

**EFFECTIVE AS A FINAL ORDER**

DATE: 1/30/2024

FILED

JAN 08 2024

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

KS State Board of Healing Arts

In the Matter of	)	
	)	KSBHA Docket No. 24-HA00002
William J. Mack, M.D.	)	
Kansas License No. 04-35486	)	

**SUMMARY ORDER**

NOW ON THIS 8<sup>th</sup> day of January, 2024, this matter comes before Susan Gile, Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings under K.S.A. 77-537.

Under 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 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. William J. Mack, M.D. ("Licensee") is or has been entitled to engage in the practice of medicine and surgery in Kansas, having been issued License No. 04-35486 on January 19, 2012, and having last renewed such license on or about June 26, 2023. Licensee's license to practice medicine and surgery in Kansas is currently Active.

2. Licensee's last known mailing address to the Board is: **CONFIDENTIAL**

**CONFIDENTIAL**

Licensee's last known e-mail address to the Board is:

**CONFIDENTIAL**

**William J. Mack, M.D.  
License No. 04-35486  
Summary Order**

3. On or about July 13, 2023, Disciplinary Panel No. 37 (“Petitioner”) filed a Motion to Compel Evaluation, seeking an order from the Board to compel Licensee to submit to a full fitness to practice evaluation. (Bd. Ex. 1 – Petitioner’s Motion to Compel Evaluation filed July 13, 2023).

4. On or about August 16, 2023, the Board issued an order compelling Licensee to submit to and complete a full fitness to practice evaluation **CONFIDENTIAL** to determine whether Licensee is able to practice medicine with reasonable skill and safety. (Bd. Ex. 2 – Order Compelling Evaluation filed August 16, 2023).

5. In its Order, the Board set forth the grounds for compelling Licensee to submit to a fitness to practice evaluation, including but not limited to:

- a.
- b.
- c.
- d.
- e.

**CONFIDENTIAL**

- f. “Licensee adamantly opposes voluntarily undergoing an evaluation as requested by the Board because he believes he is safe to practice, and completely fails to recognize the importance of an unbiased, objective evaluation of **CONFIDENTIAL** his ability to practice the healing arts to provide the Board a credible, objective determination and ensure Kansas patients are safe.” (*Id.*)
6. After finding reasonable suspicion that Licensee’s ability to practice with reasonable skill and safety to patients **CONFIDENTIAL**  
  
the Board ordered Licensee to obtain a thorough objective full fitness to practice evaluation:
  - i. “Licensee shall make contact **CONFIDENTIAL** within two (2) days of receipt of this Order for a full fitness to practice evaluation.” (*Id.*)
  - ii. “No later than 5:00 p.m., Tuesday, August 22, 2023, Licensee shall inform the Board through its Compliance Coordinator, of the start date of Licensee’s evaluation. Licensee shall successfully attend and complete a full fitness to practice evaluation no later than September 8, 2023, unless otherwise approved by the Board.” (*Id.*)

(Bd. Ex. 2 – Order Compelling Evaluation filed August 16, 2023).

7. On or about August 28, 2023, Licensee filed a Petition For Reconsideration requesting the Board reconsider the Order Compelling Evaluation filed on August 17, 2023. (Bd. Ex. 3 – Petition For Reconsideration filed August 28, 2023).

8. On or about September 5, 2023, the Board issued an order denying reconsideration. (Bd. Ex. 4 – Order Denying Petition For Reconsideration filed September 5, 2023).

9. On or about September 13, 2023, Licensee filed a Petition For Judicial Review in the Johnson County District Court. (Bd. Ex. 5 – Petition for Judicial Review filed September 13, 2023).

10. On or about November 6, 2023, Licensee's Petition for Judicial Review was dismissed for failure to state a claim upon which relief could be made. (Bd. Ex. 6 – Memorandum Decision Granting Motion to Dismiss filed November 6, 2023).

11. As of December 20, 2023, Licensee has neither contacted **CONFIDENTIAL** nor completed the fitness evaluation as ordered by the Board back on August 16, 2023. *See* (Bd. Ex. 7 – Electronic Mail From **CONFIDENTIAL** – Email dated December 20, 2023).

#### **APPLICABLE LAW**

12. Under subsection (k) of K.S.A. 65-2836, a license may be revoked, suspended or limited upon a finding that a licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

#### **CONCLUSIONS OF LAW**

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

14. The Board finds Licensee violated K.S.A. 65-2836(k), in that Respondent has violated three lawful orders or directives of the Board, to-wit:

- a. **CONFIDENTIAL**
- b. Respondent failed to inform the Board of the of the start date of Respondent's evaluation, as ordered by the Board;
- c. Respondent failed to attend and complete a full fitness to practice evaluation, as ordered by the Board.

15. The Board further finds that indefinite suspension in this matter is the appropriate remedy to ensure Licensee complies with the lawful orders and directives of the Board in obtaining a full fitness to practice evaluation.

16. 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 non-parties.

**IT IS HEREBY ORDERED** that Licensee's license to practice medicine and surgery in Kansas is **INDEFINITELY SUSPENDED** from the date this Order becomes effective as a Final Order.

**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 8<sup>th</sup> day of January, 2024.

**KANSAS STATE BOARD  
OF HEALING ARTS**

Susan Gile  
Susan Gile  
Executive Director

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**William J. Mack, M.D.**  
License No. 04-35486  
Summary Order

**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 Susan Gile, 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 I served a true and correct copy of the above and foregoing **FINAL ORDER** by depositing the same in the United States Mail, postage prepaid, on this 30<sup>th</sup> day of January 2024, addressed and emailed to:

William Mack  
**CONFIDENTIAL**

*Licensee*


And a copy was hand-delivered to:

C. Sebastian Orosco, Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612  
Sebastian.orosco@ks.gov

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.

  
Staff Signature

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# **BOARD EXHIBIT # 1**

## **Motion to Compel Evaluation**

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**In the matter of William Mack M.D.**

**Docket No. 24-00002**

**Kansas License 04-35486**

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FILED

JUL 13 2023

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of	)	
	)	Docket No.: 24-HA <u>0000 Z</u>
William J. Mack, M.D.	)	
Kansas License No. 04-35486	)	

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**PETITIONER’S MOTION TO COMPEL EVALUATION**

COMES NOW, Petitioner, Disciplinary Panel No. 37 (“Petitioner”), an appointed committee of the Kansas State Board of Healing Arts (“Board”), by and through C. Sebastian Thomas Orosco, Associate Litigation Counsel, and William J. Mack, M.D. (“Licensee”) and moves the Board for an order compelling Licensee to submit to an evaluation pursuant to K.S.A. 65-2842. In support of its motion, Petitioner states and alleges as follows:

1. Licensee’s last mailing address known to the Board is: **CONFIDENTIAL**  
**CONFIDENTIAL**. Licensee’s last email address known to the Board is:  
**CONFIDENTIAL**.
2. Licensee is or has been entitled to practice medicine and surgery in the State of Kansas, having been issued License No. 04-35486 on or about January 19, 2012. Licensee last renewed such license on or about June 26, 2023. Licensee’s current license status is Active.
3. At all times relevant to the allegations set forth in this Motion, Licensee has held an Active license to practice medicine and surgery in the State of Kansas.
4. Petitioner requests a Protective Order to be entered to protect all confidential information under 42 C.F.R. Part II, K.S.A. 65-2839a(d), K.S.A. 65-4915, and K.S.A. 65-2898a.

**STATUTORY AUTHORITY FOR **CONFIDENTIAL** EVALUATION**

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Petitioner’s Motion to Compel Evaluation  
William J. Mack, M.D.  
Kansas License No. 04-35486

5. **CONFIDENTIAL**

6. Per K.S.A. **CONFIDENTIAL**

To determine whether reasonable suspicion **CONFIDENTIAL** information shall be presented to the board as a whole, or to a committee consisting of the officers of the board elected [for that purpose], and the executive director..., or to a presiding officer authorized pursuant to K.S.A. 77-514[.]

The determination shall be made by a majority vote of the entity which reviewed the investigative information. Information submitted to the board as a whole or a committee of the officers and executive director of the board or presiding officer and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity.

**INVESTIGATIVE INFORMATION SUPPORTING REASONABLE SUSPICION**  
**OF INABILITY TO PRACTICE THE HEALING ARTS**  
**WITH REASONABLE SKILL AND SAFETY**

**CONFIDENTIAL**

# CONFIDENTIAL

9. Licensee was cited for five violations, filed in the City of Leawood Municipal Court (Petitioner's Exhibit 3, 4):

- a. **CONFIDENTIAL**
- b. **CONFIDENTIAL**
- c.
- d. Improper driving on laned road, a traffic infraction.
- e. No insurance, a traffic infraction.

10. On March 23, 2022, Licensee submitted a response to our request for additional information, dated March 4, 2022. In his response, Licensee advised that after working late on February 27, 2022, he went out for dinner **CONFIDENTIAL**." Licensee explained that "Jazz clubs and taverns" allowed Licensee the opportunity to socialize and the environment and energy stimulate creativity and inspiration for business ideas and songwriting. Licensee was "absorbed" by his creative work in song writing **CONFIDENTIAL** . (Petitioner's Exhibit 5, 6).

11. On April 27, 2022, Licensee submitted a response to Board **CONFIDENTIAL** **CONFIDENTIAL** request for additional information, dated April 18, 2022. Specifically, in his response to Question No. **CONFIDENTIAL**

# CONFIDENTIAL

**GROUND SUPPORTING REASONABLE SUSPICION** **CONFIDENTIAL**

15. According to **CONFIDENTIAL**, if there is reasonable suspicion to believe that Licensee's ability to practice medicine and surgery with reasonable skill and safety to patients is **CONFIDENTIAL** Licensee can be compelled by the Board, a legally constituted committee, or presiding officer to obtain a comprehensive **CONFIDENTIAL** evaluation.

16. In this case, there is evidence to support a reasonable suspicion exists that Licensee's ability to practice with reasonable skill and safety **CONFIDENTIAL**

# CONFIDENTIAL

17. Under the circumstance, a **CONFIDENTIAL** evaluation is necessary to evaluate Licensee's current fitness to practice, it has been made clear that Licensee will not voluntarily submit to such an evaluation. Licensee's refusal to submit to an evaluation for the purpose of determining his present fitness to practice medicine and surgery in Kansas, denies the Board any additional means of evaluating his fitness to practice. It therefore becomes the duty of the Board to protect the public by compelling such an evaluation.

**WHEREFORE**, Petitioner respectfully requests the Board find there is reasonable suspicion that Licensee's ability to practice medicine and surgery in Kansas with reasonable skill and safety to patients **CONFIDENTIAL** and that an Order compelling an evaluation of Licensee's current fitness to practice is warranted, whereby Licensee is ordered and compelled to immediately submit to a full fitness to practice evaluation **CONFIDENTIAL** , and to follow all recommendations that may arise from said evaluation.

Respectfully submitted,

/s/ C. Sebastian Thomas Orosco  
C. Sebastian Thomas Orosco #24605  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612  
(785) 296-4421  
(785) 368-8210 - facsimile  
Sebastian.Orosco@ks.gov  
*Attorney for Petitioner*

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the **PETITIONER'S MOTION TO COMPEL EVALUATION** via e-mail and US mail, postage prepaid, on the 13th day of July, 2023 to the following individuals:

William J. Mack, M.D.

**CONFIDENTIAL**

*Licensee*

and the original filed with:

Susan Gile, Executive Director  
Office of the Executive director  
Kansas State Board of Healing Arts  
800 SW Jackson Lower Level, Suite A  
Topeka, Kansas 66612

s/ Callie Dunlap  
Staff Person

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**BOARD EXHIBIT # 2**

**Order Compelling Evaluation**

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**In the matter of William Mack, M.D.**

**Docket No. 24-00002**

**Kansas License 04-35486**

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AUG 16 2023

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

KS State Board of Healing Arts

In the Matter of

William Mack, M.D.  
Kansas License No. 04-35486

Docket No. 24-HA00002

**ORDER COMPELLING EVALUATION**

On August 11, 2023, this matter came before the Kansas State Board of Healing Arts (“Board”) for a Conference Hearing under K.S.A. 77-533 on Petitioner’s Motion to Compel Evaluation, filed July 13, 2023 (“Motion”). William Mack, M.D. (“Licensee”) appeared in person, *pro se*. Associate Litigation Counsel for Disciplinary Panel No. 37, Sebastian Orosco, appeared in support of the Motion. A Notice of Hearing was filed and served on July 17, 2023, and August 2, 2023, setting a Conference Hearing regarding the Motion. No objection to the Notice of Hearing was filed.<sup>1</sup>

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.*, and upon review of the agency record, hearing the argument and testimony of the Licensee, and being duly advised in the premises, the Board makes the following findings, conclusions, and orders.

**FINDINGS OF FACT**

1. The Board finds, and incorporates here by reference, paragraphs 1, 2, 3, and 7 through 14 of the Motion.

2.

**CONFIDENTIAL**

3.

<sup>1</sup> 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.

4. **CONFIDENTIAL**

5.

6.

7.

8.

9. A specialized, objective professional full fitness to practice evaluation is required to determine what, if any, **CONFIDENTIAL** may or may not affect his ability to safely practice.

#### APPLICABLE LAW

##### **K.S.A. 65-2801:**

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.

##### **K.S.A. 65-2838(a):**

The board shall have jurisdiction of proceedings to take disciplinary action authorized by the applicable practice act. Unless otherwise specified, any such

action shall be taken in accordance with the provisions of the Kansas administrative procedure act.

**CONFIDENTIAL**

**K.S.A. 65-2836:**

A licensee's license may be revoked, suspended or limited, or the licensee may be publicly 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 by the board.

**K.S.A. 65-2838(c):**

The board may temporarily suspend or temporarily limit the license, registration, permit or certificate of any licensee, registrant, permit holder or certificate holder in accordance with the emergency adjudicative proceedings under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action authorized by the applicable practice act against the person and that the person's continuation in practice would constitute an imminent danger to the public health and safety.

Reasonable suspicion in this case is a "particularized and objective basis, supported by specific and articulable facts, for suspecting a person of <sup>CONFIDENTIAL</sup> SUSPICION, Black's Law Dictionary (11th ed. 2019).

**CONCLUSIONS OF LAW**

Based on the findings of fact described in paragraphs 1 through 9 of this Order, the entire agency record, and on the credibility determinations made as a result of the Board's opportunity to observe and evaluate the Licensee's testimony at the Conference Hearing, the Board finds there is reasonable suspicion that Licensee's ability to practice with reasonable skill and safety to patients

**CONFIDENTIAL**

and accordingly, and thorough objective full fitness to practice evaluation is warranted under the circumstances of this case. See K.S.A. 65-2842.

Failure to comply with this order may result in Licensee's license being temporarily or permanently revoked, suspended or limited, or the Licensee being publicly censured or placed under probationary conditions. See K.S.A. 65-2836; K.S.A. 65-2838(c).

Petitioner's Motion to Compel Evaluation is hereby **GRANTED**.

**ORDERS**

**LICENSEE IS THEREFORE COMPELLED AND ORDERED** to submit to and complete a full fitness to practice evaluation **CONFIDENTIAL** to determine whether Licensee is able to practice medicine with reasonable skill and safety.

The Licensee shall make contact **CONFIDENTIAL** within two (2) days of receipt of this Order for a full fitness to practice evaluation.

No later than **5:00 p.m., TUESDAY, AUGUST 22, 2023**, Licensee shall inform the Board, through its Compliance Coordinator, of the start date of Licensee's evaluation. Licensee shall successfully attend and complete a full fitness to practice evaluation **NO LATER THAN SEPTEMBER 8, 2023**, unless otherwise approved by the Board.

Licensee shall comply with all recommendations of the evaluation and shall cause the result thereof to be submitted to the Board within three days of when they become available. Licensee shall not leave or terminate any evaluation and/or treatment unless or until it is completed and recommended by the program. Licensee shall submit to the Board a release of information authorizing the Board to obtain all report(s) of such evaluation, examination, treatment and/or drug screen directly from the treatment program. Licensee shall complete all requirements described in this order at his own expense.

Proof of successful completion or any documentation associated with this order's requirements shall be submitted by to:

Kansas Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level - Suite A  
Topeka, Kansas 66612  
[KSBHacompliancecoordinator@ks.gov](mailto:KSBHacompliancecoordinator@ks.gov)

IT IS SO ORDERED this 16<sup>th</sup> day of August 2023.

KANSAS STATE BOARD OF HEALING ARTS

*Susan Gile*

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Susan Gile, Executive Director

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**Order Compelling Evaluation**  
*In the Matter of William Mack, M.D.;*  
**KSBHA Docket No. 24-HA00002**

**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 **ORDER COMPELLING EVALUATION** was served, by depositing the same in the United States mail, postage prepaid, and emailed on this 11<sup>th</sup> day of August 2023, addressed to:

William J. Mack, MD

**CONFIDENTIAL**

*Licensee*

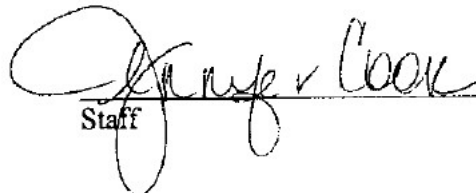
A copy was hand-delivered to:

Sebastian Orosco, Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612  
[Sebastian.orosco@ks.gov](mailto:Sebastian.orosco@ks.gov)

Compliance Coordinator  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level – Suite A  
Topeka, KS 66612  
[KSBHA\\_ComplianceCoordinator@ks.gov](mailto:KSBHA_ComplianceCoordinator@ks.gov)

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

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**Order Compelling Evaluation  
In the Matter of William Mack, M.D.;  
KSBHA Docket No. 24-HA00002**

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**BOARD EXHIBIT # 3**

**Petition for Reconsideration**

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**In the matter of William Mack, M.D.**

**Docket No. 24-00002**

**Kansas License 04-35486**

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HAND DELIVERED

Aug 25, 2023

Before the Board of Healing Arts  
of the State of Kansas

FILED

AUG 28 2023

KS State Board of Healing Arts

In the Matter of

William Mack, M.D.

Kansas License No. 04-35486

Docket No. 24-HA00002

### Petition for Reconsideration

A decision was filed in the above referenced matter.

The Licensee (William Mack, M.D.) is aggrieved by said decision and hereby petitions for Reconsideration of the Final Order upon the following grounds:

The evidence does not justify the findings of fact.

The findings of fact do not support the order.

Wherefore, the Licensee requests that Reconsideration be granted.

RECEIVED  
AUG 25 2023  
KSBHA

Delivered to:  
Susan Gile

Susan M. Gile  
Staff

William J Mack, MD  
Licensee

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**BOARD EXHIBIT # 4**  
**Order Denying Petition for**  
**Reconsideration**

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**In the matter of William Mack, M.D.**

**Docket No. 24-00002**

**Kansas License 04-35486**

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

**FILED**

SEP 05 2023 *LM*

**In the Matter of** )  
 )  
 )  
**William Mack, M.D.** )  
**Kansas License No. 04-35486** )  
\_\_\_\_\_ )

KS State Board of Healing Arts

**Docket No. 24-HA00002**

**ORDER DENYING PETITION FOR RECONSIDERATION**

This matter comes before the Kansas State Board of Healing Arts (“Board”) on William Mack, M.D.’s (“Licensee”) Petition for Reconsideration (“Petition”) filed on August 28, 2023. The Board’s Order Compelling Evaluation (“Order”) filed on August 16, 2023, ordered Licensee to undergo a full fitness evaluation to determine whether he is able to practice of medicine and surgery with reasonable skill and safety in Kansas.

The Board, by and through its Executive Director, Susan Gile, a duly authorized representative of the Board, in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, upon due consideration of the agency record, applicable statutes, and being otherwise duly advised on the premise makes the following determination upon Applicant’s Petition for Reconsideration pursuant to K.S.A. 77-529.

**Findings of Fact**

1. The facts set forth and incorporated in the Board’s Order dated August 16, 2023, are hereby incorporated by reference.
2. On July 13, 2023, Disciplinary Panel No. 37 (“DP37”) filed Petitioner’s Motion to Compel Evaluation (“Motion to Compel”).
3. The Conference Hearing on the Motion to Compel was held on August 11, 2023.<sup>1</sup>
4. After hearing oral arguments of both parties, testimony from the Licensee, consideration of the entire agency record, including but not limited to the DP37’s Exhibits 1-10, and being duly advised on the premise, the Board verbally issued its order compelling Licensee

<sup>1</sup> 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 its decision.

to undergo evaluation with a written order to follow thereafter, and a written Order Compelling Evaluation was filed on August 16, 2023.

5. On August 28, 2023, Licensee filed "Petition [sic] for Reconsideration" which asked for reconsideration of the Board's Order in this case, stating that Licensee "is aggrieved by" the Board's Order, and states the following as grounds for reconsideration: "The evidence does not justify the findings of fact. The findings of fact do not support the order." This Petition alleges no new evidence, nor any statute, regulation, or any other legal authority to support the stated grounds for reconsideration.
6. On September 1, 2023, DP37, by and through Associate Litigation Counsel Sebastian Orosco, filed Respondent's Response to Petitioner's Petition for Reconsideration ("Response"). In its Response, DP37 argued, in short, that Licensee failed to state any legal arguments or any facts which would compel the Board to reconsider its Order Compelling Evaluation, and accordingly, the Petition for Reconsideration should be denied.

#### **Applicable Law**

K.S.A. 65-2801 states the purpose of the healing arts act:

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.

"The whole purpose and tenor of the healing arts act is the protection of the public against unprofessional, improper, unauthorized, and unqualified practice of the healing arts. The goal is to secure to the people the services of competent, trustworthy practitioners." *Kansas State Bd. Of Healing Arts v. Foote*, 200 Kan. 447, 453, 436 P.2d 828, 833 (1968).

Under K.S.A. 77-529(a)(1), "except as otherwise provided by paragraph (2), any party, within 15 days after service of a final order, may file a petition for reconsideration with the agency head, stating the specific grounds upon which relief is requested. The filing of the petition is not a prerequisite for seeking administrative or judicial review..."

K.S.A. 77-529(b) states, "Within 20 days after the filing of the petition, the agency head shall render a written order denying the petition, granting the petition and dissolving or modifying the final order, or granting the petition and setting the matter for further proceedings."

**Conclusions of Law & Policy**

Applicant timely filed his Petition for Reconsideration. See K.S.A. 77-529(a)(1).

Pursuant to K.S.A. 77-529(b), this Order **DENIES** Applicant's Petition for Reconsideration. The Board's Order Compelling Evaluation was based upon a review of the entire agency record, including all filed exhibits, oral argument from both parties, and testimony from the Licensee. The Board concluded that there is reasonable suspicion that Licensee's ability to practice with reasonable skill and safety to patients **CONFIDENTIAL**, and accordingly, a thorough objective full fitness to practice evaluation is warranted under the circumstances of this case under K.S.A. 65-2842.

Licensee's Petition fails to provide any facts or legal arguments for why the Board should reconsider or otherwise alter its Order. The Petition merely states Licensee is "aggrieved" by the Board's decision and posits only conclusory legal opinions. The Board's mission is to protect the public; not the interest of a licensee. The Petition is inadequate to alter the Board's conclusion under Kansas law that the Board has reasonable suspicion that Licensee's ability to practice with reasonable skill and safety to patients **CONFIDENTIAL**. In the interest of judicial efficiency and considering Licensee failed to articulate any grounds to support his argument that the Board's Order lacks factual support, his Petition for Reconsideration is denied.

**IT IS THEREFORE ORDERED** that Applicant's Petition for Reconsideration is **DENIED**.

**IT IS SO ORDERED.**

**KANSAS STATE BOARD OF HEALING ARTS**

*Susan Gile*

\_\_\_\_\_  
Susan Gile, Executive Director

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the above and foregoing **ORDER DENYING PETITION FOR RECONSIDERATION** by depositing the same in the United States mail, postage prepaid, on this 5th of September 2023, addressed and emailed to:

William J. Mack, MD

**CONFIDENTIAL**

.....  
*Licensee*

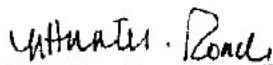
A copy was hand-delivered to:

Sebastian Orosco, Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612  
Sebastian.orosco@ks.gov

Compliance Coordinator  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level – Suite A  
Topeka, KS 66612  
KSBHA\_ComplianceCoordinator@ks.gov

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 member

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**Order Denying Petition for Reconsideration  
In the Matter of William Mack, M.D.;  
KSBHA Docket No. 24-HA00002**

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**BOARD EXHIBIT # 5**

**Petition for Judicial Review**

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**In the matter of William Mack, M.D.**

**Docket No. 24-00002**

**Kansas License 04-35486**

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Sept 13, 2023

William Mack

**CONFIDENTIAL**

Case No. 23CV5036

(Petitioner)

Petition for Judicial Review

vs.

Docket / Case # 24-HA00002

KS State Board  
of Healing Arts

800 SW Jackson, Lower Level - Suite A

Topeka, KS 66612

(Respondent)

1. The petitioner is an individual and resides at **CONFIDENTIAL**
2. The KS State Board of Healing Arts is an agency of the state of KS, a licensing and regulatory board whose primary responsibility is safeguarding the public.
3. On Sept 5, 2023, the KS State Board made certain findings and, based on such findings, made and entered its decision that is the subject of this appeal.



4. Petitioner is aggrieved by reason of said findings and decision upon the following grounds:

- The evidence does not justify the findings of fact.
- The findings of fact do not support the order.

Wherefore, the petitioner demands judgment that the findings and decision complained of be set aside.

Dated this 13th day of September, 2023.

William J. Mack, MD

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**BOARD EXHIBIT #6**

**Memorandum Decision  
Granting Motion to Dismiss**

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**In the matter of William Mack, M.D.**

**Docket No. 24-00002**

**Kansas License 04-35486**

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IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS  
CIVIL DEPARTMENT

WILLIAM MACK, M.D.,  
Petitioner

vs.

Case No. 23 CV 5036  
Division 2  
KSA Chapter 77/60

KANSAS STATE BOARD OF  
HEALING ARTS,  
Respondent

MEMORANDUM DECISION  
(Granting Motion to Dismiss)

Upon review of the Court's docket this date, the Court finds that on September 27, 2023, the Respondent filed and served its motion to dismiss (Doc. 7). The motion was served by e-mail to the Petitioner and by regular U.S. mail service to the address given in his Petition for Judicial Review (Doc. 1). In addition, the filing of the motion generated an automatic e-mail notification to him that certain action (filing of the document) had occurred in his case.

No response has been timely filed. No request for leave to amend the Petition has been made. The motion is ready for decision.

The conclusory allegations in the Petition are insufficient as noted in the Respondent's motion to dismiss. Petitioner has requested no timely opportunity to supplement the Petition. For the reasons shown and based upon the authorities cited in the motion, the same should be granted.

The motion to dismiss is, therefore, GRANTED.

This is the ruling and judgment of the Court. No other Journal Entry will be required.

IT IS SO ORDERED.

Dated this 6<sup>th</sup> day of November 2023.

/s/ James F. Vano  
JAMES F. VANO  
District Judge, Division 2

NOTICE OF SERVICE

Copies of the above and foregoing have been sent electronically by the court to counsel and/or self-represented litigants at the e-mail address(es) provided by them as of record in the JIMS this date of filing.

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**BOARD EXHIBIT # 7**  
Electronic mail from  
**CONFIDENTIAL**

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**In the matter of William Mack, M.D.**  
**Docket No. 24-00002**  
**Kansas License 04-35486**

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