDER DENYING LICENSURE

NOW on this 11th day of October, 2013, comes before the Kansas State Board of Healing Arts (“Board”) the application of Leonard A. Rubinstein, M.D. (“Applicant”) for a license to practice medicine and surgery in the State of Kansas. Applicant appears in person and *pro se*. Jessica Bryson, Associate Litigation Counsel, appears on behalf of the Respondent Board.

Pursuant to the authority granted to the 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.*, 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 order:

1. On October 8, 2012, Applicant submitted initial documentation to apply for a license to practice medicine and surgery in the State of Kansas. Applicant’s application was complete and filed with the Board on September 12, 2013.
2. On September 12, 2013, Associate Litigation Counsel filed a Response in Opposition to Application for License to Practice Medicine and Surgery in the State of Kansas (“Response”). The Response asserted there were grounds to deny the application based on Applicant’s disciplinary history with respect to licenses in other states and further alleged that

Applicant failed to report another board's adverse action and committed misrepresentation with respect to his application for licensure in Kansas.

3. Applicant's Florida medical license was revoked on April 8, 2011, on grounds that Applicant failed to keep legible medical records; exercised influence on a patient or client in such a manner as to exploit the patient or client for financial gain; committed medical malpractice; and failed to practice medicine within that level, skill, and treatment which is recognized by reasonably prudent similar physician as being acceptable under similar conditions and circumstances.

4. Applicant appealed the Florida Board of Medicine's Final Order revoking his license. On May 5, 2011, the Second District Court of Appeal for the State of Florida stayed the revocation while the appeal was pending.

5. On September 28, 2012, the Second District Court of Appeal for the State of Florida issued an opinion affirming the Florida Board's April 2011 revocation of Applicant's Florida license.

6. On May 2, 2013, the Florida Board provided certification to the Kansas Board that Applicant's Florida medical license was "revoked."

7. In August of 2013, the Florida Board confirmed to the Kansas Board that Applicant's Florida license was revoked based on the decision from the Second District Court of Appeal for the State of Florida.

8. In January of 2013, Applicant appealed the Second District Court of Appeal's decision to the Florida Supreme Court, and the appeal remains pending. The Florida Supreme Court has not stayed the revocation.

9. Applicant submitted an “Addendum 2” with his application materials which was received by the Board on November 13, 2012, in which Applicant stated that he “holds a totally unrestricted and unencumbered medical license in Florida and is free to practice medicine without restriction.” The “Addendum 2” was received by the Board over a month after the Second District Court of Appeal affirmed the revocation of Applicant’s Florida license.

10. The evidence in the agency record reflects that Applicant’s Florida license was subject to disciplinary action on multiple occasions between 1992 and the revocation in 2011. The underlying violations included improper care of patients, exploitation of patients for financial gain, misrepresentations to patients, and inadequate medical record-keeping.

11. The States of Pennsylvania and New York took reciprocal discipline against Applicant’s licenses in those states based on Florida’s actions. New York revoked Applicant’s medical license in 2005.

12. Applicant’s application for a medical license in the State of Washington was denied by the Washington Medical Quality Assurance Commission on or about July 5, 2013. The basis for the denial of licensure was the revocation of Applicant’s Florida medical license.

13. Applicant did not notify the Kansas Board that his application for a Washington medical license was denied even though Applicant’s application for a license in Kansas was pending at the time of the denial.

14. The Board concludes that the history of disciplinary actions against Applicant’s Florida license, including the 2011 revocation, coupled with the disciplinary actions by New York and Pennsylvania, and license denial by Washington constitute violations of K.S.A. 65-2836(j), in that Applicant has had his medical licenses revoked, suspended, limited, censured,

and has had other disciplinary action taken and a license denied by the proper licensing authorities of other states.

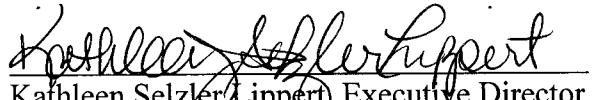
15. The Board concludes that Applicant's statement in "Addendum 2" of his application materials misrepresented to the Board that he had an active, unrestricted license to practice in Florida, when in fact, Florida's revocation of his license was in effect. The Board further concludes that such misrepresentation violated K.S.A. 65-2836(a), in that Applicant attempted to obtain a license by means of fraud or misrepresentation.

16. The Board concludes that Applicant's failure to inform the Board of his license denial by the State of Washington while his Kansas application was pending constitutes a violation of K.S.A. 65-2836(t), in that Applicant failed to report to the Board an adverse action taken against him.

17. The Board concludes that Applicant's disciplinary history alone is sufficiently egregious to warrant denial of licensure. Pursuant to K.S.A. 65-2801, the Board is charged with protecting the public "against unprofessional, improper, unauthorized and unqualified practice of the healing arts . . ." The Florida Board's disciplinary actions against Applicant have all been based on violations which clearly demonstrate Applicant is not fit to hold licensure in Kansas. Applicant's misrepresentation to the Board about the status of his Florida license and failure to report the denial of licensure in Washington are further aggravating factors supporting denial.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Applicant's application for a license to practice medicine and surgery in the State of Kansas is hereby **DENIED**.

IT IS SO ORDERED THIS 31 DAY OF Oct, 2013, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


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 DENYING LICENSURE** was served this 31st day of Oct., 2013 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:


Leonard A. Rubinstein, MD
Confidential
Sarasota, FL 34239

And a copy was hand-delivered to:

Jessica Bryson, 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

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



Cathy Brown, Executive Assistant