

**EFFECTIVE AS A FINAL ORDER**

DATE: 9/11/18

KS State Board of Healing Ar

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

AUG 22 2018

FILED

BN

In the Matter of

**THEODORE G. SAMPLE, M.D.  
Kansas License No. 04-37122**

Docket No. 19-HA 00015

**SUMMARY ORDER**

NOW ON THIS 21<sup>st</sup> day of August 2018, 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 77-537 and K.S.A. 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within 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. Theodore G. Sample, M.D.'s ("Licensee") last known mailing address to the Board is: [REDACTED]  
[REDACTED] Wildwood, Missouri 63021.
2. Licensee is or has been entitled to engage in the practice of medicine and surgery in Kansas, having been issued License No. 04-37122 on April 1, 2014, and having last renewed such license on June 26, 2018.
3. Licensee's license to practice medicine and surgery in Kansas is currently Active.
4. During all times relevant to the facts set forth in this Summary Order, Licensee held an Active license to practice medicine and surgery in Kansas.

**Summary Order  
Theodore G. Sample, M.D.**

5. On December 20, 2017, and April 18, 2018, the Board requested Licensee to provide proof of compliance with the Kansas Health Care Stabilization Fund (the “Fund”), as required by K.S.A. 40-3404. The Board included instructions on how to contact the Fund and warned that a failure to provide proof of compliance may result in a fine or suspension of Licensee’s license to practice in Kansas.

6. On or about June 26, 2018, Licensee renewed his license online as Active. Licensee’s renewal application stated that “As a condition of providing professional services in Kansas, whether or not physically located in Kansas, each person with an active license must pay the annual surcharge to the Kansas Health Care Stabilization Fund (KHCSF).” (emphasis in original). Licensee was asked “Have you paid the annual surcharge to the KHCSF?” to which he answered yes.

7. On or about July 23, 2018, a search of the KHCSF showed Licensee was not in compliance and had not been since July 1, 2017.

8. On or about July 27, 2018, a letter was sent to Licensee’s address of record and email providing all the prior correspondence sent to Licensee and giving him until August 13, 2018, to come into compliance with KHCSF and pay the annual premium charges due.

9. On or about August 16, 2018, another search of the KHCSF showed Licensee is still not in compliance and has not been since July 1, 2017.

10. As of August 17, 2018, Licensee has failed to provide the Board proof of compliance with the Fund as required by K.S.A. 65-2809(c).

**Applicable Law**

11. Under the Kansas Healing Arts Act:

The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments there to, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto. K.S.A. 65-2809(c).

12. K.S.A. 40-3402(a) states:

A policy of professional liability insurance approved by the commissioner and issued by an insurer duly authorized to transact business in this state in which the limit of the insurer's liability is not less than \$200,000 per claim, subject to not less than a \$600,000 annual aggregate for all claims made during the policy period, shall be maintained in effect by each resident health care provider as a condition of active licensure or other statutory authorization to render professional service as a health care provider in this state, unless such health care provider is a self-insurer. . .

13. Under K.S.A. 65-2836, a license may be revoked, suspended or limited, or the licensee may be publicly censured or placed under probationary conditions, upon a finding of the existence of any of the following grounds:

(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 . . . as defined in K.S.A. 65-2837, and amendments thereto.

(y) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a, and amendments thereto.

(z) The licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404.

#### **Conclusions of Law**

14. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

15. The Board finds Licensee violated K.S.A. 65-2836(a), in that Licensee has committed a misrepresentation on his 2018 renewal application, by stating he had paid the annual KHCSF surcharge, when he had not.

16. The Board finds Licensee violated K.S.A. 65-2836(b), in that Licensee has committed unprofessional and/or dishonorable conduct in his failure to meet the requirements for KHCSF compliance as set forth in K.S.A. 65-2809.

17. The Board finds Licensee violated K.S.A. 65-2836(y), in that Licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3402 or 40-3403a and amendments thereto, and further required by K.S.A. 65-2809.

18. The Board finds Licensee violated K.S.A. 65-2836(z), in that Licensee has failed to pay the premium surcharges as required by K.S.A. 40-3404, and further required by K.S.A. 65-2809.

19. 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 persons other than Licensee.

**IT IS HEREBY ORDERED** that Licensee is **INDEFINITELY SUSPENDED** until either Licensee changes his status from Active to Inactive or Exempt, or until such time he obtains and maintains a policy of professional liability insurance as required by K.S.A. 40-3402 and 40-3403a, and provides proof of payment of premium surcharges required under K.S.A. 40-3404.

**IT IS FURTHER HEREBY ORDERED** that Licensee is assessed a **CIVIL FINE** in the amount of \$500.00 for violations of the Kansas Healing Arts Act. Such fine shall be paid to the


“Kansas State Board of Healing Arts”, in full, on or before October 15, 2018. All monetary payments, which shall be in the form of check or money order, relating to this Summary Order shall be mailed to the Board certified and addressed to:

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

**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 21<sup>st</sup> day of August 2018.

**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 11 day of September, 2018 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Theodore G. Sample, MD

  
Wildwood, MO 63021


And a copy was hand-delivered to:

Courtney E. Manly, Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

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.

  
\_\_\_\_\_  
For Beth Visocsky, Operations Manager  
Amber Cox