EFFECTIVE AS A FINAL ORDER

DATE: 10/28/14

FILED

OCT 08 2014

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of	)	
	)	**KSBHA Docket No. 15-HA** 00035
Richard Sherwin Toon, M.D	)	**Investigation No. 14-00317**
Kansas License No. 04-29783	)	
	)	

SUMMARY ORDER

NOW ON THIS 6th day of Oct., 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 77-542, 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. Richard Sherwin Toon, M.D. ("Licensee") was originally issued license number 04-29783 to practice medicine and surgery in the state of Kansas on August 17, 2002. Licensee's current license designation is active, and such license was last renewed on or about June 23, 2014.

2. Licensee's last known mailing address to the Board is: Confidential Wichita, KS 67226- Confidential

3. In July of 2013 the Board received a complaint from Blue Cross Blue Shield of Kansas (BCBSKS).

4. That complaint alleged that J.E., P.A. had informed BCBSKS that he was being supervised by Licensee on June 5, 2013.

5. When BCBSKS contacted Licensee on May 29, 2013, he indicated that he had not been J.E.'s supervisor since January 2013.

6. As of November 20, 2013, neither Licensee nor J.E., had submitted the proper paperwork terminating Licensee's status as J.E.'s responsible and designated physician to the Board.

7. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board's Disciplinary Panel No. 29. The Disciplinary Panel authorized and directed the issuance of this Summary Order and the specific disciplinary sanctions.

Applicable Law

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, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:
>
> (k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered into by the board.

K.S.A. 65-28a09 states in pertinent part:

> (b) A responsible physician shall notify the board when supervision and direction of the physician assistant is terminated. The board shall provide forms for identifying each designated physician and for giving notice that direction and supervision has terminated. These forms may direct that additional information be provided, included a copy of any protocols, as required by rules and regulations adopted by the board.

Conclusions of Law

8. The Board finds that Licensee violated K.S.A. 65-2836(k) and K.S.A. 65-28a09(b) when he failed to notify the Board that he had terminated his supervisory role of J. E., P.A.

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

10. Based on the facts and circumstances set forth herein, 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 law and the protection of the public interest does not require the Board to give notice and opportunity to participate to person other than Licensee.

IT IS, THEREFORE, ORDERED that Licensee is publicly censured for violating K.S.A. 65-2836(k) and K.S.A. 65-28a09(b).

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 6 **day of** Oct, **2014.**

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 28th day of Oct., 2014 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Richard Sherwin Toon, MD
Confidential

Salina, KS 67401 Confidential

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

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