

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

FILED

SEP 02 2020

KS State Board of Healing Arts

In the Matter of)
CHRISTOPHER FRANCIS STUBBS, M.D.)
Application for License) KSBHA Docket No. 19-HA00049
_____)

FINAL ORDER ON APPLICATION FOR LICENSURE

The above captioned matter came before the Kansas State Board of Healing Arts ("Board") on July 22, 2020 and July 31, 2020, Dr. Robin Durrett, a member of the agency head, presiding pursuant to K.S.A. 77-514. The hearings in this matter were held by video conference without objection during the period of emergency declaration proclaimed by the Governor of this state on March 12, 2020 and thereafter ratified by the legislature. Christopher Stubbs, M.D. ("Applicant") appeared with counsel, Mark Stafford. Matthew Gaus, Associate Litigation Counsel appeared to present the position of the disciplinary panel.

Having reviewed the agency record in depth, considered the testimony, evidence, and arguments presented live during the hearings contemporaneously, and having duly considered the same in the context of the experience and expertise of the presiding officer as a member of the Board, the presiding officer issues the following findings, conclusions, and orders.

APPLICABLE LAW

Under K.S.A. 65-2836(a), the Board may deny licensure, or grant licensure subject to terms and conditions, if the Board finds the Applicant has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.

Under K.S.A. 65-2837(b)(12) "unprofessional conduct" is defined in part as "[c]onduct likely to deceive, defraud or harm the public."

Under K.S.A. 65-2837(b)(34) "unprofessional conduct" is defined in part as "[o]bstructing a board investigation including . . . engaging in one or more of the following acts: (A) Falsifying or concealing a material fact; (B) knowingly making or causing to be made any false or misleading statement or writing; or (C) other acts or conduct likely to deceive or defraud the Board."

Under K.S.A. 65-2836(j) the Board may deny licensure, or grant licensure subject to terms and conditions, if the Board finds the Applicant has had a license to practice the healing arts revoked, suspended or limited by the proper licensing authority of another state.

Under K.S.A. 65-2836(d) the Board may deny licensure, or grant licensure subject to terms and conditions, if the Board finds the Applicant has used fraudulent or false advertisements. That statute's reference to "advertising" includes "all representations disseminated in any manner or by any means . . . that are likely to induce, directly or indirectly," the use of professional services. K.S.A. 65-2837(d). False advertising includes any advertisement that is false, misleading, or deceptive in any material respect. K.S.A. 65-2837(c).

Under K.S.A. 65-2836(c), the Board may deny licensure, or grant licensure subject to terms and conditions, if the Board finds the Applicant has been convicted for a felony or a Class A Misdemeanor, whether or not related to the practice of the healing arts.

Where substantial evidence is presented that supports a finding of a violation of the [Kansas Healing Arts Act], Board members are entitled and expected to rely on their own expertise and experience in making these decisions." *Hart v. Bd. of Healing Arts of State*, 27 Kan. App. 2d 213 (2000).

"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. 65-2801.

FACTS

Applicant pled guilty to a second offense DUI in 2006, which under K.S.A. 8-1567(b)(1)(B) is a Class A misdemeanor. (Application, pp. 125-135).

Applicant attended the KU Medical Center for approximately two years but withdrew in May 2008. Applicant asserted on his Kansas Application that he left KU Medical Center to found a software company, when in fact he did not do so until after attending and being dismissed from Ross University. (Application pp. 11-13, 44-46, 189).

Applicant was dismissed from Ross University due to "multiple failures on his Clinical Science core rotations." According to Applicant's Ross University transcript, he failed all but one rotation, finishing the year with a 0.44 GPA. Additionally, Applicant was suspended for two months for "failure to meet contractual duties related to duty assignments." (Application, pp. 44-46). Specifically, Applicant did not show up for the first three weeks of his emergency room rotation without giving notice. (Application, pp. 44-46).

Applicant represented to the NPDB that in 2010 he was dismissed from Ross University due to "poor attendance" and on his Kansas Application due to a failure of Ross University to

accommodate his need to care for his ill mother, rather than "multiple failures on [his] Clinical Science core rotations." (Application pp. 44-46, 76,189).

Applicant represented to the NPDB that he was enrolled at Ross University only "a few months" when in fact he was enrolled for approximately one year. (Application pp. 33,189).

In August 2017, USMLE's Committee for Individualized Review made a final determination that Applicant had provided falsified information in his ECFMG application because Applicant omitted Ross university from his ECFMG application. (Application, pp. 44-46).

In 2017 Applicant advertised with an online biography in which he intentionally omitted any mention of either attending Ross University or his graduation from Atlantic University School of Medicine in order to create the impression he graduated from the University of Kansas School of Medicine, and agreed to a public censure stating as much. (Id.)

In October 2017, the Iowa Board of Medicine disciplined Applicant for misrepresentation on his application for licensure (which omitted Ross University) and an internet biography which omitted Ross and Atlantic university and made it appear as though he'd graduated from the Kansas University Medical Center. Iowa suspended, censured, fined Applicant, and ordered three years of probation, monitoring, and rehabilitative education.

Applicant represented on his Kansas application materials that he took a two-month "leave of absence" during the second year of his Oklahoma University residency, when in fact he was suspended during that time for "failure to meet contractual duties related to duty assignments." (Application pp. 42-43).

The presiding officer specifically notes the reports, findings, and recommendations generally contained in Exhibits 2 through 9, including the Forensic Professional Fitness to Practice Evaluation and subsequent reports by CONFIDENTIAL, who conducted a thorough evaluation of Applicant in regard to his ability to successfully meet professionalism standards. The presiding officer also notes the Summary Report authored by CONFIDENTIAL CONFIDENTIAL also both provided live testimony in this matter that the presiding officer deemed to be highly credible and worthy of significant weight.

The presiding officer also notes the June 12, 2020 letter from CONFIDENTIAL L, which followed up and elaborated upon his prior recommendation in regard to the type of supervision that would be appropriate for Applicant. More specifically, that recommendation was as follows:

"Dr. Stubbs would need to work in an environment where he can be directly supervised by a senior physician who can document his reliability, professional attitude, clinical effectiveness, and ability to work well in the interpersonal work environment. This senior physician would need to be willing to take on the formal roles of both mentor and monitor, and make quarterly reports to the Board, KMS, and the
CONFIDENTIAL "

The presiding officer also notes the correspondence contained in the exhibits in the record relating to the type of **CONFIDENTIAL** monitoring believed to be appropriate under the circumstances therein referenced.

CONCLUSIONS AND ORDERS

Pursuant to K.S.A. 65-3826(a) there are grounds to deny Applicant's application or limit, and/or condition Applicant's Application under K.S.A. 65-2836(c), K.S.A. 65-2836(d), K.S.A. 65-2836(j), and K.S.A. 65-2837(b)(12).

Based on the presiding officer's consideration of the totality of circumstances reflected in the agency record as a whole, as well as the presiding officer's opportunity to assess credibility at the hearings, the Board grants the application with the following limiting and probationary conditions:

- **CONFIDENTIAL**

- Applicant shall be monitored in regard to professionalism by a physician licensed to practice medicine and surgery in Kansas and approved in advance by the Board until this Order is terminated by the Board. Such monitor shall provide quarterly reports to the Board and **CONFIDENTIAL** (or other entity/individual designated pursuant to the **CONFIDENTIAL**). Applicant's privilege to practice medicine and surgery in Kansas is conditioned upon being actively monitored consistent with this paragraph of this Order. Applicant shall cease

practicing at any time he ceases to be monitored as described in this paragraph of this Order. Dr. ~~CONFIDENTIAL~~ is approved to serve as professional monitor. Applicant shall immediately notify the Board if he discontinues being monitored by Dr. ~~CONFIDENTIAL~~ and/or wishes to engage a new monitor.

~~CONFIDENTIAL~~

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- Applicant shall successfully complete the medical record-keeping course “Improving Patient Safety through Effective Record Keeping” provided by the Center for Personalized Education for Professionals (“CPEP”) or a medical record-keeping course determined in advance by the Board to be the substantial equivalent. This requirement may be met by providing the Board with evidence of recent completion of such a course satisfactory to the Board.
- Applicant shall successfully complete a professional ethics course that includes coverage of the topic of ethical medical billing, such as the “PROBE” course provided by CPEP or another course determined in advance by the Board to be the substantial equivalent. This requirement may be met by providing the Board with evidence of recent completion of such a course satisfactory to the Board. The presiding officer notes documentation in the record (Exhibit 10) indicating that this course has already been recently completed by Applicant, but such documentation does not clarify whether this course was an “unconditional pass” or a “conditional pass.”
- When communicating his education and training to patients or the public, including but not limited to electronic or paper publication of descriptions of his training and education, Applicant shall clearly identify the medical school(s) and training programs he attended and those from which he received a degree.
- Applicant shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers, as well as an email address personally and regularly monitored by him and at which he can be reached. Applicant shall provide the above information in writing to the Board within ten (10) days of any change to this information.
- **This Order is not self-terminating.** Upon completion of the minimum requirements of this Order, Applicant may file a motion to terminate this Order. This Order will remain effective unless and until it is terminated by a written Order.

Therefore, the application is granted with the above-stated conditions and limitations on Applicant's license. If at any time Applicant violates this Order or ceases to be compliant with this order Applicant's privilege to practice medicine and surgery in Kansas shall be considered simultaneously suspended by operation of law.

Upon review of the record in this matter and, and pursuant to applicable law, including but not limited to K.S.A. 77-523(f), the presiding officer grants Applicant's unopposed motion to enter a protective order in regard to Exhibits 2, 4, 5, 6, 7, and 9 admitted at the hearings, and any other portions of the agency record that contain medical records, personal health information, or information protected under K.S.A. 65-2839a or K.S.A. 65-2898a. This Order operates as a Qualified Protective Order pursuant to 45 C.F.R. section 164.512(e)(1)(ii)(B) and (v), prohibiting use or disclosure of protected health information for any purpose other than the litigation of the above-styled case and/or enforcement/monitoring in execution of this Order.

IT IS SO ORDERED this 2nd day of September 2020.

Kansas State Board of Healing Arts

/s/ Tucker Poling, KS#23266, for

Robin Durrett, D.O.
Presiding Officer

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. Pursuant to 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, Acting 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 a true and correct copy of the above and foregoing **FINAL ORDER** was served this 2nd day of September, 2020, by depositing the same in the United States Mail, first-class, postage prepaid, and an email courtesy copy, addressed to:

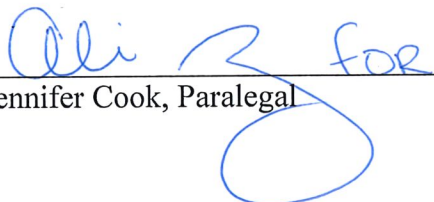
Mark Stafford
Forbes Law Group
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mstafford@forbeslawgroup.com
Attorney for Licensee

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:

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



Jennifer Cook, Paralegal