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KANSAS STATE BOARD OF HEALING ARTS

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

IN THE MATTER)	
OF)	
ROBERT J. TURNER, JR., D.P.M.)	Case No. 91 - 00159
Kansas License No. 12 - 118)	
_____)	

SUMMARY REVOCATION ORDER

NOW ON THE 7th day of March, 1991 this matter comes on for consideration for the Summary Revocation of the License to engage in the practice of podiatry in the State of Kansas of Robert J. Turner, Jr., D.P.M. Petitioner, the Kansas State Board of Healing Arts (Board) appears by and through its Litigation Counsel, Steve A. Schwarm. Robert J. Turner, Jr., D.P.M. (Licensee) does not appear nor does legal counsel appear in his behalf.

The Board having been advised and presented certified copies of the Stipulation and Agreement, having examined the evidence, and reviewing the record made, the following findings of fact and conclusions of law are made and entered:

FINDINGS OF FACT

1. Licensee has been issued License Number 12 - 118 by the Kansas State Board of Healing Arts. Licensee was at the time set forth in the Stipulation and Agreement (Attachment 1) and still is a licensed Podiatrist authorized to engage in the practice of podiatry in the State of Kansas.

2. On September 25, 1990 information was provided to the Litigation Counsel of the board which indicated that Licensee had failed to maintain statutory professional liability insurance as

required by Kansas law, specifically, K.S.A. 1989 Supp. 40-3402 as set forth in the Kansas Healing Arts Act, K.S.A. 65-2809 (c). The information included that on or about the 29th day of December, 1989 through the 2nd day of August, 1990, while engaged in a licensed profession in the State of Kansas as a Doctor of Podiatry, pursuant to K.S.A. 65-2001 et seq. and while so engaged as a sole practitioner of podiatry in Wyandotte County, Kansas Licensee failed to maintain statutory professional liability insurance as required by Kansas Law, specifically, K.S.A. 1989 Supp. 40-3402 and is therefore within the purview of K.S.A. 1989 Supp. 65-2837 (b)(12) as authorized by K.S.A. 1989 Supp. 65-2006(a)(2). This fact is established by consideration of exhibits presented and considered specifically the Stipulation and Agreement reflecting Licensee's signature. Such Stipulation and Agreement recount the above facts.

3. The Stipulation and Agreement states at page 4 under paragraph 7 C that "Failure of Licensee to maintain statutory professional liability insurance, or failure to make timely payment on the administrative fine shall be considered a breach of the Stipulation and Agreement and Enforcement Order. Any breach of the Stipulation and Agreement and Enforcement Order shall result in the Board issuing a summary revocation of Licensee's license to engage in the practice of Podiatry in the State of Kansas."

4. Such administrative fine as referred in above paragraph 3 is reflected in the Stipulation and Agreement paragraph 7 C (a) as \$2,400 and "such fine is payable to the Kansas Board of Healing Arts within thirty (30) days of execution of this Stipulation and Agreement". The involved Stipulation and Agreement bear an

execution date of December 29, 1990 and certificate of mailing date of January 8, 1991.

5. Based on a review of the Board's public record it is determined that Board Litigation Counsel on behalf of Mr. Michael McIntosh, attorney at law, and legal counsel for Licensee requested a two (2) week extension from Friday, February 8, 1991 to provide for remittance of the administrative fine. Such authorized extension was approved by the Board with the administrative fine due and payable by close of business 4:30 p.m., February 22, 1991.

6. The Board has provided an affidavit of Board Executive Director Richard G. Gannon that the Board has not as of Wednesday, February 27, 1991 received the \$2,400 administrative fine or any fraction of such fine or any communication from Licensee regarding such administrative fine.

CONCLUSIONS OF LAW

7. The Board has jurisdiction over Licensee pursuant to K.S.A. 1990 Supp. (1989 Supp.) 65-2002 in that Licensee has been issued a license to engage in the practice of podiatry.

8. K.S.A. 1990 Supp 40-3402 states that as a "health care provider" (K.S.A. 1990 supp 40-3401) a podiatrist licensed by the Kansas State Board of Healing Arts shall maintain professional liability (malpractice) insurance.

9. Licensee by affixing his signature to the Stipulation and Agreement has consented to the issuance of a Summary Revocation Order for non-compliance with the Stipulation and Agreement. The

subsequent Enforcement Order issued by the Board incorporates all the conditions of the Stipulation and Agreement and makes them orders of the Board applicable to Licensee.

10. Licensee by failing to make the appropriate administrative fine payment in a timely fashion has violated a Board order in violation of K.S.A. 1990 Supp. 65-2006 (b)(12); Licensee has violated rules and regulations or any lawful order of the Board.

11. Additionally, Licensee by failing to maintain the statutory mandated professional liability insurance has engaged in a course of conduct which is dishonorable. Engaging in dishonorable conduct is a violation of K.S.A. 1990 Supp. (1989 Supp.) 65-2006 (a)(2).

12. Licensee having committed the act of failure to remit a lawful administrative fine pursuant to a lawful order of the Board constitutes violations of the Kansas Podiatry Act for which the revocation of Licensee's license can take place.

13. Licensee by affixing his signature to the Stipulation and Agreement acknowledges that the use of Summary Revocation proceedings shall be appropriate and lawful for Licensee's non-compliance with the Stipulation and Agreement.

IT IS THEREFORE, ORDERED AND DECREED BY THE BOARD that Licensee's license to engage in the practice of podiatry in the State of Kansas is hereby revoked. Relief from this order shall be in the manner set forth below. If a hearing is not requested in the time and manner set forth below, this Summary Revocation Order becomes effective and final upon expiration of the time for requesting a hearing.

IT IS SO ORDERED THIS 6th DAY OF March, 1991.

Confidential

for Kansas State Board of Healing Arts

NOTICE OF RELIEF FROM THIS ORDER

Any party, within fifteen (15) days after service of this Order may request a hearing on this order by making such request and directing such request to the Office of General Counsel, Kansas State Board of Healing Arts, 235 South Topeka Blvd., Topeka, Kansas 66603 and serving on the other party a copy of such request. If a hearing is not requested in the time and manner set forth, this summary order becomes effective and final upon the expiration of the time for requesting a hearing.

CERTIFICATE OF SERVICE

I, Steve A. Schwarm, Litigation Counsel, Kansas State Board of Healing Arts, hereby certify that I served true and correct copies of the forgoing **SUMMARY REVOCATION ORDER** on this 7 day of MARCH, 1991 by certified mail to the following:

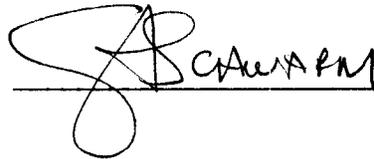
P 915 386 485

Robert J. Turner, Jr., D.P.M.
New Brotherhood Building, Suite 494
755 State Avenue
Kansas City, Kansas 66101

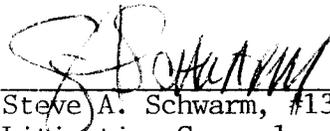
and

P 521 159 512

Michael McIntosh
Attorney at Law
Two Gateway Center, Suite 1002
Kansas City, Kansas 66101



Prepared and Approved by:



Steve A. Schwarm, #13232
Litigation Counsel
KANSAS STATE BOARD OF HEALING ARTS
235 S. Topeka Boulevard
Topeka, Kansas 66603
(913) 296-7413