

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

KS State Board of Healing Arts

In the Matter of)
Chad E. Sharp, M.D.)
)
Kansas License No. 04-24831 (Surrendered))
_____)

KSBHA Docket No.12-HA00032

**FINAL ORDER DENYING REINSTATEMENT OF LICENSURE
AND PROTECTIVE ORDER**

NOW on this 2nd day of December 2011, comes before the Kansas State Board of Healing Arts (“Board”) the application of Chad E. Sharp, M.D. (“Applicant”) for reinstatement of licensure. Applicant appears *pro se*. Stacy R. Bond, Associate Litigation Counsel, appears on behalf of the Respondent Board.

Pursuant to the authority granted to the 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 the parties, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

1. Applicant was previously licensed to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-24831 on approximately October 9, 1993.
2. On or about February 5, 2009, Applicant surrendered his Kansas medical license in KSBHA Docket No. 09-HA00123 pursuant to the terms of a Consent Order (“2009 Consent Order”).

3. The 2009 Consent Order was entered to resolve allegations that Applicant practiced below the standard of care with respect to three (3) patients; Applicant's violation of a previous Consent Order by prescribing and administering Nubain and Phenergan confidential and the Ashland Health Center's termination of Applicant's employment confidential confidential

4. In the 2009 Consent Order, Applicant waived his right to dispute or contest the allegations in any future proceeding before the Board.

5. The 2009 Consent Order provides, in part, that any application for reinstatement will be considered in accordance with K.S.A. 65-2844 and will be governed by *Vakas v. The Kansas State Board of Healing Arts*, 248 Kan. 589, 808 P.2d 1355(1991).

6. On or about July 21, 2011, Applicant submitted an application for reinstatement of his Kansas medical license with a designation of inactive status. Such application was filed with the Board on October 18, 2011.

7. Prior to entering into the 2009 Consent Order, the Board had previously taken action with respect to Applicant's medical license.

8. In April of 2000, Applicant entered into a settlement with the Board in the form of a Stipulation and Agreement and Enforcement Order ("2000 Stipulation") confidential confidential

confidential

Subsequently, the Board terminated the 2000 Stipulation in 2005, based on Applicant's successful compliance with monitoring for five (5) years.

9. In October of 2006, Applicant entered into another settlement with the Board in the form of a Consent Order (“2006 Consent Order”) confidential

confidential

The 2006 Consent Order included a \$500 fine;

confidential

confidential

confidential

The limitation was terminated by the Board in December of 2007, but the monitoring provisions remained in place.

confidential

11. Applicant’s conduct underlying the surrender of his medical license in the above-referenced 2009 Consent Order, occurred while Applicant was still subject to the monitoring provisions of the 2006 Consent Order.

12. As set forth in K.S.A. 65-2801, the purpose of the Board is to protect the public from “unprofessional, improper, unauthorized and unqualified practice of the healing arts. . .”

13. The Board concludes that, as a matter of law, Applicant has the burden to show by clear and convincing evidence that he has been sufficiently rehabilitated to justify reinstatement of his Kansas medical license. If the application for reinstatement is denied, then Applicant is not eligible to submit another application until after three (3) years from the effective date of denial. See K.S.A. 65-2844.

14. The Board concludes that in determining whether Applicant is sufficiently rehabilitated, the Board may consider the eight (8) factors established in *Vakas v. The Kansas State Board of Healing Arts*, 248 Kan. 589, 808 P.2d 1355 (1991). Those factors are generally summarized as:

- a. the present moral fitness of the applicant;
- b. the demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
- c. the extent of applicant's rehabilitation;
- d. the seriousness of the original misconduct;
- e. conduct subsequent to discipline;
- f. the time which has elapsed since the original discipline;
- g. the applicant's character, maturity, and experience at the time of revocation; and
- h. the applicant's present competence in medical skills.

15. The Board concludes that when seeking reinstatement under the provisions of K.S.A. 65-2844 and *Vakas*, an applicant has a much greater burden than an individual seeking initial licensure.

confidential

c

17. As evidence of his present moral fitness, general rehabilitation efforts and present competence in medical skills, Applicant submitted documentation of his continuous attendance confidential from September of 2010 through July of 2011. Applicant also provided a letter from his present employer, Galichia Heart Hospital, which indicates there have not been any reports confidential while Applicant has been employed there in a non-physician capacity as an auditor. Additionally, Applicant submitted letters of support from his confidential and from his pastoral counselor. Applicant also provided a copy of his “Personal Accountability Plan” created in May of 2011 with his pastor. Lastly, Applicant submitted documentation of fifty (50) hours of continuing medical education (“CME”) which he obtained during 2011.

18. Applicant also read from a letter he wrote on November 22, 2011, containing his arguments in support of reinstatement under the *Vakas* factors. The letter details Applicant’s endeavors to address the morality issues underlying his prior conduct, including participation in confidential

19. Applicant’s prior history of Board action demonstrates a pattern of behavior that is particularly concerning when evaluating whether reinstatement is warranted. Applicant has repeatedly abused and taken advantage of the privileges afforded by his license even after being subject to Board monitoring requirements or disciplinary action.

20. Applicant first came before the Board regarding confidential after being licensed approximately seven (7) years. Over the course of the next nine (9) years, Applicant was the disciplined two (2) more times for conduct confidential and the abuse of his licensure privileges. The last Board action, for surrender of Applicant's license, was based in part on wrongful conduct that took place while Applicant was still under a previous Board order and for violation of that Board order. As such, Applicant's actions cannot be attributed to youth or naiveté and are particularly egregious.

21. Applicant's 2009 surrender of licensure was the second time Applicant was disciplined for conduct which occurred while Applicant was under Board order confidential confidential While Applicant testified to the Board that he has "learned that being a physician is a great privilege and enormous responsibility," the Board finds that Applicant has not presented clear and convincing evidence to demonstrate that he is now more capable of controlling his behavior than when he previously and repeatedly failed to do so, even while under the oversight of the Board.

22. Applicant testified that he applied for an inactive license because he could not afford the required liability insurance coverage for an active license. Applicant further stated that if his application was granted, he would try to get a job that would cover his malpractice insurance. Applicant's statements demonstrate his intention to regain licensure in order to actively practice medicine and surgery. As such, Applicant's present competence in medical skills is relevant for the Board to consider.

23. In support of his present competence in clinical skills, Applicant stated that since the surrender of his license, he was an instructor for medical assistant students for one (1) year, and that since February of 2010, he's been working in a non-physician capacity at Galachia Heart Hospital reviewing thousands of open heart surgery patient charts as part of an accreditation process.

24. Applicant's 2009 surrender of licensure was based, in part, on negligent patient care. Additionally, Applicant has been absent from active practice for approximately three (3) years. In light of these facts, the evidence submitted by Applicant regarding his current clinical competency in the form of fifty (50) hours of continuing medical education credit, teaching medical assistant students and performing patient chart reviews does not provide adequate evidence of Applicant's actual proficiency in the clinical skills and judgment necessary for the evaluation and treatment of patients.

25. Applicant has failed to show the Board by clear and convincing evidence that he possess the requisite clinical competency to practice medicine and surgery with reasonable skill and safety.

26. While Applicant appears to have made some progress towards rehabilitation, the Board concludes that, at present, Applicant's endeavors are insufficient to support reinstatement of licensure.

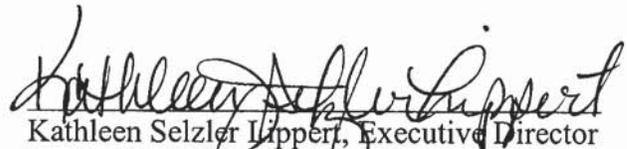
27. Applicant has failed to show the Board by clear and convincing evidence that he has been sufficiently rehabilitated, therefore, failing to establish his burden of proof that he warrants public trust to justify reinstatement of his license to practice medicine and surgery in the State of Kansas.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Applicant's application for reinstatement of license to practice medicine and surgery in the State of Kansas is hereby **DENIED**.

IT IS FURTHER ORDERED that pursuant to K.S.A. 65-2844, Applicant shall not be eligible to apply for reinstatement for three (3) years from the effective date of this Order.

IT IS FURTHER ORDERED that a protective order is hereby entered to prevent the disclosure of any information and documents subject to the privilege or confidentiality requirements confidential

IT IS SO ORDERED THIS 21st DAY OF DECEMBER, 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


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

Prepared by:


Kelli J. Stevens, #16032
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, the Board's Executive Director, at 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, hereby certify that a true copy of the foregoing **Final Order Denying Reinstatement of Licensure and Protective Order** was served this 29th day of December, 2011 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Chad E. Sharp, M.D.
confidential
Wichita, KS 67206

Carol Ruth Bonebrake
Holbrook & Osborn, PA
107 SW Sixth Avenue, Suite 210
Topeka, Kansas 66603

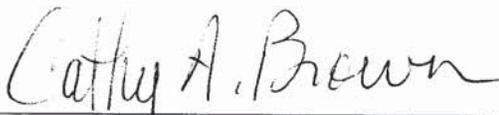
And a copy was hand-delivered to:

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

And 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