

MAY 02 2012

KS State Board of Healing Arts

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

**In the Matter of** )  
**Stephen J. Schneider, D.O.** )  
 )  
**Kansas License No. 05-23385** )  
\_\_\_\_\_ )

**KSBHA Docket No. 06-HA00100  
OAH No. 07HA0001 BHA**

**FINAL ORDER REVOKING LICENSURE**

NOW on this 13th day of April 2012, comes before the Kansas State Board of Healing Arts (“Board”) the matter of Stephen J. Schneider, D.O. (“Licensee”) for review of the Initial Order of the Presiding Officer which was filed on February 29, 2012. Reese Hays, Litigation Counsel, and Brandy Snead, Associate Litigation Counsel, appear on behalf of the Respondent Board. As set forth in the Notice of Intent to Review Initial Order and as requested by Licensee, a teleconference with Licensee is attempted. However, Licensee does not appear.

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 Mr. Hays and Ms. Snead, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

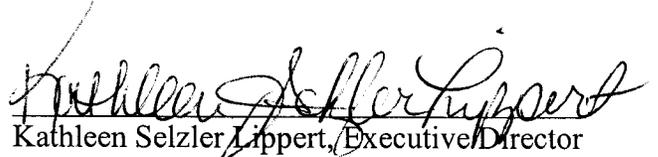
1. Licensee is licensed to engage in the practice of osteopathic medicine and surgery in the State of Kansas, having been issued License No. 05-22385 on approximately July 1, 1988. Licensee’s license was suspended on January 29, 2008, and has remained so during the pendency of this action.

2. On or about February 29, 2012, an Initial Order was filed with the Board revoking Licensee's license to engage in the practice of osteopathic medicine and surgery in the State of Kansas.

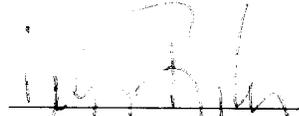
3. The Board accepts, adopts and incorporates herein by reference the Findings, Conclusions and Order contained in the Initial Order in this Final Order Revoking Licensure.

**IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS** that Licensee's license no. 05-22385, to practice osteopathic medicine and surgery in the State of Kansas is hereby REVOKED.

**IT IS SO ORDERED THIS** 2<sup>nd</sup> **DAY OF** May ~~APRIL~~, 2012, **IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**

  
Kathleen Selzler Lippert, Executive Director  
Kansas State Board of Healing Arts

Prepared by:

  
\_\_\_\_\_  
Dan Riley, #15658  
Special General Counsel

**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 and foregoing **FINAL ORDER REVOKING LICENSURE** was served this 2<sup>nd</sup> day of ~~April~~ <sup>May</sup> 2012 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Stephen Schneider, D.O.  
Inmate Register #19941-031  
Forrest City Medium Federal Correctional Institution  
P.O. Box 3000  
Forrest City, AR 72336

And a copy was hand-delivered to:

Reese Hays, Litigation Counsel  
Brandy Snead, 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

FILED CAB

FEB 29 2012

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

KS State Board of Healing Arts

IN THE MATTER OF )  
 )  
STEPHEN J. SCHNEIDER, D.O. )  
Kansas License No. 05-22385 )  
 )

Docket No.: 06-HA00100  
OAH No.: 07HA0001 BHA

\_\_\_\_\_  
Pursuant to K.S.A. Chapter 77

**INITIAL ORDER**

NOW on this 27th day of February, 2012, this matter comes on for hearing upon the motion of the Kansas State Board of Healing Arts (Board or Petitioner) for bifurcation and for summary judgment. The Petitioner appears by and through Reese H. Hays and Brandy O. Snead. Stephen J. Schneider, D.O. (Respondent or Licensee) appears *pro se*.

On or about June 14, 2011, the Petitioner filed a Second Amended Petition alleging ten violations of K.S.A. 65-2836 and K.S.A. 65-2837 and in Count XI, the Petitioner alleges that the Licensee was convicted of a number of felonies in the United States District Court for the District of Kansas.

On January 9, 2012, the Petitioner filed a Motion for Bifurcation and Summary Judgment. The Petitioner moves for summary judgment based upon Count XI of the Second Amended Petition wherein it alleges that the Licensee has felony convictions from the action of the United States District Court for the District of Kansas.

In its motion for bifurcation, the Petitioner argues that it should be allowed to pursue only upon Count XI wherein the Petitioner alleges that the Licensee has been convicted of felonies.

On or about February 6, 2012, the Licensee filed his response to the Petitioner's Motion for Bifurcation and Summary Judgment. The Licensee makes numerous arguments concerning the federal trial and the operations of the Petitioner. Additionally, the Licensee raises numerous questions. The Licensee also argues that the federal court decision is erroneous and that the decision remains under appeal. Additionally, in his conclusion, the Licensee states: "I agree with the Petitioner's [sic] that there is no dispute that I (Respondent) was convicted of a felony and this Board can revoke my license based just on that." The Licensee disputes using the conviction as evidence of substandard care.

The motion for bifurcation is granted. This matter has been pending for quite some time. The Licensee does not dispute that he has felony convictions.

Summary judgment is appropriate if there is no issue of material fact and the moving party is entitled to judgment as a matter of law. *Moon v. City of Lawrence*, 267 Kan. 720, 726 (1999).

Pursuant to K.S.A. 65-256, if a party opposes summary judgment, the opposing party must establish there are disputed material facts and if the opposing party does not establish that there are disputed material facts, then summary judgment should be granted. The Licensee does not establish any disputed material facts.

In light of the above, the statements of fact as set forth in the motion for summary judgment are hereby adopted as follows:

1. On or about December 20, 2007, a Federal grand jury in the United States District Court for the District of Kansas issued an indictment against the Licensee charging: Count 1: conspiracy to unlawfully distribute drugs, commit health care fraud, engage in money-laundering, and defraud the United States in violation of 18 U.S.C. § 371; Counts 2-5: unlawful distribution of drugs resulting in patient deaths in violation of 21 U.S.C. § 841(a)(1); Count 6: illegal distribution of a specific drug, Actiq (fentanyl), to thirty-seven named individuals in violation of 21 U.S.C. § 841(a)(1); Counts 7-9: health-care fraud resulting in the deaths of the three individuals named in Counts 2-4 in violation of 18 U.S.C. § 1347; Counts 10-17: health-care fraud in violation of 18 U.S.C. § 1347; Counts 18-30: money-laundering in violation of 18 U.S.C. § 1957; and Counts 31-34: money-laundering in violation of 18 U.S.C. § 1956.
2. On or about December 17, 2008, the Kansas grand jury issued a second superseding indictment charging: Count 1: conspiracy to unlawfully distribute drugs, commit health care fraud, engage in money-laundering, and defraud the United States in violation of 18 U.S.C. § 371; Counts 2-5: illegal distribution of drugs resulting in patient deaths in violation of 21 U.S.C. § 841(a)(1); Count 6: illegal distribution of a specific drug, Actiq (fentanyl), to thirty-seven named individuals in violation of 21 U.S.C. § 841(a)(1); Counts 7-9: health-care fraud resulting in the deaths of the three individuals named in Counts 2-4 in violation of 18 U.S.C. § 1347; Counts 10-17: health-care fraud in violation of 18 U.S.C. § 1347; and Counts 18-34: money-laundering in violation of 18 U.S.C. § 1957.
3. On or about March 3, 2010, the Kansas grand jury issued a third superseding indictment charging: Count 1: conspiracy to unlawfully distribute drugs, commit health care fraud, engage in money-laundering, and defraud the United States in violation of 18 U.S.C. § 371; Counts 2-5: illegal distribution of drugs resulting in patient deaths in violation of 21 U.S.C. § 841(a)(1); Count 6: illegal distribution of a specific drug, Actiq (fentanyl), to thirty-seven named individuals in violation of 21 U.S.C. § 841(a)(1); Counts 7-17:

health-care fraud in violation of 18 U.S.C. § 1347; and Counts 18-34: money-laundering in violation of 18 U.S.C. § 1957.

4. On or about June 24, 2010, the Licensee was convicted by a federal jury of the following felony counts, directly relating to his practice of osteopathic medicine and surgery:
  - a. One count of conspiracy to commit health care fraud (Count 1)
  - b. Four counts of unlawful distribution of controlled substances resulting in the death of a patient (Counts 2, 3, 4 and 5)
  - c. One count of unlawfully distributing controlled substances (Count 6)
  - d. Three counts of health care fraud resulting in a death (Counts 7, 8 and 9)
  - e. Eight counts of submitting false claims to Medicaid and private insurers (Counts 10, 11, 12, 13, 14, 15, 16 and 17)
  - f. Two counts of money laundering (Counts 26 and 28)
5. On or about October 20, 2010, the Licensee was sentenced in the United States District Court for the District of Kansas to thirty (30) years imprisonment in federal prison.
6. The Licensee has not been sufficiently rehabilitated to warrant the public trust.

#### Conclusions of Law

1. K.S.A. 65-2836(c) provides as follows:

Revocation, suspension, limitation or denial of licenses; censure of licensee; grounds; consent to submit to mental or physical examination or drug screen, or any combination thereof, implied.

A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

- (c) The licensee has been convicted of a felony or class A misdemeanor, whether or not related to the practice of the healing arts. The board shall revoke a licensee's license following conviction of a felony occurring after July 1, 2000, unless a 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee

will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust. In the case of a person who has been convicted of a felony and who applies for an original license or to reinstate a canceled license, the application for a license shall be denied unless a 2/3 majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.

2. There is no dispute that the Licensee has felony convictions. There is no evidence that the Licensee has been sufficiently rehabilitated to warrant the public trust.
3. The Licensee's acts and conduct constitute acts in violation of the Kansas Healing Arts Act as follows: K.S.A. 65-2836(c), in that the Licensee has been convicted of a felony, whether or not related to the practice of the healing arts.
4. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, censure or otherwise limit the Licensee's license for violation of the Healing Arts Act.
5. Additionally, K.S.A. 65-2836(q), which provides for discipline of a licensee, provides as follows:

The licensee has violated a federal law or regulation relating to controlled substances.
6. The Licensee has been convicted of four counts of unlawful distribution of a controlled substance and one count of unlawfully distributing a controlled substance. These violations of federal law also warrant the revocation of the Licensee's license.

#### Conclusion

Kansas License No. 05-22385 issued by the Kansas State Board of Healing Arts to the Licensee is hereby revoked.

**IT IS SO ORDERED.**

Pursuant to K.S.A. 77-527, either party may appeal this initial order. A petition for review must be filed within 15 days from date of this initial order. Failure to timely request review may preclude further judicial review. If neither party requests a review, this initial order becomes final and binding on the 30<sup>th</sup> day following its mailing. Petitions for review shall be mailed or personally delivered to: Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level, Suite A, Topeka, KS 66612.



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Edward J. Gaschler  
Administrative Law Judge/Presiding Officer

CERTIFICATE OF SERVICE

On Feb 27, 2012, I mailed a copy of this Initial Order to:

Stephen J. Schneider, D.O.  
Inmate Register #19941-031  
Forrest City Medium Federal  
Correctional Institution  
P.O. Box 3000  
Forrest City, AR 72336

Kathleen Selzler Lippert, Executive Director  
Reese H. Hays, Litigation Counsel  
Brandy O. Snead, Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level, Suite A  
Topeka, KS 66612



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Staff Person  
Office of Administrative Hearings  
1020 S. Kansas Avenue  
Topeka, KS 66612  
Telephone: 785-296-2433