EFFECTIVE AS A FINAL ORDER

DATE: 8/17/15

FILED
JUL 27 2015
KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	)	
ELLEN M. BROWN, OT.	)	
	)	
Kansas License No. 17-00542	)	**Docket No. 16-HA** 00008
	)	

SUMMARY ORDER

NOW ON THIS 24th day of July, 2015, this matter comes before Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A. 77-537.

Pursuant to K.S.A. 77-537, this Summary Order shall become effective as a Final Order, without further notice, if no request for hearing is made within fifteen (15) days of service.

Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law and order are made for and on behalf of the Board:

Findings of Fact

1. Ellen M. Brown, O.T. ("Licensee") was originally issued license number 17-00542 to practice as an occupational therapist in the State of Kansas on or about June 15, 1990. Licensee's current license designation is active, and such license was last renewed on or about May 1, 2015.

2. Licensee's last known mailing address as provided to the Board is Confidential Leawood, Kansas 66206.

3. On or about April 30, 2015, Licensee submitted a letter to the Board requesting an extension of the Continuing Education Units (CEU) required for the renewal of her occupational

therapist license. In that letter, she stated that she was scheduled to attend several upcoming conferences to complete her hours of CEU requirements and would have the CEU hours completed by mid-June 2015.

4. Licensee also provided a written explanation of why she needed the extension to obtain her required hours of CEU. She advised that in July 2013, Licensee began a major home remodel and had taken a leave of absence from practicing as an occupational therapist. She further reported that the home remodeling has been completed, and that she had returned to practicing.

5. K.A.R. 100-54-7(c) allows a Licensee who cannot meet their forty (40) hours of CEU requirements to request up to a six (6) month extension of time to comply with their yearly CEU requirements. This request may be granted by the Board upon a showing of good cause.

6. On or about May 1, 2015, Katy Lenahan, Board Licensing Administrator, found Licensee had shown good cause for an extension of time to be granted in this situation and granted Licensee's extension request. This grant of an extension of time gave Licensee until June 30, 2015, to complete and provide proof of her forty (40) CEU hours.

7. On or about July 10, 2015, Ms. Lenahan sent Licensee a letter informing her that the Board had not received her required proof of completion of her required hours of CEU by her extended completion date of June 30, 2015. In that letter, Ms. Lenahan informed Licensee that the Board must receive proof of completion of forty (40) CEU hours by July 15, 2015.

8. On or about July 10, 2015, Licensee notified Ms. Lenahan that she was unable to meet the all of the hours for her occupational therapist license requirement.

9. Currently, Licensee has not submitted to the Board proof evidencing completion of forty (40) CEU hours to satisfy her CEU requirements for licensure as an occupational

therapist.

Applicable Law

9. K.S.A. 65-5412 states in pertinent part:

> Expiration of license; renewal; suspension; reinstatement fees.; renewal requirements...(a)Licensees issued under this act shall expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-5409, and amendments thereto. The board may establish additional requirements for licensure renewal which may provide evidence of continued competency.

10. K.A.R. 100-54-7 states in pertinent part:

> (a)(1)(A) Each licensee shall submit evidence of completing a minimum of 40 contact hours of continuing education during the preceding 24 months. Evidence of this attainment shall be submitted before or with the application for renewal in each odd-numbered year.....(c) Any licensee who cannot meet the requirements of paragraph (a)(1) or subsection (b) may request an extension from the board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension of not more than six months may be granted by the board for good cause shown.

11. K.S.A. 65-5410(a) states in pertinent part:

> The board may deny, refuse to renew, suspend or revoke, limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:...(2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board.... (4) violating any lawful order or rule and regulation of the board.

12. K.A.R. 100-54-5 states in pertinent part:

> "Unprofessional conduct" means any of the following...(g) failing to furnish to the board, its investigators, or its representatives any information legally requested by the board.

Conclusions of Law

13. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

14. The Board finds that Licensee violated K.S.A. 65-5410(a)(4) by failing to successfully complete and provide proof of completion to the Board of a minimum of forty (40) contact hours of continuing education for a licensed occupational therapist as required by K.A.R. 100-54-7 that was adopted by the Board and relates to the practice of occupational therapy.

15. The Board additionally finds that Licensee violated K.S.A. 65-5410(a)(2) as further defined by K.A.R. 100-54-5(g) by failing to furnish Ms. Lenahan, a Board representative, the legally requested information in the form of Licensee's proof of completion of the required continuing education for continued licensure as an occupational therapist in the State of Kansas.

16. The Board also finds that Licensee was granted an extension to June 30, 2015 to attain her required forty (40) CEU hours for continued licensure as an occupational therapist in the State of Kansas. Furthermore, the Board finds that the extension deadline has elapsed since Licensee was provided an extension until June 30, 2015, and she has failed to provide the Board proof of completion of forty (40) CEU hours.

17. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee, Ellen M. Brown, O.T.

IT IS, THEREFORE, ORDERED that Licensee is hereby **INDEFINITELY SUSPENDED** for Licensee's violation of the Occupational Therapy Practice Act. Licensee shall be Indefinitely Suspended until such time as he provides to the Board proof of successful completion of forty (40) contact hours of continuing education for a certified occupational therapist as required by K.A.R. 100-54-7.

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 24 **day of** July**, 2015.**

Kansas State Board of Healing Arts
Confidential

Kathleen Selzler Lippert
Executive Director

FINAL ORDER 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 copy of the foregoing **FINAL ORDER** was served this 17th day of August, 2015 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Ellen M. Brown, OT
Confidential

Leawood, KS 66206

And a copy was hand-delivered to:

Jane Weiler, 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

Office of the General Counsel
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 A. Brown

Cathy Brown, Executive Assistant