



FILED



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

APR 17 2015

KS State Board of Healing Arts

In the Matter of)
TIMOTHY D. WARREN, D.C.)
)
Kansas License No. 01-04242)
_____)

KSBHA Docket No. 15-HA00017

FINAL ORDER

NOW on this 10th day of April, 2015, comes on for conference hearing before the Kansas State Board of Healing Arts (“Board”) the Petition for discipline filed against the chiropractic license of Timothy D. Warren, DC (“Licensee”). Susan Gering, Associate Litigation Counsel, appears on behalf of the Petitioner Board. Licensee appears in person and with counsel, Don Gribble, II of Hite, Fanning & Honeyman, LLP.

Pursuant to the authority granted to the Board by the Healing Arts Act, 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, receiving exhibits into evidence, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

1. Licensee is presently entitled to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-04242 on approximately August 13, 1994.
2. On or about August 29, 2012, Licensee was served a subpoena requesting any and all medical records for Patient 1 dob 4/24/2000 and Patient 2 dob 10/02/1995. On or about September 12, 2012, Licensee provided to the Board two (2) pages of medical records for Patient 1 for dates of service of August 10, 2010 and October 21, 2011. On that same date Licensee

provided to the Board five (5) pages of medical records for Patient 2 for dates of service November 2, 2009, August 8, 2011, and October 21, 2011.

3. In his response to the Board subpoena, Licensee did not provide any billing records or any records for sports physicals.

4. On or about February 24, 2014, Blue Cross Blue Shield (“BCBS”) provided billing information for Patients 1 and 2. Contained in this information was billing information for a date of service of August 3, 2012.

5. During an interview with BCBS representatives, the mother of Patients 1 and 2 stated that Licensee saw Patients 1 and 2 on August 3, 2012 for sports physicals. On or about January 7th, 2015, the mother of Patients 1 and 2 signed an affidavit stating that Patients 1 and 2 did see Licensee on August 3, 2012 for sports physicals and then saw Dr. Kent Lee for chiropractic adjustments. She further stated that the sports physicals were paid for separately from the adjustments and the adjustments were billed to insurance.

6. In both an affidavit signed on December 29, 2014, and in his sworn testimony before the Board on April 10, 2015, Licensee stated that he did in fact perform sports physicals for Patients 1 and 2 on August 3, 2012. Licensee further stated that he did not consider sports physicals to be medical records as requested by the Board and therefore did not provide them in response to the Board subpoena.

7. Licensee further testified that it was his practice to destroy sports physicals after one year.

8. The Board finds Licensee to be a credible witness.

9. On or about February 5, 2015, Petitioner filed an Amended Petition for disciplinary action against Licensee’s license alleging that, Licensee committed acts of

unprofessional and/or dishonorable conduct. Specifically that pursuant to K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), Licensee engaged in conduct likely to deceive, defraud or a harm the public, by destroying sports physicals of patients after approximately one year. The Petition also alleged that Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(25), in that Licensee failed to keep written medical records which describe the services rendered to patients, that Licensee also violated K.S.A. 65-2836(k), in that Licensee violated K.A.R. 100-24-1 and K.A.R. 100-24-2 by violating regulations promulgated by the Board, specifically that Licensee failed to meet the minimum requirements for an adequate medical record and that Licensee failed to maintain those records for a minimum of ten (10) years from date of service. The Petition further alleged that Licensee violated K.S.A. 65-2836(r), in that Licensee failed to provide the board, its investigators, or representatives information legally requested by the Board.

10. The Board concludes that there is insufficient evidence to find Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12) and K.S.A. 65-2837(b)(25), as alleged in the Amended Petition.

11. The Board further concludes that although Licensee failed to provide the sports physicals of Patients 1 and 2 in response to the Board subpoena, that Licensee did so due to a mistaken belief that those records were not medical records. As such the Board finds that Licensee did not intentionally violate K.S.A. 65-2836(r).

12. The Board concludes that there is sufficient evidence in the record to find that Licensee did violate K.S.A. 65-2836(k), specifically K.A.R. 100-24-2, in that Licensee failed to maintain medical records for the required minimum of 10 years from the date of service.

13. The Board concludes that Licensee shall attend and successfully complete the Medical Record Keeping Seminar offered by CPEP on either June 5, 2015 in Denver, Colorado or on September 26, 2015 in Louisville, Kentucky, such seminar shall be at his own expense. Licensee shall not be required to complete the Personalized Implementation Program portion of the record keeping seminar.

14. Licensee shall advise the Board within ten (10) days of the filing of this Final Order which course he has chosen to attend. These hours shall be in addition to those hours required for renewal of licensure. Within thirty (30) days of the completion of the seminar, Licensee shall provide to the Board a certificate of completion. This certificate shall be sent to the following:

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

15. Licensee shall attend and successfully complete 10 hours of continuing education in the areas of risk management and/or document strategies. These hours may be conducted online. These hours shall be in addition to those hours required for renewal of licensure. Within thirty (30) days of the completion of the courses, Licensee shall provide to the Board a certificate of completion. This certificate shall be sent to the following:

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

16. Licensee shall write an article for public dissemination which addresses the issue of sports physicals being medical records as contemplated by the Healing Arts Act and that as such they must be maintained as part of the patients medical record and maintained pursuant to

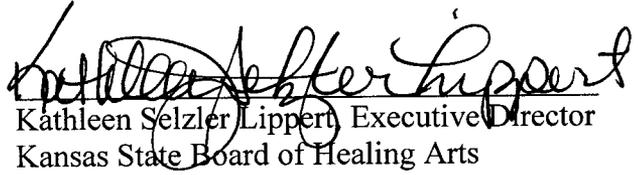
K.S.A. 65-2836(b), as defined in K.S.A. 65-2837(25), as well as K.A.R. 100-24-1 and K.A.R. 100-24-2. Such article will be subject to review by Board Member, Dr. Jerry DeGrado. This letter shall be sent to the following:

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

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Board shall maintain jurisdiction over this matter to issue future order(s) deemed necessary and appropriate in the circumstances.

IT IS SO ORDERED THIS 16 DAY OF APRIL 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert, 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, and service of a Final Order is complete upon mailing. Pursuant to K.S.A. 77-529, Licensee may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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 and correct copy of the above foregoing **FINAL ORDER** was served this 17th day of April 2015 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Timothy D. Warren, DC
1401 W. 31st
Wichita, KS 67217

Don D. Gribble, II
Hite, Fanning & Honeyman, LLP
Wichita, KS 67202

And a copy was hand-delivered to:

Susan Gering, 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

And the original was filed with the office of the Executive Director.

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Cathy Brown, Executive Assistant