

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

**FILED**  
MAR 18 2011  
KS State Board of Healing Arts

**In the Matter of** )  
**Paul Joseph Schonbrun, D.O.** )  
 ) Docket No. 11-HA00008  
**Application for Kansas License** )  
\_\_\_\_\_ )

**FINAL ORDER**  
**(Pursuant to K.S.A. 77-501 et seq.)**

**NOW** on this 25<sup>th</sup> day of February 2011, the above-captioned matter comes before the Kansas State Board of Healing Arts (“Board”) on the Board’s own motion to review the Initial Order of the Presiding Officer filed January 10, 2011. Dr. Paul Joseph Schonbrun, D.O. (“Applicant”) appears by and through his counsel of record, Carol R. Bonebrake of Holbrook & Osborn, P.A. Stacy R. Bond, Associate Litigation Counsel, appears for the Respondent Board. Members of the Board serving on the Disciplinary Panel for this matter are recused from participation in the proceedings.

Pursuant to the authority granted to Board by 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 Ms. Bond and Ms. Bonebrake, and being otherwise duly advised in the premises, the Board makes the following findings of fact, conclusions and order:

**I. Findings of Fact**

The Board has been shown the following facts:

1. The Board accepts the Findings of Fact made by the Presiding Officer in the INITIAL ORDER and adopts those Findings of Fact as the Findings of Fact for this FINAL

ORDER. The Findings of Fact in the INITIAL ORDER are incorporated by reference and are part of this FINAL ORDER.

2. In conducting the formal hearing, the Board incurred costs in an amount totaling \$1,797.69 for court reporting and transcription services, \$16.58 for teleconferencing expenses, and Presiding Officer's expenses of \$822.50, for a total cost of \$2,620.19 as contemplated by K.S.A. 65-2846.

## **II. Applicable Law**

- a. K.S.A. 77-501 et seq. – Kansas Administrative Procedure Act
- b. K.S.A. 65-2801 et seq. – Kansas Healing Arts Act
- c. K.S.A. 65-2836 – 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
- d. K.S.A. 65-2846 – Costs of proceedings; assessment of costs incurred

## **III. Policy Statement**

The public policy of regulating the practice of healing arts in the State of Kansas is set forth in K.S.A. 65-2801:

Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

## **IV. Conclusions**

Based upon the Findings of Fact enumerated in Paragraph Nos. 1 through 2, the Applicable Law and the Public Policy Statement set forth above the Board hereby concludes as follows:

3. In reviewing the INITIAL ORDER, the Board has given due regard to the Presiding Officer's opportunity to observe the witnesses and to determine the credibility of the witnesses that testified at the formal hearing.
4. The Board accepts the Presiding Officer's Conclusions of Law in Paragraph Nos. 1 through 11 and adopts the Conclusions of Laws Paragraph Nos. 1 through 11 as stated in the INITIAL ORDER as partial Conclusions for this FINAL ORDER by reference.
5. The Board accepts the Presiding Officer's Conclusions of Law in Paragraph Nos. 12 through 14 in part and modifies the same as set forth below.
6. The Board finds that based on adequate mitigating circumstances articulated in the INITIAL ORDER, Applicant should be granted a license to practice the healing arts in Kansas.
7. The Board further finds that Applicant's past inappropriate actions, previous licensure suspensions in New York and Pennsylvania, and the denial of licensure by Alaska are grounds under the Healing Arts Act to support an order requiring Applicant's licensure in the State of Kansas be subject to disciplinary action in the form of a limitation for a period of at least two (2) years.
8. The Board finds that granting a license to Applicant with disciplinary action in the form of a limitation constitutes action that is adverse to Applicant and that the Board is the prevailing party in this matter. Furthermore, the Board has considered all of the relevant circumstances of this case including the nature of the proceeding and the level of participation of the parties to find Applicant is to be assessed the entire cost of the Formal Hearing incurred by the Board.

**IT IS THEREFORE ORDERED ON THIS DAY, BY THE KANSAS STATE BOARD OF HEALING ARTS:**

9. Applicant's application for a license to practice osteopathic medicine and surgery in the State of Kansas is hereby **GRANTED** subject to disciplinary action in the form of a **LIMITATION** as follows:

**CHAPERONE REQUIREMENT**

- a. For a period of at least two (2) years, Applicant shall not practice medicine and surgery with female patients unless he has a female chaperone present in the room with him at all times when he is examining, treating, or otherwise seeing female patients.
- b. The female chaperone(s) shall be an adult staff person and must be identified and proposed to Board staff by Applicant. Upon such identification of the proposed chaperone(s), the proposed chaperone(s) shall be interviewed by a member of the Litigation staff at the Board. If the parties agree on the acceptance of the chaperone(s), no further order of the Board is necessary for approval. If the parties are unable to agree, a Presiding Officer shall be appointed by the Board to conduct any hearing proceedings necessary to consider approval or disapproval of the proposed chaperone(s).
- c. The approved female chaperone(s) shall be required to personally note her presence in the medical record for each female patient seen by printing and signing her name.
- d. The approved female chaperone shall be required to create and maintain a daily log identifying all patients seen in the office each day, and certifying her presence for all patients seen in the office that day. Such daily logs must be submitted to

the Board on a monthly basis and must be received on or before the 15<sup>th</sup> day of the following month. Applicant is responsible for ensuring that the daily logs are submitted to the Board.

- e. For any period(s) of time that Applicant is not actively practicing the healing arts in Kansas, the chaperone requirements in this Final Order shall be tolled and not be counted in reducing the required timeframe for the same.

### **EDUCATION**

- f. Applicant shall attend and successfully complete the live lecture format “PBI Boundaries Course” at his own expense. Applicant is encouraged to attend this course as soon as possible, but is hereby ordered to provide proof of successful completion to the Board’s Compliance Coordinator no later than November 15, 2011.
  - g. Any continuing education hours from the completion of the course shall be in addition to those hours ordinarily required for renewal of licensure.
10. The above LIMITATION provisions are not self-terminating. After a period of two (2) years, Applicant may request modification or termination of the LIMITATION.

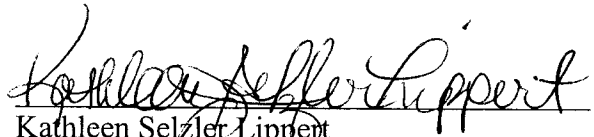
### **COSTS**

11. Applicant is hereby ordered to pay the Board’s incurred COSTS in conducting these proceeding under the Kansas Administrative Procedure Act in the amount of \$2,620.19. The total amount of \$2,620.19 shall be due on or before June 15, 2011.
12. In the alternative, Applicant may make monthly payments of \$218.34 for eleven (11) months with a twelfth (12<sup>th</sup>) and final monthly payment of 218.45 for a total of \$2,620.19 to be paid over twelve (12) months. The initial payment is due on or before

May 15, 2011, with the remainder of the monthly payments due on or before the fifteenth (15<sup>th</sup>) day of each month thereafter.

13. In the event that the Board does not receive a payment due and owing, the total amount of costs still due shall become immediately due and payable in full upon written notice by the Board to Applicant stating that payment has not been received.
14. Applicant 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.
15. The Board shall maintain jurisdiction over this matter to issue any future order(s) deemed necessary and appropriate.

**IT IS SO ORDERED THIS 18 DAY OF March, 2011, 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. 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, the Board's Executive Director, at 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 18<sup>th</sup> day of March, 2011 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Paul Joseph Schonbrun  
confidential  
Woodstock, NY 12498

Carol R. Bonebrake  
Holbrook & Osborn, P.A.  
107 S.W. 6<sup>th</sup> Avenue, Ste. 210  
Topeka, KS 66603

And a copy was hand delivered to the offices of:

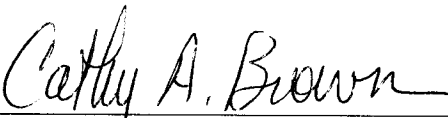
Stacy R. Bond, Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

Katy Lenahan, Licensing Administrator  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

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

The original was filed with the office of:

Kathleen Selzler Lippert, Executive Director  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

  
\_\_\_\_\_  
Cathy Brown  
Executive Assistant