

**EFFECTIVE AS A
FINAL ORDER**

DATE: 7/5/13

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

FILED

CAB

JUN 25 2013

KS State Board of Healing Arts

In the Matter of)
Michael P. Schuster, M.D.)
)
Kansas License No. 04-30505)
_____)

KSBHA Docket No. 13-HA00084

PROPOSED DEFAULT ORDER INDEFINITELY SUSPENDING LICENSE

NOW on this 14th day of June, 2013, comes on for conference hearing before the Kansas State Board of Healing Arts ("Board") the Summary Order issued April 25, 2013, against Michael P. Schuster, M.D. ("Licensee") ordering an indefinite suspension his license to practice medicine and surgery in the State of Kansas. Seth Brackman, Associate Litigation Counsel, appears for the Petitioner Board. Licensee does not appear.

Pursuant to the authority granted to the Board by the Kansas Healing Arts Act, K.S.A. 65-2801, and in accordance with the provisions of the Kansas Administrative Procedure Act K.S.A. 77-501 *et seq.*, the Board hereby enters this Proposed Default Order in the above-captioned matter.

Upon due consideration of the agency record and after hearing the arguments of Board counsel, the Board finds, concludes, and orders as follows:

1. Licensee's last known mailing address provided to the Board is 1135 Westport Drive, Manhattan, KS 66502.
2. Licensee currently holds an active license to practice medicine and surgery in the State of Kansas.
3. On April 25, 2013, the Board issued a Summary Order for an indefinite suspension of Licensee's license to practice medicine and surgery in Kansas. The basis for the

Summary Order was Licensee's surrender of his DEA registration on April 23, 2013, while under investigation for federal crimes involving distribution of controlled substances.

4. Through counsel, Licensee requested a hearing on the Summary Order which was timely under K.S.A. 77-542. As such, pursuant to K.S.A. 77-537, the Summary Order did not become effective.

5. On May 24, 2013, a Notice of Hearing on the Summary Order was served on Licensee at his mailing address to the Board and at the Butler County Jail, where he was incarcerated. Licensee's counsel was also served. The Notice of Hearing gave notice of a conference hearing to be held at the Board offices on June 14, 2013, at 11:30 a.m.

6. The appearance of Licensee's counsel in this matter was limited to requesting a hearing on the Summary Order on behalf of Licensee. By letter to the Board, received June 13, 2013, Licensee's counsel reiterated the scope of his limited engagement and indicated he would not be appearing on Licensee's behalf at the conference hearing.

7. Licensee failed to appear at the conference hearing or request a continuance of such hearing, and as such, is in default pursuant to K.S.A. 77-520.

8. The Board finds that the findings, legal conclusions and order of indefinite suspension contained in the Summary Order, incorporated herein by reference, are uncontested.

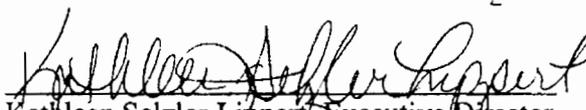
9. The Board concludes that the alleged criminal conduct underlying the federal criminal investigation includes inappropriate prescribing practices with respect to controlled substances. Such inappropriate prescribing would be grounds for discipline under the Healing Arts Act pursuant to K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(23), and would also be grounds for discipline pursuant to K.S.A. 65-2836(q).

10. The Board concludes that Licensee's surrender of his DEA registration violates K.S.A. 65-2836(u), in that Licensee has surrendered his authorization to utilize controlled substances issued by a federal agency "while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section."

11. The Board concludes that an indefinite suspension is appropriate under the Board's *Guidelines for the Imposition of Disciplinary Sanctions* due to the egregious nature of the alleged facts underlying the federal investigation and criminal charges surrounding Licensee's surrender of his DEA registration.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee's license to practice medicine and surgery in Kansas is hereby INDEFINITELY SUSPENDED.

IT IS SO ORDERED THIS 24th DAY OF JUNE 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 Proposed Default Order. This order will become effective as a Final Order of the Board seven (7) calendar days following service of this order, as indicated in attached the Certificate of Service, unless within that seven (7) day period Licensee files a written motion requesting that the proposed default order be vacated and stating the grounds relied upon. **Please note that three (3) days are added to the above timeframe due to service by mail pursuant to K.S.A. 77-531.** Any such motion must be filed with 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 **PROPOSED DEFAULT ORDER INDEFINITELY SUSPENDING LICENSE** was served this 15th day of June, 2013 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Michael Schuster, M.D.
1135 Westport Dr.
Manhattan, KS 66502

Michael Schuster, M.D.
c/o Leavenworth Detention Center
100 Highway Terrace
Leavenworth, KS 66048

Barry A. Clark
Clark & Platt, Chtd.
417 Poyntz Avenue
Manhattan, KS 66502

And a copy was hand-delivered to:

Seth Brackman 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

Kelli Stevens, 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.



Cathy Brown, Executive Assistant

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 INDEFINITELY SUSPENDING LICENSE** was served this 5th day of July, 2013 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Michael Schuster, M.D.
1135 Westport Dr.
Manhattan, KS 66502

Michael Schuster, M.D.
c/o Leavenworth Detention Center
100 Highway Terrace
Leavenworth, KS 66048

Barry A. Clark
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Cathy Brown, Executive Assistant