

FILED
APR 24 2015
KS State Board of Healing Arts

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

In the Matter of)
DIANNE MALLARI, D.C.)
) **KSBHA Docket No. 15-HA00061**
Kansas License No. 01-05159)
_____)

**FINAL ORDER GRANTING REINSTATEMENT OF LICENSURE UPON MEETING
REQUIRED CONDITIONS**

NOW on this 10th day of April 2015, comes before the Kansas State Board of Healing Arts (“Board”) the application of Dianne Mallari, D.C. (“Licensee”) for reinstatement of her license to practice chiropractic in the State of Kansas. Applicant appears in person and through her counsel Ivery Goldstein of Simpson, Logback, Lynch, Norris, P.A. Jessica A. Bryson, Associate Litigation Counsel, appears on behalf of the Respondent Board.

Pursuant to the authority granted to 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 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. Licensee was initially issued License No. 01-05159 in the state of Kansas to practice chiropractic on or about December 8, 2007.
2. Licensee by her own admission withdrew from practicing chiropractic in June of 2010.
3. Licensee’s license was cancelled for failure to renew on or about February 3, 2012.

4. On or about August 24, 2014, Licensee submitted an application for reinstatement of her chiropractic license, such applicant was deemed complete on January 22, 2015.

5. Licensee, in her application for reinstatement, disclosed that since January of 2014 she had completed twenty (20) hours of Category 1 continuing education and she completed thirty (30) hours of Category II continuing education.

6. In December of 2014, Licensee took the Special Purposes Examination for Chiropractic offered by NBCE. Licensee scored 596, with a score of 375 considered passing.

7. K.S.A. 65-2909(e) states “Any person who has not been in the active practice of the branch of the healing arts for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the license’s present ability to practice with reasonable skill and safety.”

8. The Board concludes that in order for Licensee to show that she has the present ability to practice with reasonable skill and safety that Licensee shall successfully complete Part IV offered by NBCE. Licensee shall provide to the Board, as soon as possible, documentary evidence of her completion of Part IV. Upon receipt of such documentation showing that Licensee took and passed Part IV her license shall be reinstated to active status.

9. The Board further concludes that to ensure that Licensee is able to practice with reasonable skill and safety, Licensee shall be required to have 25% of her patient charts retrospectively reviewed on a monthly basis by a Kansas licensed chiropractor. Such monitoring shall be at Licensee’s own expense. The proposed monitor shall be approved by the Board prior to Licensee engaging in the active practice of chiropractic.

10. Licensee shall ensure the monitor submits a monthly report to the Board's compliance coordinator, which is due on the 30th day of the month beginning with the second month of Licensee's practice. The report shall be on a form provided by Board staff and shall include the number patient charts reviewed, a brief summary of Licensee's chiropractic activity during the month and an opinion as to whether Licensee is practicing chiropractic within the standard of care. The monitor shall immediately notify Board staff if he/she believes Licensee is practicing chiropractic in an inappropriate manner or outside the standard of care.

11. Licensee is responsible for ensuring that all required documentation and reports are submitted in a timely manner to the following:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower-Level Suite A
Topeka, Kansas 66612

12. The provisions of this Final Order are non-disciplinary.

13. The above monitoring provisions are not self-terminating. After a period of six (6) months, Licensee may move the Board for modification or termination of the provisions. For any period of time that Licensee is not actively practicing chiropractic in Kansas, the monitoring provisions will remain in effect but will be tolled and not counted towards reducing the six (6) month timeframe.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Applicant's Application for Reinstatement to practice chiropractic shall be **GRANTED** pursuant to the terms and conditions set forth above.

IT IS SO ORDERED THIS 24th DAY OF APRIL, 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

Kathleen Selzler Lipper ^{by KPS}
Kathleen Selzler Lipper, 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. 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, Kansas, 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **FINAL ORDER GRANTING REINSTATEMENT OF LICENSURE** was served this 24th day of April, 2015 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Dianne Mallari, DC
1232 NW Harrison
Topeka, KS 66608

Carol Ruth Bonebrake
Ivery Goldstein
Simpson, Logback, Lynch, Norris. P.A.
107 SW 6th Avenue, Suite 210
Topeka, KS 66603

And a copy was hand-delivered to the following:

Jessica A. 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

The original was filed with the office of:

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



Cathy Brown, Executive Assistant