

MAY 07 2013

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of )
KARL WEATHERHEAD, D.C. )
)
Kansas License No. 01-03908 )
\_\_\_\_\_ )

KSBHA Docket No. 13-HA00057

FINAL ORDER REVOKING LICENSURE

NOW on this 7th day of May, 2013, the Kansas State Board of Healing Arts ("Board"), by and through its Executive Director, Kathleen Selzler Lippert, in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 et seq., as amended, and upon due consideration of the agency record and the applicable statutes and otherwise being duly advised in the premises, makes the following determinations:

- 1. Licensee currently holds a license to practice chiropractic in the State of Kansas, having been issued License No. 01-03908 on approximately June 17, 1988.
2. Licensee's last known mailing address provided to the Board is 455 S. Ridge Road, Wichita, Kansas 67209.

PROCEDURAL HISTORY

3. On or about March 15, 2013, Petitioner filed a Motion for an Ex Parte Emergency Order of Suspension and for Emergency Proceedings which alleged that Licensee was non-compliant with a Consent Order he entered into with the Board, in violation of K.S.A. 65-2836(k), and that such violation constituted an immediate danger to patients.

4. On or about March 15, 2013, Petitioner also filed a Petition for Revocation of Licensee's license to practice chiropractic in the State of Kansas, alleging violations of the Kansas Healing Arts Act.

5. On or about March 20, 2013, an *Ex Parte* Emergency Order of Suspension was issued in this matter by the Presiding Officer which emergently and temporarily suspended the Licensee's license. The emergency suspension was based on the Presiding Officer's conclusion that Licensee had violated his Consent Order with the Board and that Licensee's continuation in practice was an immediate danger to the public health, safety, or welfare due to his inability to practice the healing arts with reasonable skill and safety to patients.

6. A hearing to determine whether the *Ex Parte* Emergency Suspension should continue to remain in effect was noticed for April 4, 2013, and served on Licensee by placing the same in the United States mail, first-class postage prepaid and addressed to his last known mailing address that he provided to the Board.

7. Licensee failed to appear at the scheduled hearing on April 4, 2013, and further failed to notify the Board prior to the conference hearing that he would be unable to attend, and was therefore held in default pursuant to K.S.A. 77-520.

8. On or about April 15, 2013, the Board issued a Proposed Default Order Continuing Emergency Suspension of License until further action was taken at a conference hearing on the Petition in this matter before the full Board.

9. A conference hearing on the Petition was scheduled to take place in this matter on April 12, 2013, and a Notice of Hearing was sent to Licensee's last known mailing address as provided to the Board on March 21, 2013.

10. Licensee failed to appear at the conference hearing on the Petition on April 12, 2013, and failed to notify the Board prior to the conference hearing that he would not be able to attend.

11. Upon review of the evidence during the conference hearing, the Board concludes that Licensee was provided with proper notice of the conference hearing as required by K.S.A. 77-518 and in accordance with K.S.A. 77-531, and further was verbally informed by Board investigator that Licensee was required to appear at the scheduled conference hearing. Pursuant to K.S.A. 77-516 and K.S.A. 77-520, Licensee was held in default for his failure to appear at the conference hearing on April 12, 2013. As such, upon review of the agency record and after being fully advised regarding the matter, the Board found and concluded that the allegations against Licensee, as stated in the Petition, were deemed undisputed. The Board further found and concluded that there are grounds to revoke Dr. Weatherhead's license to practice chiropractic in the State of Kansas pursuant to K.S.A. 65-2836(i) and K.S.A. 65-2836(k).

12. On April 24, 2013, the Board issued a Proposed Default Order Revoking Licensure against Licensee and copies of the Proposed Default Order Revoking Licensure were mailed to Licensee's last known address by United States Mail, first-class postage prepaid.

13. Pursuant to K.S.A. 77-520, the Proposed Default Order Revoking Licensure notified Licensee that the order would become effective as a Final Order of the Board seven (7) calendar days following service of the order, unless within that seven (7) day period Licensee filed a written motion with the Board requesting that the proposed default order be vacated.

14. Licensee failed to file a Motion to Vacate the Proposed Default Order Revoking Licensure within the seven (7) day period following service of the order.

## FINDINGS, CONCLUSIONS AND ORDER

15. Upon review of the evidence during the conference hearing, the Board accepts the facts alleged in the Petition and adopts and incorporates such facts herein by reference.

16. Upon review of the evidence during the conference hearing, the Board concludes that Licensee violated a lawful order previously entered by the Board, **Confidential**  
**Confidential** in violation of K.S.A. 65-2836(k).

17. Upon review of the evidence during the conference hearing, the Board concludes **Confidential** renders him unable to practice the healing arts with reasonable skill and safety to patients in violation of K.S.A. 65-2836(i).

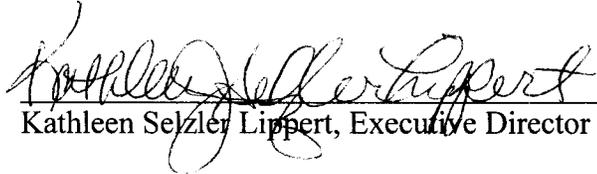
18. The Board finds the following aggravating circumstances are present in this case: Licensee's willful failure to comply with a Board order for **Confidential** and the potential for harm to patients.

19. The Board looks to the "Guidelines for the Imposition of Disciplinary Sanctions" for guidance in exercising its discretionary authority to determine the appropriate sanction in this matter. In evaluating Licensee's conduct under Category 7B of the sanctioning grid, the Board concludes that Licensee's previous Board action and the aggravating circumstance of failing to comply with a Board order intended to protect patient safety support revocation of Licensee's license.

**IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS** that Licensee's license to practice chiropractic in the State of Kansas is hereby **REVOKED**.

IT IS SO ORDERED THIS 7<sup>th</sup> DAY OF MAY, 2013, IN THE CITY OF  
TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

**KANSAS STATE BOARD OF HEALING ARTS**

  
Kathleen Selzler Lippert, Executive Director

**NOTICE OF RIGHTS**

**PLEASE TAKE NOTICE** that this is a Final Order. A Final Order is effective upon service. 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 Kathleen Selzler Lippert, Executive Director, Kansas 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 **PROPOSED DEFAULT ORDER REVOKING LICENSURE** was served on this 7<sup>th</sup> day of May, 2013, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to the following:

Karl Weatherhead, DC  
455 S. Ridge Road  
Wichita, KS 67209

and a copy was hand-delivered to:

Seth Brackman, Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

Katy Lenahan, Licensing Administrator  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

and the original was filed with the office of:

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

  
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Cathy Brown, Executive Assistant