

EFFECTIVE AS A FINAL ORDER

DATE: 04/03/2018

FILED BU
MAR 13 2018
KS State Board of Healing Arts

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

In the Matter of)
)
WASHINGTON E. MOSCOSO, M.D.)
Application for Active License to Practice)
Medicine and Surgery Pending)
_____)

KSBHA Docket No. 18-HA 00044

SUMMARY ORDER

NOW ON THIS 13 day of March, 2018, 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 and K.S.A. 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a 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. Washington E. Moscoso, M.D. ("Licensee") was originally issued institutional license number 08-00289 to practice medicine and surgery while employed by any institution in Kansas on or about August 17, 2006.
2. Licensee's current institutional license designation is Active, and such license was last renewed on or about January 31, 2018.
3. Licensee's application for a full, non-restricted Active license to practice medicine and surgery in the State of Kansas is Pending.

4. Licensee's last known mailing address to the Board is: P.O. Box 236, Larned, Kansas 67550.
5. Licensee currently practices as a staff psychiatrist in Larned, Kansas under his institutional license.
6. An Institutional license in the state of Kansas does not have the same requirements as a full, non-restricted active license to practice in Kansas. For example, an applicant who applies for a full, non-restricted active license to practice in the state of Kansas must pass an applicable national examination (USMLE steps 1, 2, and 3 or FLEX/COMPLEX).
7. On or about October 5, 2017, Licensee applied for a full, non-restricted Active license to practice medicine and surgery in Kansas. Licensee's primary specialty is general psychiatry under which he practices with his Institutional license.
8. In his application for an active license, Licensee's indicated his intended location of practice was Larned State Hospital.
9. On or about November 30, 2017, the Board requested Licensee provide additional documentation that are required for issuance of a full, non-restricted active license, such as his ECFMG Report and FLEX/COMPLEX/USMLE test scores.
10. On or about February 14, 2018, Licensee submitted additional documentation to the Board, including his January 24, 1973 ECFMG Certificate. Licensee, however, stated that he had not taken the state exams, national boards, or the USMLE. Licensee further reported that he anticipated obtaining his license by KS endorsement and by virtue of the grant father claus [sic]".
11. Licensee does not have an active medical license outside of his Kansas institutional license.

Applicable Law

12. K.S.A. 65-2865 of the Kansas Healing Arts Act authorizes the board to promulgate all

necessary rules and regulations for carrying out the provisions of any practice act administered by the board.

13. K.S.A. 65-2895 states that an Institutional license may be issued by the board to anyone who meets the qualifications of the statute and restricts the Licensee to working in an institution as described under the Kansas Healing Arts Act. The requirements for an Institutional license are different than those required for an Active license.

14. Further, the practice privileges of an institutional license holder are restricted and shall be valid only during statutorily outlined periods. *See* K.S.A. 65-2895(c).

15. K.A.R. 100-6-1 states in pertinent part:

“Licenses to practice the healing arts in the state of Kansas shall be issued by examination or endorsement to qualified applicants who have complied with the requirements of the laws of the State of Kansas and the rules of this board.”

16. To obtain a license in Kansas, K.S.A. 65-2873(a)(3) requires that each applicant for a license by examination to practice any branch of the healing arts **shall** pass an examination prescribed and conducted by the board covering the subjects incident to the practice of the branch of healing art for which the applicant applies. (emphasis added).

17. K.A.R. 100-7-1(b) provides in pertinent part:

(1) that each applicant for licensure by examination in medicine and surgery who applies on or after July 1, 2000, shall, as a requirement for licensure, successfully complete step 1, step 2, and step 3 of the United States medical licensing exam (“USMLE”).

(2) Each applicant for licensure by endorsement shall show proof of successful completion of an examination that met the Kansas requirements for licensure

by examination at the time the applicant completed the exam.

18. To obtain a license by endorsement, K.S.A. 65-2833 provides, “The board, without examination, may issue a license to a person who has been in the active practice of the branch of the healing arts in some other state, territory, the District of Columbia, or other country upon certificate of the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant’s license has never been limited, suspended or revoked, that the licensee has never been censured or had other disciplinary action taken and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The applicant shall provide satisfactory proof to the board:

(b) that the applicant’s original license was based upon an examination at least equal in quality to the examination required in this state and that the passing grade required to obtain such original license was comparable to that required in this state.

Conclusions of Law

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

20. Under K.S.A. 65-2873(b) an Applicant for an Active license shall pass an examination prescribed and conducted by the board covering the subjects incident to the practice of the branch of healing arts for which the applicant applies. Licensee has not passed any such examination as is required by the Board and therefore is not entitled to an Active license.

21. Under K.A.R. 100-7-1(b), an Applicant is required to successfully complete step 1, step 2, and step 3 of the USMLE to be eligible for a license to practice medicine and surgery in Kansas.

Licensee has not successfully completed USMLE and is therefore not eligible for an Active license.

22. Under K.S.A. 65-2833, to be eligible for a license by endorsement, the Applicant must hold a license in some other state, territory, the District of Columbia or other country, and that license must be based upon an examination at least equal in quality to the examination required in Kansas. Besides the institutional license in Kansas, Licensee is not licensed in any other state or territory and is not entitled to license by endorsement.

23. The Board finds that Licensee is not qualified for a full, non-restricted, active license to practice medicine and surgery in Kansas in that he lacks the requisite examination or endorsement as required by K.A.R. 100-7-1, specifically the USMLE exam.

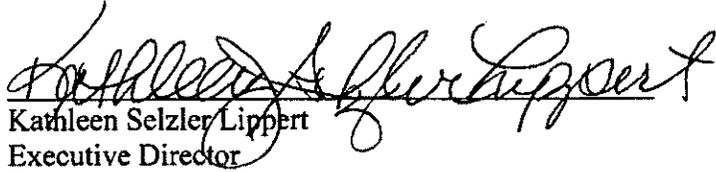
24. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of law and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee.

IT IS, THEREFORE, ORDERED that Licensee's application for licensure is **DENIED** for failure to meet the requirements for a full, non-restricted active license and for Licensee's failure to meet the requirements for licensure by endorsement.

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 13 day of March, 2018.

KANSAS STATE BOARD OF HEALING ARTS


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 of the Kansas Administrative Procedure Act ("KAPA"). 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 3rd day of April, 2018 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Washington E. Moscoso, M.D.
P.O. Box 236
Larned, KS 67550

And a copy was hand-delivered to:

Susan R. Gering, Deputy Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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.



Beth Visocsky, Operations Manager