

MAR 15 2021

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KS State Board of Healing Arts

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

**In the Matter of
CHAD E. SHARP, M.D.**

License No. 04-24831

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KSBHA Docket No. 19-HA00017

**FINAL ORDER GRANTING MOTION TO TERMINATE
LIMITATIONS AND CONDITIONS ON LICENSE**

On February 12, 2021, the Kansas State Board of Healing Arts (Board) held an electronic virtual hearing on the Motion to Terminate Limitations and Conditions on License ("Motion to Terminate") filed by Chad E. Sharp, M.D. ("Dr. Sharp"). Matthew Gaus, Associate Litigation Counsel, appeared by video, to present the position of the disciplinary panel of the Board. Dr. Sharp appeared by video, *pro se*. After reviewing the agency record, the statements and arguments of the parties, the testimony at the hearing, and being otherwise fully advised in the premises, the Board makes the following findings of fact, conclusions of law, and orders.

Findings of Fact

1. Dr. Sharp was originally issued License No. 04-24831 to practice medicine and surgery in Kansas on October 9, 1993. Dr. Sharp's current license designation is M.D. active with limitations, having last renewed such license on July 27, 2020.

2. In February 2009, Dr. Sharp surrendered his license to practice medicine and surgery in Kansas. On June 9, 2017, Dr. Sharp appeared before the Board, for a hearing on his Application for Reinstatement of his license to practice medicine and surgery in Kansas. Dr. Sharp's license was reinstated by the Board to inactive, effective July 7, 2017.

3. Under the Final Order Granting Inactive Status ("2017 Final Order"), the Board ordered, in part:

The Board concludes that Dr. Sharp is not able to practice with reasonable skill and safety to protect the public without *detailed information and* evidence of a structured practice setting such as a residency program or practice group who can comply with *conditions set forth and described in the [Center for Personalized Education for Physicians] CPEP report* or an equivalent structure, education, and monitoring practice setting.

...

Further, the Board concludes 'that if Dr. Sharp were to find a practice group that would accept him in the manner recommended by CPEP, and includes *detailed information on the nature and extent of the monitoring, education, and documentation described in the CPEP report*, the Board would consider an application for status change. If the Board concludes such practice group appropriate, Dr. Sharp would be limited in his scope of practice and not able to practice outside the specific parameters of the practice group setting and monitoring which was approved by the Board.

4. Dr. Sharp submitted an Application for Change of Designation/Type requesting to change his license designation from inactive to active. Such application was deemed complete and filed with the Board on August 20, 2018.

5. On May 9, 2019, the Board granted Dr. Sharp's Application for Change of Designation/Type ("2019 Order") requesting to change his license designation from inactive to active, subject to the following limitations and conditions:

1. All requirements, limitations, and conditions contained in the "Addendum to practice plan" filed with the Board on March 18, 2019, which is attached as Exhibit 1 and incorporated here by reference. **However, to the extent this paragraph (paragraph #14 of this Order including all sub-paragraphs) contains additional provisions not described in Exhibit 1 or contains provisions that conflict with any provision described in Exhibit 1, the provisions of this paragraph shall take precedence.**

2. Notwithstanding the provisions described in Exhibit 1, **Dr. Sharp shall not treat more than 10 patients per day** within the first four months after his return to practice under any circumstances. Thereafter, Dr. Sharp may increase the number of patients treated per day **CONFIDENTIAL**

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all agree to such increase in writing prior to the date Dr. Sharp's patient load increases to more than 10 patients per day (such written record of agreement shall be maintained by Dr. Sharp and produced to the Board upon request).

3. Within the first four months of his return to practice, Dr. Sharp shall ensure that **CONFIDENTIAL** ^{AI} sees each patient treated by Dr. Sharp after Dr. Sharp sees the patient, on the same day, as described in **CONFIDENTIAL** testimony at the April 12, 2019 hearing.

4. Dr. Sharp shall **submit the "Progress Reports" described in the second paragraph of Exhibit 1 to the Board at least every four months**, the first such report being due to the Board no later than September 20, 2019.

5. Notwithstanding the statements in the final paragraph of Exhibit 1, Dr. Sharp shall not change his preceptor or practice location at any time without the prior approval of the Board.

6. **Any modification to the conditions and limitations described in this order shall require prior approval of the Board** notwithstanding any statements to the contrary in Exhibit 1.

7. The requirements, conditions, and limitations of the Order are not self-terminating.

6. On November 2, 2020, Dr. Sharp filed the Motion to Terminate Limitations and Conditions on License ("Original Motion to Terminate").

7. On November 10, 2020, Litigation Counsel filed a Response Opposing the Original Motion to Terminate.

8. On December 11, 2020, the Board continued the Conference Hearing on the Original Motion to Terminate until the Board's February 12, 2021 meeting.

9. On January 19, 2021, Dr. Sharp filed a request to reduce restrictions on his M.D. license. This filing constitutes Dr. Sharp's re-statement of his Original Motion to Terminate ("Motion to Terminate") and is the motion considered and ruled upon in this Order. The Motion to Terminate requested restrictions on Dr. Sharp's M.D. license be modified as follows:

1. Work without supervision in a group with a practice monitor;
2. See 20-25 patients per day, five days per week;
3. Apply for DEA license – needed for electronic medical record (“EMR”) entries; and
4. Starting to work when a job is offered and then notify Board, as opposed to waiting for Board approval before he can start work.

10. On February 12, 2021, the Board conducted a conference hearing on Dr. Sharp’s Motion to Terminate. At the hearing the Board acted to take official notice, pursuant to K.S.A. 77-524(f)(2), of the agency record in all prior Board matters involving Dr. Sharp’s medical license.

11. At the conference hearing the Board reviewed the agency record and the filings in this matter, received testimony from witnesses, and considered the statements and arguments of counsel and Dr. Sharp.

12. With the limitations and conditions contained herein, Dr. Sharp is able to treat patients and practice with reasonable skill and safety at the required standard of care. Dr. Sharp is not able to practice with reasonable skill and safety outside the specific parameters of the limitations and conditions contained in this Order.

13. Dr. Sharp’s treatment of patients with reasonable skill and safety and practicing at the standard of care requires the following:

1. Dr. Sharp is no longer required to have a practice supervisor to see every patient that Dr. Sharp sees. Dr. Sharp is required to have a Board approved on-site practice monitor to monitor Dr. Sharp’s practice and treatment of patients. The on-site practice monitor shall submit written reports to the Board as required by the Board;
2. Dr. Sharp shall practice in a setting where at least one other Board licensed physician is employed and on-site in the full-time practice of medicine;

3. Dr. Sharp's authority to administer and prescribe drugs, substances, and chemicals is to be limited as follows:

1. Dr. Sharp is authorized to apply for a health care provider United States Drug Enforcement Administration ("DEA") number to write prescriptions. Dr. Sharp's DEA number shall be limited to only Schedule V drugs, substances, or chemicals. The Board shall review and approve any DEA number issued to Dr. Sharp;
2. Dr. Sharp is limited to prescribing only Schedule V drugs, substances, or chemicals and shall be prohibited from prescribing any opioid, including Schedule V opioids; and
3. Dr. Sharp is prohibited from prescribing or administering any DEA Schedule I, II, III, or IV drugs, substances, or chemicals, and is prohibited from prescribing or administering any opioid regardless of Schedule classification;

4. Dr. Sharp is to obtain his monthly Kansas Prescription Drug Monitoring Program K-TRACS activity report and deliver the monthly report to the Board for review;

5. Dr. Sharp is prohibited from seeing or treating patients with symptoms or conditions of persistent or chronic pain or patients with chronic pain syndrome;

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7 Dr. Sharp shall be limited to treating no more than 20 patients per day and working no more than five days per week.

14. The CPEP states that "Dr. Sharp's Education Plan does not contain any restrictions pertaining to patient volume."

15. **CONFIDENTIAL** recommends Dr. Sharp can see up to 30 patients per day and work five days per week.

and meet with Dr.

Sharp's work site monitor on a weekly basis regarding Dr. Sharp's ability to practice with reasonable skill and safety and at the required standard of care, including the impact of increasing the number of patients Dr. Sharp treats each day.

Conclusions of Law

K.S.A. 65-2809(e) provides "[. . .] Any person who has not been in the active practice of the branch of the healing arts for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

K.S.A. 65-2809(g) states "[. . .] Each inactive licensee may apply for an active license upon filing a written application with the board . . . Any licensee whose license has been inactive for more than two years and who has not been in the active practice of the healing arts or engaged in a formal education program since the licensee has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

K.S.A. 65-2801 states the purpose of the Kansas Healing Arts act:

"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."

K.S.A. 65-2836(f) provides that a licensee's license may be revoked, suspended or limited, or the licensee may be publicly 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: the licensee has willfully or repeatedly violated healing arts act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.

Order

Based on the record as described above and presented to the Board to date, and pursuant to the authority granted to the Board by the Healing Arts Act, the Board grants the Motion to Terminate Limitations and Conditions on License subject to the following limitations and conditions.

Prior Board Orders

1. Except as modified below by this Order, all prior Board Orders against Dr. Sharp remain unaffected and shall continue in full force and effect in accordance with the terms of each such prior Order.

Approval of Practice Setting and Staffing

2. As a pre-requisite to practice, Dr. Sharp must work in a setting where at least one other Board licensed physician is employed and on-site in the full-time practice of medicine. Dr. Sharp shall obtain prior written approval from the Board for each location where he practices. The Board delegates review and approval of the practice location and staffing required by this Order to the Executive Director of the Board.

Practice Supervisor Not Required

3. A practice supervisor is no longer required to see every patient Dr. Sharp treats.

Approval of On-Site Practice Monitor

4. As a pre-requisite to practice, Dr. Sharp must have in place a Board approved on-site practice monitor is to oversee Dr. Sharp's practice and treatment of patients. Dr. Sharp shall obtain prior written approval from the Board for each on-site practice monitor responsible for oversight of Dr. Sharp. The Board delegates review and approval of on-site practice monitors required by this Order to the Executive Director of the Board.

On-Site Practice Monitor Reporting to the Board

5. Each on-site practice monitor approved for Dr. Sharp shall submit written reports to the Board's Compliance Coordinator as required by the schedule below. The first report shall be received by the Board two weeks after Dr. Sharp begins practice with the on-site monitor. The second report shall be received by the Board four weeks after Dr. Sharp begins practice with the on-site monitor. After the first two reports are received by the Board, all successive monthly reports shall be received by the Board on or before the fifth day of each month. Each report shall include:

1. A summary of Dr. Sharp's compliance with the limitations and conditions of this Order;
2. A summary of the practice monitor's: (1) observations of Dr. Sharp; and (2) communications with others, regarding of Dr. Sharp's treatment of patients and practice of medicine;
3. A summary of weekly discussions with Dr. Sharp regarding Dr. Sharp's practice decisions and treatment of patients, health and well-being, behavior, stresses, and any other circumstances that may impact medical competency; and

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Approval of DEA Number

7. Dr. Sharp shall not prescribe or administer any drug, substance, or chemical until his new DEA number has been reviewed and approved by the Board. The Board delegates review and approval of the new DEA number required by this Order to the Executive Director of the Board.

Restrictions on Writing Prescriptions

8. Dr. Sharp's authority to prescribe or administer drugs, substances, or chemicals is limited as follows:

1. Dr. Sharp is authorized to apply for a health care provider United States Drug Enforcement Administration (“DEA”) number to write prescriptions. Dr. Sharp’s DEA number shall be limited to prescribing only Schedule V drugs, substances, or chemicals;
2. Dr. Sharp is limited to prescribing only Schedule V drugs, substances, or chemicals and shall be prohibited from prescribing any opioid, including Schedule V opioids; and
3. Dr. Sharp is prohibited from prescribing or administering any DEA Schedule I, II, III, or IV drugs, substances, chemicals, or any opioid regardless of Schedule classification.

K-TRACS Reporting to the Board

9. Dr. Sharp shall obtain his monthly Kansas Prescription Drug Monitoring Program K-TRACS activity report and deliver the report to the Board’s Compliance Coordinator on or before the fifth day of each month.

Prohibition On Treating Chronic Pain Patients

10. Dr. Sharp is prohibited from seeing or treating patients with symptoms or conditions of persistent or chronic pain or patients with chronic pain syndrome.

Limitation on Patients Treated Each Day

11. Dr. Sharp is limited to treating no more than 20 patients per day and working no more than five days per week.

Approval for Change of Limitations or Conditions

12. The requirements, limitations, and conditions of this Order are not self-terminating. Any modification to the requirements, conditions, or limitations described in this order shall require prior approval of the Board.

THEREFORE, the Board **GRANTS** the Motion to Terminate Limitations and Conditions on License subject to the **LIMITATIONS AND CONDITIONS** described herein.

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS



Tucker L. Poling
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, 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 Tucker L. Poling, Executive Director, Kansas State Board of Healing Arts, at 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 was served on this 15th day of March 2021, by depositing the same in the United States Mail, first-class, postage prepaid, and via email addressed to:

Chad E. Sharp, MD
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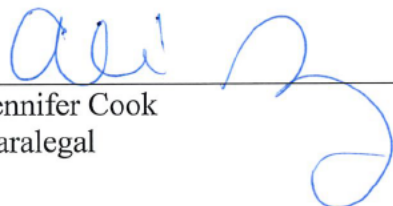
Licensee

And a copy was delivered to:

Mathew Gaus
Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
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.



Jennifer Cook
Paralegal