EFFECTIVE AS A FINAL ORDER

DATE: 1/27/14

FILED

JAN 07 2014

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of	)	
MICHAEL B. LAMBERT, M.D.	)	
	)	
Kansas License No. 04-23568	)	**Docket No. 14-HA** 00084
	)	

SUMMARY ORDER

NOW ON THIS 6 day of Jan, 2014, 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. Michael B. Lambert, M.D. ("Licensee") was originally issued license number 04-23568 to practice medicine and surgery in the State of Kansas on or about June 8, 1991. Licensee's current license designation is active, and such license was last renewed on or about June 21, 2013.

2. Licensee's last known mailing address as provided to the Board is: 2790 Clay Edwards Dr., Ste. #410, N Kansas City, Missouri 64116.

3. On or about June 21, 2013, Licensee submitted an application for renewal of his license to practice medicine and surgery in the State of Kansas.

4. Further, on or about June 21, 2013, Licensee certified on his renewal form that he had completed the required fifty (50) continuing education credits with a minimum of twenty (20) Category I credits and a maximum of thirty (30) Category II credits between January 1, 2012 to June 30, 2013.

5. As part of the Board's continuing education licensing audit process, Licensee was randomly selected to provide to the Board Licensee's proof of completion of his continuing education credits required for his license renewal.

6. On or about August 26, 2013, Board staff sent a letter to Licensee that requested Licensee provide the continuing education documentation Licensee relied upon when Licensee certified he completed the continuing education credits required by the Board for renewal of his license. This documentation was to be provided to the Board on or before October 4, 2013.

7. On or about September 12, 2013, Licensee advised the Board that he had not completed the required amount of continuing education credits needed during Licensee's renewal cycle. Further, in this letter to the Board, Licensee requested an extension in order to fulfill his continuing education requirements.

8. On or about September 18, 2013, Board staff sent a letter to Licensee denying an extension to complete his continuing education.

9. On or about September 19, 2013, Licensee submitted to the Board documentation evidencing the continuing education credits he completed between January 1, 2012, to June 30, 2013, which consisted of only six (6) Category I credits of the required twenty (20) Category I credits. Licensee sent the Board documentation of his completion the required thirty (30) Category II credits.

Applicable Law

10. K.S.A. 65-2809(b) of the Kansas Healing Arts Act states in pertinent part:

> [T]he board shall require every licensee in the active practice of the healing arts within the state to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board.

11. K.A.R. 100-15-5(a)(1) of the Kansas Administrative Regulations states in pertinent part:

> Each person who is licensed to practice a branch of the healing arts and who is required to submit proof of completion of continuing education as a condition to renewing a license shall certify...(A) During the 18-month period immediately preceding the license expiration date, the person completed at least 50 credits of continuing education, of which at least 20 credits shall be category I and the remaining credits in category II.

12. K.A.R. 100-15-6 of the Kansas Administrative Regulations states in pertinent part:

> (a) Each person who certifies completion of continuing education shall ... maintain documentation of completion...
>
> (b) Within 30 days following a written request by the board to a licensee, the licensee shall provide the board with proof of completion of continuing education...

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:
>
> (a) The licensee has committed fraud or misrepresentation in applying for or securing [a]...renewal...license...

> (k) The licensee has violated any lawful rule and regulation promulgated by the board...
>
> (r) The licensee has failed to furnish the board ... or its representatives, any information legally requested by the board.

14. K.S.A. 65-2863a(a) of the Kansas Healing Arts Act states in pertinent part:

> The state board of healing arts ...may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for violation of the Kansas healing arts act in an amount not to exceed $5,000 for the first violation ...

Conclusions of Law

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

16. The Board finds that Licensee violated K.S.A. 65-2836(b) in that Licensee committed unprofessional and dishonorable conduct when he failed to comply with K.S.A. 65-2809(b) and K.A.R. 100-15-6 that requires Licensee to submit evidence of satisfactory completion of a program of continuing education by the Board.

17. Furthermore, the Board finds that Licensee violated K.S.A. 65-2836(a) in that Licensee committed fraud and/or misrepresentation in applying for and/or securing a renewal license when he certified he completed at least fifty (50) credits of continuing education credits for renewal of his license to practice medicine and surgery, when in fact he did not complete the minimum requirement.

18. In addition, the Board finds that Licensee violated K.S.A. 65-2836(k) in that Licensee violated a lawful rule and regulation promulgated by the Board. Specifically, Licensee

violated K.A.R. 100-15-5(a)(1) by certifying he completed at least fifty (50) credits of continuing education credits for renewal of his license to practice medicine and surgery, when in fact he did not complete the minimum requirement, therefore a violation of a lawful rule and regulation promulgated by the Board.

19. Further, the Board finds that Licensee violated K.S.A. 65-2836(r) and K.A.R. 100-15-6 in that Licensee failed to furnish the Board representative the legally requested information, specifically the proof of his completion of at least fifty (50) credits of continuing education to the Board.

20. 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, Michael B. Lambert, M.D.

IT IS, THEREFORE, ORDERED that Licensee is hereby assessed a **CIVIL FINE** in the amount of $500.00 for violation of the Healing Arts Act.

21. The total amount of $500.00 shall be due on or before February 6, 2014.

22. Licensee shall make all payments payable to the Kansas State Board of Healing Arts, and send all payments to the attention of: Licensing Audit Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

IT IS FURTHERE ORDERED that Licensee shall complete twenty-eight (28) additional Category I credits of continuing education.

23. Licensee shall submit proof of his completion of twenty-eight (28) creditss to the Board on or before February 6, 2014.

24. Licensee shall submit proof of his completion of twenty-eight (28) credits to the attention of: Licensing Audit Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

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 6th **day of** Jun, **2014.**

Kansas State Board of Healing Arts

Kathleen Selzler Lippert

Kathleen Selzler Lippert
Executive Director

NOTICE OF RIGHTS
(Pursuant to K.S.A. 77-542)

Licensee is entitled to a hearing pursuant to K.S.A. 77-537 and K.S.A. 77-542, the Kansas Administrative Procedure Act. If Licensee desires a hearing, within fifteen (15) days from the date of service of this Order, Licensee must file a written request for a hearing with the office of the Executive Director at:

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

If Licensee requests a hearing, the Kansas State Board of Healing Arts will notify the Licensee of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the same. If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. 77-542. Pursuant to K.S.A. 77-613(e), the Executive Director is the agency officer designated to receive service of petition for judicial review on behalf of the agency.

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 27th day of Jan., 2014 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Michael B. Lambert, MD
2790 Clay Edwards Dr., Ste. #410
N. Kansas City, MO 64116

And a copy was hand-delivered to:

Jane E. 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