

**EFFECTIVE AS A
FINAL ORDER**

DATE: 1/13/14

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

FILED
DEC 20 2013 *CAB*
KS State Board of Healing Arts

**In the Matter of
Donald Casebolt, M.D.**

Docket No. 14-HA00061

Kansas License No. 04-24994 (Cancelled)

**PROPOSED DEFAULT ORDER DENYING APPLICATION FOR
REINSTATEMENT OF LICENSURE**

NOW on this 13th day of December, 2013, comes on for conference hearing before the Kansas State Board of Healing Arts ("Board") the Application for Reinstatement of License to Practice Medicine and Surgery of Donald Edward Casebolt, M.D. ("Applicant"). Jessica Bryson, Associate Litigation Counsel, appears on behalf of the Respondent Board. Applicant fails to appear.

Pursuant to the authority granted to the Board by 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 proposed Default Order in the above-captioned matter.

Having the agency record before it, the Board finds, concludes and orders as follows:

1. Applicant was previously licensed to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-24994 in approximately June of 1995. Such license was cancelled for failure to renew in June of 1996.
2. On approximately May 23, 2013, Applicant submitted an application to reinstate his license to practice medicine and surgery in Kansas. Such application was determined to be complete and filed with the Board on November 6, 2013.

3. Applicant's application requests that his license be reinstated with a designation of "exempt" status as that term is defined in K.S.A. 65-2809(f).

4. In his application materials, Applicant states that his intended professional activities would be "Evaluating applicants who want to be on Medicare[.]" The evidence in the agency record demonstrates that Applicant would be contracting with Censeo Health to perform histories and physicals on patients.

5. On November 7, 2013, Associate Litigation Counsel filed a Response to Application for Reinstatement of License to Practice Medicine and Surgery ("Response in Opposition") and offered Board Exhibits 1 and 2 into evidence.

6. The Response in Opposition alleged that Applicant's intended professional activities are not consistent with the exempt licensure designation permitted by K.S.A. 65-2809(f) as they are not within the scope of the limited professional activities set forth in K.A.R. 100-10a-4, which includes the performance of administrative functions, gratuitous patient care, providing patient care as a charitable health care provider or serving as a coroner.

7. The Response in Opposition further alleges that Applicant has not actively practiced medicine since March of 2007, and notes that K.S.A. 65-2809(e) gives the Board authority to require additional "testing, training or education" to ensure Applicant is able to practice "with reasonable skill and safety" in instances where a reinstatement applicant has been out of active practice over two years.

8. Lastly, the Response in Opposition alleges that Applicant had an adverse malpractice settlement against him in 2003, which is grounds for denial of licensure pursuant to K.S.A. 65-2836(w).

9. Applicant was served with a copy of the Response in Opposition on November 7, 2013, by United States Mail, first-class postage prepaid.

10. A Conference Hearing was scheduled to be held on December 13, 2013, regarding Applicant's Application for Reinstatement.

11. A Notice of Conference Hearing was served on Applicant on November 21, 2013, by United States Mail, first-class postage prepaid.

12. On December 5, 2013, Applicant emailed a reply to the Response in Opposition which was filed with the Board on December 6, 2013. In the reply, Applicant stated that he would not attend the hearing and "will leave it up to the Board to do what seems fair and is in the best interests of the citizens of Kansas."

13. Applicant failed to appear at the conference hearing regarding his Application for Reinstatement held on December 13, 2013. At the conference hearing, Associate Litigation Counsel moved for issuance of a proposed default order denying Applicant's Application for Reinstatement.

14. The Board finds Applicant is in default pursuant to K.S.A. 77-520.

15. The factual and legal allegations set forth in the Response in Opposition are deemed undisputed.

16. Board Exhibits 1 and 2 are admitted into evidence.

17. The Board concludes that the evidence in the agency record demonstrates that Applicant's intended professional activities are not within the scope of permitted activities of K.S.A. 65-2809(f), as further defined in K.A.R. 100-10a-4.

18. The Board concludes that Applicant's adverse malpractice settlement, when considered in conjunction with the other allegations in this matter, is grounds for denial of licensure pursuant to K.S.A. 65-2836(w).

19. The Board exercises its own professional expertise in evaluating the potential for deteriorating knowledge and skill and lack of exposure to developments in medicine due to Applicant's absence from active practice for over six years. The Board concludes that based on the evidence in the agency record, the length of Applicant's absence demonstrates that further testing, training or education requirements would be warranted as set forth in 65-2809(e). However, because Applicant is in default, the Board need not consider or set forth applicable requirements in this matter.

20. Based on the allegations set forth in the Response in Opposition and evidence in the agency record, the Board concludes that denial of Applicant's Application for Reinstatement is warranted in the circumstances.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Applicant's Application for Reinstatement is hereby DENIED.

IT IS SO ORDERED THIS 20 DAY OF DECEMBER, 2013, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzer Lippert
Executive Director
Kansas State Board of Healing Arts

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 DENYING APPLICATION FOR REINSTATEMENT OF LICENSURE** was served this 13th day of Jan., 2014 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Donald Casebolt, MD
Confidential
College Place, WA 99324

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

Kelli Stevens, 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 Brown, Executive Assistant