

OCT 15 2021

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of CHRISTOPHER F. STUBBS, M.D. Kansas License No. 04-43846 ) ) ) KSBHA Docket No. 19-HA00049 ) )

FINAL ORDER ON PETITION TO MODIFY FINAL ORDER

The above captioned matter came before the Kansas State Board of Healing Arts ("Board") for hearing on September 14, 2021, with Dr. Robin Durrett, D.O., a member of the agency head, serving as the presiding officer pursuant to K.S.A. 77-514. The hearing in this matter was conducted by video conference without objection by the parties. All participants, including the presiding officer, appeared by video from different locations. Christopher F. Stubbs, M.D. ("Dr. Stubbs") appeared and was represented by counsel, Mark W. Stafford. Todd Hiatt, Litigation Counsel and Matthew Gaus, Associate Litigation Counsel appeared to present the position of the disciplinary panel.

Having reviewed the agency record, considered the testimony, evidence, and arguments presented during the hearing 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.

PROTECTIVE ORDER

The Petition to Modify Final Order requests a protective order pursuant to CONFIDENTIAL CONFIDENTIAL in regard to averments in the Petition and Exhibits documenting CONFIDENTIAL L

FINDING OF FACTS

1. On or about September 2, 2020, a Final Order on Application for Licensure ("2020 Final Order") in this matter was issued granting Dr. Stubbs a Kansas active M.D. license subject to conditions and limitations stated in the order. 2020 Final Order, p. 6.

2. The limits and conditions of the 2020 Final Order are as follows:

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2. 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 <sup>CONFIDEN</sup><sub>TIAL</sub> (or other entity/individual designated pursuant to <sup>CONFIDEN</sup><sub>TIAL</sub>). 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. <sup>CONFIDEN</sup><sub>TIAL</sub> is approved to serve as professional monitor. Applicant shall immediately notify the Board if he discontinues being monitored by Dr. <sup>CON</sup><sub>FIDE</sub> and/or wishes to engage a new monitor.

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4. 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.

5. 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."

6. 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.

7. 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.

8. The Final 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.

9. 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.** 2020 Final Order, pp. 4-6.

3. On or about July 21, 2021, Dr. Stubbs filed a Petition to Modify the 2020 Final Order ("Petition"). Dr. Stubbs did not dispute he engaged in the conduct described in the 2020 Final Order and offered evidence to document his progress and compliance with requirements of the 2020 Final Order as listed below. Petition, p. 1.

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2. Dr. Stubbs is monitored in regard to professionalism by Dr. <sup>CONFIDENTIAL</sup>  
Dr. <sup>CONFIDENTIAL</sup> has provided quarterly reports to the Board <sup>CONFIDENTIAL</sup> reviewing Dr. Stubbs  
practice of medicine in Dr. <sup>CONFIDENTIAL</sup> primary care office. The dates and summary of  
the reports are as follows:

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4. 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”). Dr. Stubbs successfully completed this course on December 11, 2020. Petition, Exhibit 3.

5. 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. Dr. Stubbs “unconditionally passed the PROBE Program” as authenticated by CPEP on May 10, 2018. Petition, Exhibit 4.
6. The evidence presented demonstrates Dr. Stubbs has maintained ongoing compliance with all requirements of the 2020 Final Order. No evidence has been submitted contradicting this record of compliance.
7. Based on observation and review of Dr. Stubbs activities in a family practice clinic, Dr. <sup>CONFIDENTIAL</sup> a physician experienced in teaching and evaluating family practice residents, concludes Dr. Stubbs has progressed to a point he is able to independently practice medicine. Petition, Exhibit 2.
8. The evidence presented indicates the purpose and intent of the professional monitoring program imposed by the 2020 Final Order have been satisfied. The results documented by Dr. <sup>CONFIDENTIAL</sup> reports support termination of the professional monitoring program.
9. Blue Cross and Blue Shield will not credential Dr. Stubbs until he is awarded a current and unrestricted license to practice in Kansas. Petition, Exhibits 5 and 6.
10. Based on the evidence presented, Dr. Stubbs’ compliance to date with the 2020 Final Order indicates he is able to independently practice medicine with reasonable skill and safety such that the Kansas public is protected.

### **CONCLUSIONS OF LAW**

Pursuant to K.S.A. 65-2836(a) there are grounds to limit Dr. Stubbs’ license under the following:

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.

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

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."

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.

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 purchase 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).

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.

## ORDER

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 hearing, the Board **GRANTS** the Petition to Modify Final Order and **TERMINATES** the professional monitoring program requirement issued by the September 2, 2020 Final Order. All other provisions of the September 2, 2020 Final Order remain unchanged.

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), K.S.A. 65-2842, and K.S.A. 65-4925, the presiding officer **GRANTS** the Petition to Modify Final Order request to **ENTER A PROTECTIVE ORDER** in regard to averments in the Petition and Exhibits admitted at the hearing documenting Dr. Stubbs' **CONFIDENTIAL** 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 15<sup>th</sup> day of October 2021.

Kansas State Board of Healing Arts

/s/ Warran D. Wiebe, #13572 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 Susan Gile, 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 a true and correct copy of the above and foregoing **FINAL ORDER** was served this 15<sup>th</sup> day of October 2021, by depositing the same in the United States Mail, first-class, postage prepaid, and an email courtesy copy, addressed to:

Mark W. Stafford  
Kelli Stevens  
Forbes Law Group  
6900 College Blvd. Suite 840  
Overland Park, KS 66211  
[mstafford@forbeslawgroup.com](mailto:mstafford@forbeslawgroup.com)  
[kstevens@forbeslawgroup.com](mailto:kstevens@forbeslawgroup.com)  
*Attorneys for Licensee*

Christopher F. Stubbs, M.D.  
**CONFIDENTIAL**

*Licensee*

And a copy was hand delivered to:

Todd Hiatt, Litigation Counsel  
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

*Ali Diaz*  
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Staff Signature