

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

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| In the Matter of |) | |
| Noel Eboh Jr., M.D. |) | |
| |) | |
| Application for Institutional License to |) | Docket No. 23-HA00030 |
| Practice Medicine and Surgery |) | |
| _____ |) | |

FINAL ORDER

On June 9, 2023, this matter came before the Kansas State Board of Healing Arts (“Board”) for a Conference hearing on Noel Eboh, Jr., M.D.’s (“Applicant”) application for an institutional license to practice medicine and surgery in Kansas. Applicant appeared in person, *pro se*.

Under the authority granted to the Board by the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act, (“KAPA”), K.S.A. 77-501 *et seq.*, the Board enters this Final Order. After reviewing the agency record, hearing the argument and testimony of Applicant, and being duly advised in the premises, the Board makes the following findings, conclusions, and orders.

PROCEDURAL HISTORY

On or about March 28, 2022, Applicant submitted an application for an institutional license to practice medicine and surgery in Kansas (“institutional license”). That application was deemed complete and filed with the Board on May 12, 2023.

A Notice of Hearing was filed and served on May 16, 2023, and May 31, 2023, setting a Conference Hearing regarding Applicant’s application for institutional licensure in Kansas. No objection to the Notice of Hearing was filed.¹

FINDINGS OF FACT

1. On or about March 28, 2022, Applicant applied for an institutional license to practice medicine and surgery in Kansas. Such application was deemed complete and filed May 12, 2023.

¹ In advance of the oral arguments, the Board was provided the entire agency record to facilitate a comprehensive understanding of the underlying matter, including all exhibits, briefs, and motions filed by the parties in advance of oral arguments. The entire agency record was considered by the Board in rendering the decision.

2. Applicant completed his medical education from the University of Toledo College of Medicine and Life Sciences in June 2002.
3. From September 2002 through November 2002, Applicant attended a residency at the University of Nevada School of Medicine, which was not completed.
4. From July 1, 2008, through July 31, 2010, Applicant was in a psychiatry residency at the University of Kansas School of Medicine in Wichita, KS, where he completed 21 out of 25 months of rotations.

5. **CONFIDENTIAL**

6.

7. Applicant was dismissed from this residency program prior to completion.
8. Applicant has been working as a medical assistant at Larned State Hospital since February 2019 and has been offered a position if granted an institutional license in Kansas.
9. On June 2, 2023, Applicant submitted a Memorandum in Support of Institutional Licensure (“Memorandum”) and two Exhibits for the Board’s consideration.
10. In his Memorandum, Applicant provided further detail of his training and work history, including specifics on the extent of his residency training and his role(s) while employed at Larned State Hospital. Applicant’s Exhibits are summarized as follows:
 - a. Exhibit A is a table prepared by Applicant which compares Accreditation Council for Graduate Medical Education (“ACGME”) Competencies and Applicant’s duties and requirements as a medical assistant at Larned State Hospital.
 - b. Exhibit B is a table prepared by Applicant which compares ACGME Program Requirements for Graduate Medical Education in Psychiatry and Applicant’s education and work experience, with additional comments provided by Applicant.
11. At the June 9, 2023, Conference Hearing, Applicant testified substantially similarly to the information found in his Memorandum filed in this matter.
12. Applicant presented no evidence that he has successfully completed at least two years in a single residency program.

13. Applicant does not hold a license to practice medicine and surgery in any other state.

CONCLUSIONS OF LAW

I. Applicable Law

K.S.A. 65-2801 articulates the statutory mission of the Board and states:

Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

In relevant part to this matter, under K.S.A. 65-2895(a) an applicant for an institutional license must meet the following criteria:

- (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.

(Emphasis added).

K.S.A. 65-2895(c) provides institutional license holders are restricted and are only valid during the period in which:

- (1) the licensee 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...

II. Conclusion

- A. Applicant has failed to meet the technical legal licensure requirements of K.S.A. 65-2895(a)(2) in that the Applicant has not completed at least two years in a postgraduate training program in the United States approved by the board.

To carry out its mission to protect the public, the Board has a statutory obligation to ensure that it only gives licenses to those who meet the technical legal requirements of such license. *See* K.S.A. 65-2801. Here, the Board finds that Applicant has failed to meet the technical licensure requirements of K.S.A. 65-2895(a), in that the Applicant has not completed at least two years in a postgraduate training program in the United States approved by the board. The agency record shows that, while Applicant has some experience in at least two separate residency programs, Applicant did not complete at least two years in a single residency program. Based on the plain language of K.S.A. 65-2895(a)(2), the two-year postgraduate training requirement *cannot* be met by attending more than one program, whereby the cumulative total of the two or more programs is two years. This is because the language uses the singular article “a” to describe the training program. Additionally, Applicant only successfully completed 21 months of rotations at his KUMC residency and was dismissed from the residency program. Accordingly, he does not qualify for an institutional license in Kansas.

ORDER

IT IS THEREFORE ORDERED, Applicant’s application for institutional licensure to practice medicine and surgery in Kansas, is administratively **DENIED**.

IT IS SO ORDERED this 10th day of July 2023.

KANSAS STATE BOARD OF HEALING ARTS

Susan Gile

Susan Gile, Executive Director

NOTICE OF APPEAL 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. Under K.S.A. 77-529, parties 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 Susan Gile, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **FINAL ORDER** was served, by depositing the same in the United States mail, postage prepaid, and emailed on this 10th day of July 2023, addressed to:

Noel Eboh, Jr., MD
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Applicant

A copy was hand-delivered to:

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:

Susan Gile
Executive Director
Kansas Board of Healing Arts
800 S.W. Jackson, Lower Level-Suite A
Topeka, Kansas 66612


Staff