

FILED
 APR 28 2014
 KS State Board of Healing Arts

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

In the Matter of)
 Farris M. Aigaer, D.C.)
) KSBHA Docket No. 14-HA00117
 Application to Change Status of License)
 _____)

**FINAL ORDER DENYING APPLICATION FOR
 CHANGE OF LICENSE DESIGNATION TO ACTIVE**

NOW on this 11th day of April, 2014, comes before the Kansas State Board of Healing Arts (“Board”) the application of Farris M. Aigaer D.C. (“Licensee”) for change of designation/type from exempt to active license status. Licensee appears in person and *pro se*. Jessica Bryson, Associate Litigation Counsel, appears on behalf of the Respondent Board.

Pursuant to 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 K.S.A. 77-501 *et seq.*, the Board hereby enters this Final Order in the above-captioned matter. After reviewing the agency record, hearing the statements and arguments of the parties, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

1. On April 13, 2009, in KSBHA Docket No. 09-HA00014, Licensee was granted a license by endorsement contingent upon his successful completion of the physiotherapy portion of Part IV of the National Board of Chiropractic Examiner’s licensing examination.
2. On or about December 2, 2011, Licensee’s license designation was changed to exempt status at Licensee’s request. Licensee’s license designation remains in “exempt” status.

3. K.S.A. 65-2809(f) establishes the practice parameters for licensees holding an exempt license designation. An exempt licensee may not “regularly engage” in practice or “hold oneself out to the public as being professionally engaged in such practice.”

4. K.A.R. 100-10a-4 establishes the professional activities which are allowed and qualify a licensee to hold an exempt designation. “Providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation” is allowed.

5. On or about December 24, 2013, Licensee submitted an application to change the designation of his chiropractic license from exempt to active status. Such application was deemed complete and filed with the Board on March 17, 2014.

6. On March 19, 2014, Associate Litigation Counsel for the Board filed a Response in Opposition to Application for to Change Status of License from Exempt to Active (“Response in Opposition”). The Response in Opposition alleges that Licensee does not qualify for a change in license designation to active status and that Licensee committed violations of the Healing Arts Act which warrant denial of his application.

7. In his application to change his license designation from exempt to active status, Licensee verified that he had completed fifty (50) total hours of continuing education. However, Licensee only provided proof of twenty (20) hours of Category I continuing education.

8. When questioned during the conference hearing, Licensee could not provide specific information about the additional continuing education he professed to have obtained. Licensee merely insisted the Board had the documentation.

9. Licensee has held an exempt license for over two years. When Licensee first changed his license to exempt status in December of 2011, he divulged that he was going to treat friends and family for no compensation. In December of 2012, when Licensee renewed his

exempt license, he stated that he did not actively practice chiropractic in Kansas. However, in response to further inquiry from Board staff during the legal review of his application, Licensee stated that he had actually practiced with two other chiropractors in Kansas without compensation during the time his license has been exempt.

10. Licensee did not provide any corroborating evidence of his practice activities or additional continuing education which might provide the Board with information to further assess his current clinical competency.

11. During his testimony, Licensee refused to answer the Board's question to him about how he made a living while his license was exempt.

12. K.S.A. 65-2809(f) grants authority to the Board to require licensees having exempt licenses for over two years "to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety."

13. Licensee declined the Board's request that he complete the Special Purpose Examination for Chiropractic ("SPEC") to demonstrate his clinical competency.

14. The Board finds that Licensee has not sufficiently demonstrated current clinical competency to safely practice, and as such, is not qualified to be granted active status designation.

15. K.A.R. 100-10a-6 prohibits exempt licensees from engaging in any professional practice activities which are not divulged in their application for exempt designation or renewal application. Engaging in any practice activities not appropriately divulged constitutes dishonorable conduct pursuant to K.S.A. 65-2836(b).

16. The Board finds that Licensee's purported practice with two other Kansas chiropractors during the time his license has been exempt was not divulged in Licensee's application for exempt designation or in his renewal application.

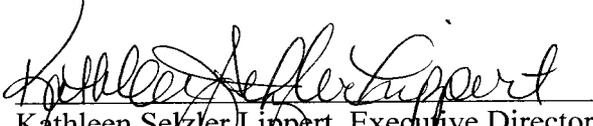
17. Licensee's undisclosed practice of chiropractic with two other chiropractors during the time his license was exempt constitutes dishonorable conduct in violation of K.S.A. 65-2836(b).

18. The Board further concludes that Licensee's present ability to practice with reasonable skill and safety cannot be adequately established based on the evidence presented.

19. Denial of Licensee's application for designation change to active status is warranted in the circumstances.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS Licensee's Application for License Designation Change to Active Status is hereby **DENIED**.

IT IS SO ORDERED THIS 28 DAY OF APRIL, 2014, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert, Executive Director
Kansas State Board of Healing Arts

NOTICE OF 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, Licensee 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 Kathleen Selzler Lippert, 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 DENYING APPLICATION FOR CHANGE OF LICENSE DESIGNATION TO ACTIVE** was served this 28th day of April, 2014 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Farris M. Aigaer, DC
7011 Cleveland Ave
Kansas City, KS 66109

And a copy was hand-delivered to:

Jessica Bryson, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

And the original was filed with the office of the Executive Director.



Cathy Brown, Executive Assistant