

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

FILED *BV*

SEP 17 2018

In the Matter of)
SEYED SAJADI, M.D.)
)
Kansas License No. 04-29143)
_____)

KS State Board of Healing Arts

Docket No. 18-HA00037

FINAL ORDER

On August 14, 2018, the Kansas State Board of Healing Arts ("Board") held the formal hearing on the Petition for discipline filed against the license of Seyed Sajadi, M.D. ("Licensee"). Susan Gering and Todd Hiatt appeared as litigation counsel for the Respondent Board. Licensee appeared in person and by counsel Mark Stafford and Hannah Zimmerman of Forbes Law Group, LLC.

Pursuant to the authority granted to the Board by the Kansas Healing Arts Act, K.S.A. 65-2901, *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 arguments of the parties, and being duly advised in the premises, the Board makes the following findings, conclusions and orders.

FINDINGS OF FACT

1. On or about September 24, 2015, Licensee and the Kansas Board of Healing Arts ("Board") entered into [REDACTED] that resolved Board Investigation Numbers 10-00715; 12-00690; 13-00801; 13-00132; and 14-00575.
2. Board Investigation 12-00690 was based in part on allegations Licensee was using foreign-sourced Botox.
3. [REDACTED] required that Licensee obey all federal, state, and local laws and rules governing the practice of medicine and surgery in the State of Kansas that were in effect on or after September 24, 2015.
4. Licensee agreed that nothing [REDACTED] would prohibit the Board from investigating or initiating formal proceedings based on alleged violations of the Kansas Healing Arts Act - whether such alleged violations were known or unknown.
5. Licensee further agreed [REDACTED] that, after due written notice and the opportunity to be heard, a failure by Licensee to comply with the terms [REDACTED] would be grounds for the Board to immediately impose any sanctions provided for by law, including suspension or revocation of the Licensee's license to practice medicine in the State of Kansas.

6. On or about September 18, 2017, Licensee was charged in the United States District Court for the District of Kansas under case number 5:17CR40087-001 with Receipt of Misbranded Drugs in Interstate Commerce for Pay. This count alleged violations of 21 U.S.C. 331(c) and 353(b)(4)(A), a class A misdemeanor pursuant to 21 U.S.C. 333(a)(1).
7. On September 28, 2017, Licensee signed a plea agreement wherein he expressly admitted that he received foreign-sourced Botox from at least September of 2014 through December of 2015. On that same date, the plea agreement was accepted by the Court and Licensee was convicted of a class A misdemeanor as charged.
8. On February 21, 2018, the Board filed a petition against Licensee based on Licensee's conviction in *United States v. Sajadi* 5:17CR40G87-KGS, as well as his receipt of foreign-sourced Botox [REDACTED]
9. Specifically, Licensee arranged for foreign-sourced Botox originating in Great Britain to be delivered to his home address in Kansas on the following dates:
 - a. October 10, 2015
 - b. October 18, 2015
 - c. October 24, 2015
 - d. November 1, 2015
 - e. November 8, 2015
 - f. November 15, 2015
 - g. November 22, 2015
 - h. November 26, 2015
 - i. December 11, 2015
 - j. December 13, 2015
10. The foreign-sourced Botox at issue in this matter was manufactured and/or marketed by Allergan, Inc., which has its headquarters in Irvine, California.
11. Neither party presented evidence that the foreign-sourced Botox at issue in this matter had been adulterated.
12. Licensee's used his personal address and credit card rather than his business address to purchase and receive foreign sourced Botox at times relevant here prior to becoming aware of attention from authorities.
13. Licensee switched to a United States distributor after his activities drew the attention of authorities.
14. When questioned by an FDA investigator regarding his activities, Licensee gave innacurate statements that he had an agreement with the Board to stop ordering drugs from Canada and that his purchase of foreign Botox was [REDACTED]

CONCLUSIONS

The Presiding Officer has reviewed the entire agency record and considered the briefs, oral arguments, testimony, and evidence. The conclusions herein are based on the agency record, including but not limited to the testimony and other evidence admitted at the hearing, and the facts, law, and policy described above and below.

The agency record shows Licensee's conduct violated the Kansas Healing Arts Act as follows:

- K.S.A. 65-2836(b), in that Licensee committed an act or acts of unprofessional and/or dishonorable conduct when he committed a class A misdemeanor and when he used foreign-sourced Botox purchased from unauthorized distributor(s) in violation of federal law;
- K.S.A. 65-2836(c), in that Licensee was convicted of a class A misdemeanor;
- K.S.A. 65-2836(s) in that Licensee had sanctions or disciplinary action taken against him by the FDA and the U.S. Government for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

The presiding officer finds that Licensee was fully aware that his actions, which were committed in the course of his practice of the healing arts, were – at minimum – legally questionable. Licensee gave a misleading statement to investigator Blair in regard to his characterization of his agreement with the Board of Healing Arts and the purpose of his purchase of foreign sourced Botox. Licensee used his personal address and credit card in connection with the purchase and receipt of foreign sourced Botox and switched to a United States distributor after his activities drew the attention of authorities. The presiding officer did not find Licensee's explanations of these matters convincing. Based on the presiding officer's opportunity to observe and consider the testimony of the witness at the hearing in the context of the record as a whole, the presiding officer finds the testimony of Licensee to be less than fully credible in regard to his knowledge of the wrongfulness of his conduct.

Based on the presiding officer's opportunity to observe and consider the testimony of the witness at the hearing in the context of the record as a whole, the presiding officer found the testimony of investigator Blair and [REDACTED] Lawler credible.

SANCTIONS

The presiding officer, after considering the agency record, finds the following mitigating and aggravating factors relevant to the analysis of sanctions in this case:

- The presiding officer finds that licensee's knowledge of the wrongfulness of his conduct is an aggravating factor. Licensee was aware that his activities were – at minimum – legally questionable. And, in the face of any such ambiguity, he should have erred on the

side of compliance. Instead, he took steps to evade detection rather than to fully comply with applicable laws and regulations related to his practice of the healing arts.

- The presiding officer finds that Licensee's intent and actions to avoid providing patients with adulterated products is a mitigating factor. Licensee took steps to contact the manufacturer to ensure that the product was not unsafe. In this context, the presiding officer also finds it relevant that there is no evidence of any patient harm in this case.

Based on the agency record and the findings and conclusions described above, the Board concludes that the appropriate sanctions are as described below.

PUBLIC CENSURE

Licensee is **publicly censured** for violating the Kansas Healing Arts Act.

FINE

Licensee is ordered to pay a fine in the amount of **TWO THOUSAND FOUR HUNDRED AND NINETY NINE DOLLARS** (\$2,499.00) for violations of the Kansas Healing Arts Act.

Such fine shall be paid in full, to the Board on or before October 22, 2018. Licensee shall make all payments payable to the "Kansas State Board of Healing Arts" and send all payments to the attention of:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A,
Topeka, Kansas 66612.

IT IS SO ORDERED THIS 17th DAY OF SEPTEMBER 2018, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

Kansas State Board of Healing Arts

/s/ Tucker Poling, #23266, for
Garold O. Minns, M.D.
Presiding Officer

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, Respondent 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 certify that a true copy of the foregoing Order was served this 17th day of September 2018 by depositing the same in the United States Mail, first-class postage prepaid, and emailed, addressed to:

Seyed Sajadi, MD

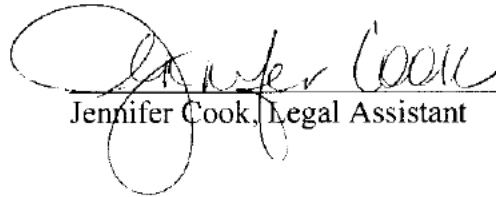
[REDACTED]
Overland Park, KS 66223

Mark Stafford
Hannah Zimmerman
Forbes Law Group, LLC
6900 College Boulevard, Ste. 840
Overland Park, KS 66211
mstafford@forbeslawgroup.com

And copies were hand-delivered to:

Susan R. Gering, Deputy Litigation Counsel
J. Todd Hiatt, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson Lower Level, Ste A
Topeka, KS 66612

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


Jennifer Cook, Legal Assistant