

EFFECTIVE AS A FINAL ORDER

DATE: 1/29/19

FILED
SEP 24 2018

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

KS State Board of Healing Arts

In the Matter of)
)
Michel HERNS Gratia, M.D.)
Kansas License No. 08-00278)

Docket No. 19 HA - 00029³⁰

SUMMARY ORDER ON APPLICATION FOR RENEWAL OF LICENSURE

NOW ON THIS 24th day of September, 2018, this matter comes before the Kansas State Board of Healing Arts (“Board”), in summary proceeding on the application of Michel HERNS Gratia, M.D. (“Licensee”), for renewal of an institutional license pursuant to KSA 65-2895 and 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 orders are made for and on behalf of the Board:

Findings of Fact

1. Licensee initiated an application for renewal of an institutional license (No. 08-00278) pursuant to KSA 65-2895 on August 9, 2017.
2. Licensee’s application stated that he is currently employed by “Illiana Health Care System” in Springfield, Illinois.
3. In light of the employment requirements of K.S.A. 65-2895, Board staff sought follow-up information from Licensee in a Missing Requirements Letter (“MRL”) sent August 8, 2018. To date, Licensee has not responded to the MRL.

4. Based on the information provided by Licensee in connection with his application, Licensee is not employed pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections with a third party, and Licensee has not otherwise provided information in connection with his application to show that he meets the employment requirements of K.S.A. 65-2895.

5. Licensee was not issued an institutional license prior to May 9, 1997.

Applicable law

6. K.S.A. 65-2895 Authorizes the Board to issue an institutional license to anyone who meets the following qualifications:

(1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school which the graduates have been licensed in another state or states that have standards similar to Kansas;

(2) has completed at least two years in a postgraduate training program in the United States approved by the board; **and**

(3) who is employed as provided in this section.

...
(c) The practice privileges of institutional license holders are restricted and shall be valid only during the period in which:

(1) The holder is employed by any institution within the Kansas department for aging and disability services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections with a third party, and only within the institution to which the holder is assigned; and

(2) the holder has been employed for at least three years as described in subsection (c)(1) and is employed to provide mental health services in Kansas in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric hospital licensed under K.S.A. 39-2001 et seq., and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is

limited to providing mental health services, is a part of the duties of such licensee's paid position and is performed solely on behalf of the employer; or

(3) the holder was issued an institutional license prior to May 9, 1997, and is providing mental health services pursuant to a written protocol with a person who holds a Kansas license to practice medicine and surgery other than an institutional license.

Id. (Emphasis added).

7. K.S.A. 65-2895(d) states that an institutional license may be renewed if Licensee meets the following requirements:

... An institutional license may be renewed for an additional one-year period **if the applicant for renewal meets the requirements under subsection (c)**, has submitted an application for renewal on a form provided by the board, has paid the renewal fee established by rules and regulations of the board of not to exceed \$500 and has submitted evidence of satisfactory completion of a program of continuing education required by the board. In addition, an applicant for renewal who is employed as described in subsection (c)(1) shall submit with the application for renewal a recommendation that the institutional license be renewed signed by the superintendent of the institution to which the institutional license holder is assigned.

Id. (Emphasis added).

Conclusions of Law

8. The Board has jurisdiction over Licensee as well as the subject matter of this matter.

9. Based on the information provided by Licensee in connection with his application, Licensee does not meet the requirements of K.S.A. 65-2895 for renewal, described above. Specifically, Licensee is not employed as described in K.S.A. 65-2895(a)(3) and K.S.A. 65-2895(c).

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 persons other than Licensee.

IT IS, THEREFORE, ORDERED that that Licensee's application for licensure shall be administratively **DENIED, effective October 31 2018**, for failure to meet the prima facie requirements for renewal of an institutional license pursuant to K.S.A. 65-2895 unless: (1) Licensee presents, on or before **October 30, 2018**, evidence satisfactory to the Board that Licensee is employed as described in K.S.A. 65-2895; or (2) Licensee, on or before **October 30, 2018**, withdraws his renewal application. If Licensee meets either of those two requirements, this summary order shall be rescinded and vacated.

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported, if appropriate, to any reporting entities authorized to receive such disclosure.

Dated this *24* day of September, 2018.

KANSAS STATE BOARD OF HEALTH CARE ARTS
Kathleen Selzler Lippert

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 21 day of JAN, 2019 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Michel HERNS Gratia, MD

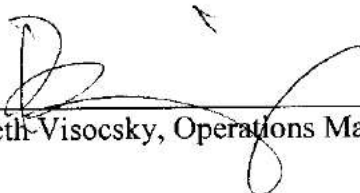
Springfield, IL 62712

And a copy was hand-delivered to:

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