

EFFECTIVE AS A FINAL ORDER

DATE: 4/5/16

FILED *CHB*

MAR 16 2016

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

KS State Board of Healing Arts

In the Matter of)
)
CONSTANTINE L. FOTOPOULOS, M.D.)
Kansas License No. 04-25099)
_____)

Docket No. 16-HA 00077

SUMMARY ORDER

NOW ON THIS 16 day of March, 2016, 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 written 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. Constantine L. Fotopoulos, M.D. (“Licensee”) was originally issued license number 04-25099 to practice of medicine and surgery in the State of Kansas on or about June 3, 1994. Licensee’s current license designation is active.
2. Licensee’s last known mailing address to the Board is: 3651 College Blvd., Leawood, Kansas 66211.

3. At all times relevant to the allegations set forth in the Summary Order, Licensee has held a current and active license to engage in the practice of medicine and surgery in the State of Kansas.
4. On or about April 15, 2015, Licensee entered into a Consent Order with the Board for alleged violations of the Healing Arts Act, K.S.A. 65-2801, *et seq.*, in KSBHA Docket No. 15-HA00014. More specifically, in that Consent Order, Licensee acknowledged that the Board had sufficient evidence to prove Licensee:
 - a. Committed an act or acts of unprofessional and/or dishonorable conduct by entering into a romantic and sexual relationship with a current patient;
 - b. Willfully or repeatedly violated the Healing Arts Act when he pursued, entered into, and continued a romantic and sexual relationship with a current patient;
 - c. Committed an act or acts of unprofessional and/or dishonorable conduct by committing an act of sexual misconduct and/or improper sexual contact which exploited the licensee-patient relationship when he entered into a romantic and sexual relationship with a current patient;
 - d. Failed to keep written medical records which accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and tests when Licensee failed to create adequate medical record documentation for his care and treatment he provided to the patient; and
 - e. Failed to meet the minimum requirements for an adequate patient record associated with his care and treatment of the patient.

5. Pursuant to this Consent Order, Licensee shall not practice medicine and surgery unless he has a chaperone in the room at all times he is consulting, examining, or treating any female patient.
6. Additionally, Licensee was required to propose a professionally-licensed health professional to serve as his chaperone.
7. Further, the Board had designated the Disciplinary Panel's Appointed Member to approve or disapprove of the chaperone.
8. Since the inception of the Consent Order, the Disciplinary Panel's Appointed Member has approved three (3) chaperones to fulfill the chaperoning requirements as set forth in Licensee's Consent Order. Further, these three (3) chaperones remain employed at Licensee's present practice.
9. On or about December 31, 2015, Licensee examined and treated twelve (12) patients, which included eight (8) female patients, from approximately 8:45 a.m. through 12:15 p.m. Further, Licensee examined and treated the aforementioned eight (8) female patients with a Board-approved chaperone as required by the Consent Order.
10. On or about December 31, 2015, Licensee examined and treated a female patient from approximately 1:10 p.m. through 1:33 p.m.
11. On or about December 31, 2015, two (2) of Licensee's Board approved chaperones offered to stay and chaperone a planned examination and treatment of a female patient the afternoon of December 31, 2015.
12. However, Licensee examined and treated this aforementioned female patient without a Board-approved chaperone as required by the Consent Order, a lawful order of the Board.

Applicable Law

13. K.S.A. 65-2836 of the Kansas Healing Arts Act states in pertinent part:

A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured or placed under probationary conditions ... upon a finding of the existence of any of the following grounds:

(k) in that Licensee violated any lawful order(s) or directive(s) of the Board previously entered by the Board.

Conclusions of Law

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

15. The Board finds that Licensee violated K.S.A. 65-2836(k) in that Licensee violated a lawful order of the Board previously entered into by the Board in KSBHA Docket No. 15-HA00014. Licensee violated this lawful order of the Board by providing treatment to a female patient without a Board-approved chaperone. Therefore, Licensee has failed to comply with the Consent Order he entered into with the Board in Docket No. 15-HA00014, dated April 15, 2015.

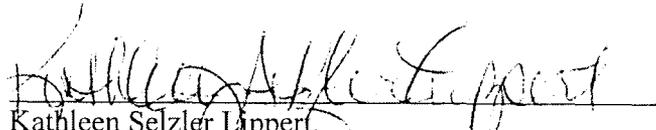
16. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection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

IT IS, THEREFORE, ORDERED that Licensee's license is hereby **PUBLICALLY CENSURED** for violating the Kansas Healing Arts Act.

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 16 day of March, 2016.

KANSAS STATE BOARD OF HEALING ARTS


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 5th day of April, 2016 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Constantine L. Fotopoulos, MD
3651 College Blvd
Leawood, KS 66211

Mark Lynch
Simpson, Logback, Lynch, Norris, P.A.
7400 West 110th Street, Suite 600
Overland Park, KS 66210

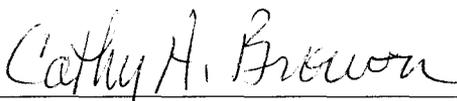
And a copy was hand-delivered to:

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 Brown, Executive Assistant