

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

<b>In the Matter of</b> <b>Sergey Shushunov, M.D.</b> <b>Application for Reinstatement</b>	) ) ) )	<b>KSBHA Docket No. 19-HA00081</b>
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**FINAL ORDER GRANTING REINSTATEMENT OF INACTIVE LICENSE**

On October 11, 2019, this matter came before the Kansas State Board of Healing Arts (“Board”) for a Conference Hearing on Sergey Shushunov, M.D.’s (“Applicant”) reinstatement application for an Inactive license to practice medicine and surgery in Kansas. Applicant appeared in person, and through counsel, Mark Stafford, of Forbes Law Group. Matthew Gaus, Associate Litigation Counsel, appeared to present the position of the Disciplinary Panel of the Board. Dr. Balderston, Dr. Hutchins, and Mr. Kelly were recused.

Under 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, (“KAPA”), K.S.A. 77-501 *et seq.*, the Board enters this Final Order. After reviewing the agency record, hearing the arguments of the parties, and being duly advised in the premises, the Board makes the following findings, conclusions, and orders.

**PROCEDURAL HISTORY**

On or about December 14, 2018, Applicant submitted a reinstatement application for an Inactive license to practice medicine and surgery in Kansas. The application was deemed complete and filed with the Board on April 24, 2019. A Response was filed on behalf of the Disciplinary Panel of the Board on May 1, 2019.

A Notice of Hearing was filed and served on September 20, 2019, and September 27, 2019, setting a Conference Hearing regarding Applicant’s reinstatement application for an Inactive license.<sup>1</sup>

The Conference Hearing in this matter was held before the Board on October 11, 2019. After oral argument from both parties, and testimony from the Applicant, the Board verbally issued its order **GRANTING** Inactive licensure, with a written Final Order to follow in 30 days.

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<sup>1</sup> In advance of the oral arguments, the Board was provided the entire agency record to facilitate a comprehensive understanding of the underlying matter, including all exhibits, briefs, and motions filed by the parties in advance of oral arguments. The entire agency record was considered by the Board in rendering its decision.

## FINDINGS OF FACT

1. Applicant was originally licensed to practice medicine and surgery in Kansas in August 2002.
2. Applicant's license to practice medicine and surgery in Kansas remained Active until December 30, 2013, when the Board revoked it.
3. The revocation in Kansas stemmed from his felony convictions for aggravated battery and attempted robbery.
4. Applicant was sentenced to six months' detention in the Cook County Jail, and two years' probation.
5. Applicant served 89 days in jail and was released for good behavior. He served two years of probation without incident.
6. Applicant voluntarily surrendered his DEA license on May 8, 2014.
7. Both Applicant's Illinois and Ohio licenses to practice medicine and surgery were revoked in 2015, also based on the same felony convictions.
8. His Board certification in Pediatrics was revoked in 2015.
9. From approximately September 2014, through August 2018, Applicant practiced as a pediatrician in American Samoa, volunteered as a pediatrician in Azerbaijan, and practiced as a pediatrician in Vietnam. He testified he saw hundreds of pediatric patients on a weekly basis.
10. In September 2018, Applicant's Illinois license to practice medicine and surgery was reinstated through a Consent Order, in which the Illinois Board and Applicant agreed to:
  - a. Termination of his permanent revocation; to be replaced with indefinite probation, with a minimum term of one year;
  - b. Quarterly self-reporting requirements to the Illinois Board;
  - c. Quarterly reporting requirements by Applicant's employers;
  - d. Prohibitions on solo practice, home care practice, and emergency room practice; and
  - e. CONFIDENTIAL

11. On or about December 14, 2018, Applicant submitted a reinstatement application to reinstate his license to practice medicine and surgery in Kansas to an Inactive status.
12. On his reinstatement application, Applicant accurately answered “yes” to the following attestation questions: 10(h); 10(i); 10(k); 10(r); 10(s); 10(t); and 10(u).

13. CONFIDENTIAL

a. CONFIDENTIAL

b.

c. The court made a specific finding of rehabilitation. The Court stated:

The court [was] satisfied by clear and convincing evidence that: (1) [Applicant] has conducted himself in a manner warranting the issuance of the Certificate for the required period of good conduct; (2) that relief is consistent with the rehabilitation of [Applicant], who has been a law abiding citizen since his arrest...; and (3) the relief is consistent with the public interest...The Court...has no concerns that [Applicant’s] previous misconduct renders him unfit to be a health care professional.

14. Applicant currently holds an Active license to practice medicine and surgery in Illinois.
15. He also holds Inactive licenses in American Samoa, Indiana, Minnesota, Wisconsin, New Jersey, Washington, and Tennessee.

## CONCLUSIONS

### I. **Applicable Law**

Under K.S.A. 65-2844, a person whose license has been revoked may apply for reinstatement after the expiration of three years from the effective date of the revocation...the burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement.<sup>2</sup>

### II. **Case Law**

The controlling case law in this matter is *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589 (1991). In *Vakas*, the Kansas Supreme Court determined there are eight factors relevant in determining if a license to practice medicine in surgery should be reinstated. *Id.* at 600. The factors include:

- (1) Present moral fitness of the petitioner;
- (2) Demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;
- (3) CONFIDENTIAL
- (4) The seriousness of the original misconduct;
- (5) Conduct subsequent to discipline;
- (6) The time which has elapsed since the original discipline;
- (7) Petitioner's character, maturity, and experience at the time of revocation; and
- (8) Petitioner's present competence.

### III. **Conclusions of Law**

- A. The Board concludes Applicant has shown sufficient rehabilitation to justify reinstatement, under the *Vakas* factors, by clear and convincing evidence.

First, as a preliminary procedural requirement for reinstatement of a revoked license, it has been over three years since Applicant was revoked by the Board, as revocation occurred in 2013 – that was nearly six years ago. *See* K.S.A. 65-2844.

Second, based on the agency record, and testimony of the Applicant, he has shown by clear and convincing evidence, sufficient rehabilitation to justify reinstatement.

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<sup>2</sup> At the Conference Hearing, K.S.A. 65-2836(c) was cited as the controlling statute. However, that statute is inapplicable as it applies, in part, to reinstatement of a cancelled license; not reinstatement of a revoked license. For clarification of the record, K.S.A. 65-2844 is the controlling statute, as it governs reinstatement of a revoked license.

Nearly six years since his revocation have now passed. Both the Board and Applicant recognize that his felony convictions of aggravated battery and attempted robbery are severe, and the underlying conduct was particularly concerning. However, Applicant is now presently morally fit, which in large part is demonstrated by his understanding of the wrongfulness of his conduct, his remorse, and his recognition of how his actions impacted himself, his family, and his profession.

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After serving jail time, and released early for good behavior, Applicant successfully completed two years of probation without issue.

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Also, Applicant is presently competent to practice medicine and surgery. From approximately September 2014, through August 2018, Applicant practiced as a pediatrician in American Samoa, volunteered as a pediatrician in Azerbaijan, and practiced as a pediatrician in Vietnam. He testified he saw hundreds of pediatric patients weekly. Since his return from Vietnam, he also briefly was practicing in Illinois, and will resume practice there within the week following the Conference Hearing. Additionally, Applicant has maintained his continuing education requirements.

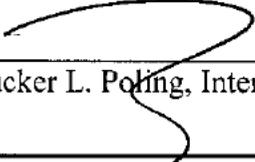
Under all the circumstances of this case, it is clear Applicant has met his burden of the *Vakas* factors, showing sufficient rehabilitation, by clear and convincing evidence, for his inactive license to be reinstated.

### ORDER

**IT IS THEREFORE ORDERED**, Applicant's reinstatement application for an Inactive license to practice medicine and surgery in Kansas, is **GRANTED**.

**IT IS SO ORDERED** this 17<sup>th</sup> day of November 2019.

**KANSAS STATE BOARD OF HEALING ARTS**

  
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Tucker L. Poling, Interim Executive Director

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**Final Order Granting Reinstatement of Inactive License**  
*In the Matter of Sergey Shushonov, M.D.,*  
KSBHA Docket No. 19-HA00081

## NOTICE OF APPEAL 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. Under K.S.A. 77-529, parties 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, Interim Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the above and foregoing **FINAL ORDER GRANTING REINSTATEMENT OF INACTIVE LICENSE**, by depositing the same in the United States mail, postage prepaid, on this 13<sup>th</sup> of November 2019, addressed and emailed to:

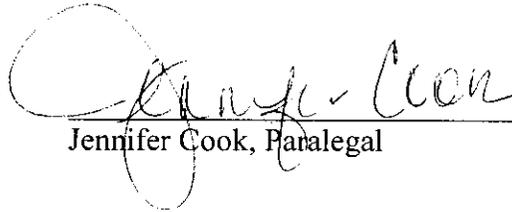
Mark Stafford  
Forbes Law Group, LLC  
6900 College Boulevard, Suite 840  
Overland Park, KS 66211  
[mstafford@forbslawgroup.com](mailto:mstafford@forbslawgroup.com)  
*Attorney for Applicant*

And a copy was hand delivered to:

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

and the original was filed with:

Tucker L. Poling, Interim Executive Director  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level - Suite A  
Topeka, Kansas 66612

  
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Jennifer Cook, Paralegal