EFFECTIVE AS A FINAL ORDER

DATE: 1/7/15

FILED

DEC 22 2014

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of **BRANDON D. RIESENMY, M.D.** **Kansas License No. 04-23189**	))))))	**Docket No. 15-HA00037**

PROPOSED DEFAULT ORDER REVOKING LICENSURE

NOW on this 12th day of December, 2014, comes on for hearing before the Kansas State Board of Healing Arts ("Board"), the Petition for discipline filed against the license of Brandon D. Riesenmy, MD ("Licensee") by the Board. Petitioner appears by and through Anne Barker Hall, Associate Litigation Counsel. Licensee 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 Revoking Licensure in the above-captioned matter. Having the agency record before it, and considering the evidence and the statements and arguments of Petitioner, the Board makes the following findings, conclusions and order:

1. Licensee is or has been entitled to engage in the practice of medicine and surgery the State of Kansas, having been issued License No. 04-23189 on or about June 15, 1990, and having last renewed such license on June 29, 2013. Licensee's license expired on June 30, 2014. Licensee's license was cancelled by operation of law on August 1, 2014.

2. A Petition requesting revocation of Licensee's medical license was filed with the Board on October 27, 2014. Generally, the Petition alleges that Licensee committed violations of the Healing Arts Act in his evaluation and treatment of nine (9) pediatric patients, ranging in age from two (2) to (16) for varying periods of time between the years 2005 to 2010.

3. All alleged violations set forth in the Petition occurred while Licensee held an active license in Kansas and, as such, the Board retains jurisdiction to act on the Petition despite the expiration and cancellation of Licensee's.

4. In considering this matter, the Board takes official notice of prior disciplinary action in the form of a public censure and probation taken against Licensee's Kansas medical license in 2008.

5. A conference hearing on the Board's petition for discipline was noticed for December 12, 2014 at the offices of the Kansas State Board of Healing Arts.

6. Pursuant to K.S.A. 2013 Supp. 77-531, Licensee was served with a Notice of Conference Hearing to Licensee's mailing address via United States Mail, first-class postage prepared on or about November 19, 2014.

7. The Notice of Conference Hearing provided Licensee notice that any party who fails to attend or participate in the Conference Hearing or other state of a proceeding may be held in default.

8. Licensee failed to appear at the Conference Hearing held on December 12, 2014.

9. Pursuant to K.S.A. 2013 Supp. 77-520, Licensee is in default for his failure to appear at the conference hearing on December 12, 2014.

10. Upon review of the agency record and after being fully advised in the premises, the Board finds and concludes that the facts and allegations set forth in the Petition are deemed uncontroverted and incorporated herein by reference.

11. The Board concludes that Licensee has violated K.S.A. 65-2836(b) for unprofessional conduct, as set forth in:

a. K.S.A. 65-2837(b)(3), for assisting in the care or treatment of a patient without consent;

b. K.S.A. 65-2837(b)(3), for committing conduct likely to deceive, defraud or harm the public;

c. K.S.A. 65-2837(b)(23), for inappropriate prescribing;

d. K.S.A. 65-2837(b)(24) for repeated failure to practice within the standard of care; and

e. K.S.A. 65-2837(b)(25) for failure to keep accurate medical records.

12. The Board concludes that Licensee has violated K.S.A. 65-2836(b) for and professional incompetency, as set forth in:

a. K.S.A. 65-2837(a)(1) gross negligence; and

b. K.S.A. 65-2837(a)(2) repeated instances of ordinary negligence.

13. The Board concludes that Licensee has violated K.S.A. 65-2836(f) for willfully or repeatedly violating the Healing Arts Act.

14. The Board concludes that Licensee has violated K.S.A. 65-2836(k) for violating a lawful regulation promulgated by the Board, specifically K.A.R. 100-24-1, for inadequacy of medical records.

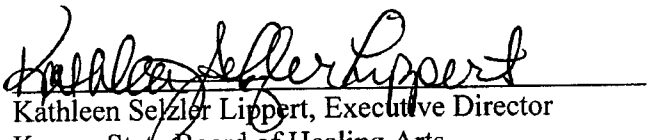
15. This Proposed Default Order becomes effective ten (10) days after the date it is mailed. Licensee has ten days (7 days plus 3 for mailing) to request this Proposed Default Order be vacated. Such a request must be in writing, set forth the grounds relied upon, and be received by the Board no later than the 10th day after the date this Proposed Default Order is mailed. The Proposed Default Order will not become effective if the Board vacates it as provided above.

16. If this Proposed Default Order becomes effective, it will constitute the Final Order of the Board.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee is hereby held in DEFAULT pursuant to K.S.A. 77-520.

IT IS FURTHER ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that upon this Proposed Default Order becoming effective as a Final Order, Licensee's license to practice surgery and medicine in the State of Kansas is hereby **REVOKED.**

IT IS SO ORDERED THIS 22 DAY OF DECEMBER, 2014, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Kathleen Selzler 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 REVOKING LICENSURE** was served this 7 day of Jan., 2015 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Brandon D. Riesenmy, MD
Confidential
Webb City, MO 64870

And a copy was hand-delivered to:

Anne Barker Hall, 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

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 H. Brown

Cathy Brown, Executive Assistant