

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
BRIAN P. LAHEY, M.D.)
)
)
Kansas License No. 04-33861)
_____)

KSBHA Docket No. 19-HA00005

FINAL ORDER

APPROVAL OF REQUEST TO CHANGE
PRACTICE SITE; WORKSITE MONITOR; AND PATIENT CHAPERONE

On this 25th day of February 2025, the Kansas State Board of Healing Arts (“Board”) enters this Final Order. On January 16, 2025, Board Member Steven Gould, D.C., Presiding Officer, conducted a video electronic formal hearing in this matter. Brian P. Lahey, M.D. (“Licensee”), appeared in person, *pro se*. Sebastian Orosco, Associate Litigation Counsel, appeared on behalf of the Respondent, Disciplinary Panel #33 (“DP #33”).

I. Summary of Proceedings

Licensee filed a request for the Board to approve: (1) termination of his part-time practice at **CONFIDENTIAL** (“RHCL”); and (2) transition from part-time to working full-time at **CONFIDENTIAL** (“IP”). The presiding officer has been designated pursuant to K.S.A. 77-514(g) to conduct a hearing and issue a Final Order in this matter.

II. Findings of Fact

After reviewing the: agency record; testimony; evidence; statements and arguments of the parties; and being otherwise advised in the premises, the Presiding Officer makes the following findings, conclusions, and order:

1. Dr. Lahey is licensed as a medical doctor (M.D.) in the State of Kansas, having been issued active License No. 04-33861 on or about July 1, 2009.
2. On or about February 21, 2019, the Board filed an Amended Qualified Protective Order (“QPO”) to protect confidential information in this case. The Amended QPO continues in effect for the duration of this matter.
3. The hearing in this matter was closed under K.S.A. 77-523(f) for presentation of information that is confidential under K.S.A. 65-4925.
4. Respondent’s Exhibits 1, 2, and 3 are admitted to the agency record.

2019 Consent Order

5. On April 16, 2019, the Board issued the 2019 Consent Order in this case resolving allegations that: (1) **CONFIDENTIAL**
(2) had an inappropriate intimate relationship with a patient; (3) entered into inappropriate financial obligations with a patient; (4) continued to treat patients after his license was emergently suspended; and (5) generally failed to set appropriate boundaries with his patients. The Consent Order **indefinitely suspended** Dr. Lahey’s M.D. license with the option for Dr. Lahey to apply to the Board for reinstatement of his license at a future date. Any application for reinstatement was to be governed by the factors listed in *Vakas v. Kansas Board of Healing Arts*, 248 Kan. 589, 600, (1991). 2019 Consent Order, pp. 3-5, also included in the agency record as 2020 First Amended Consent Order, Exhibit A.

2020 First Amended Consent Order

6. On or about April 29, 2020, after successful completion of a 14-month, Acumen three-phase, comprehensive, intensive treatment, and education program (March 4, 2019, to May

1, 2020), Dr. Lahey filed a motion to terminate the suspension of his M.D. license and requested to return to the practice of medicine. 2020 First Amended Consent Order, pp. 3-4.

7. On June 19, 2020, the Board issued the First Amended Consent Order requiring Dr. Lahey to agree that **upon reinstatement, his medical license would be subject to limitations** as follows:

1. Dr. Lahey may practice in an institutional setting;
2. Dr. Lahey may practice in a group practice, but shall not treat female patients;
3. Dr. Lahey shall not practice in a solo, office sharing, or similar settings;
4. CONFIDENTIAL

5. CONFIDENTIAL

6. Dr. Lahey shall have a workplace monitor to supervise his practice for a period of two years. The monitor will send quarterly reports to CONFIDENTIAL and the Board;
7. Dr. Lahey shall maintain impeccable professional boundaries and will have no personal or social relationships with patients regardless of gender;
8. Dr. Lahey shall not treat any patients without having a patient chaperone present at all times. Any proposed patient chaperone must speak with the Board (or designated staff member) and be approved by the Board;
9. For five years the patient chaperone shall create, maintain, and submit to the Board a daily log of all patients seen by Dr. Lahey;
10. Dr. Lahey shall undergo CONFIDENTIAL polygraph exams every six months for two years with results provided to Acumen and the Board; and
11. CONFIDENTIAL

8. The First Amended Consent Order monitoring provisions are not self-terminating. After a period of five years, Dr. Lahey may request the Board to modify or terminate the provisions. *Id.* at p. 7.

2022 Final Order

Approving Dr. Lahey's Current Part-Time Practice at RHCL

9. On or about June 27, 2022, the Board issued a Final Order – Approval of Patient Chaperone and Approval of Change of Designation of License (“2022 Final Order”). The 2022 Final Order approved a change in designation of Dr. Lahey’s Kansas M.D. license from inactive to **active with limitations**. The 2022 Final Order approved: (1) Dr. Lahey’s current part-time practice at RHCL; (2) the current patient chaperone; (3) the current worksite practice monitor; and (4) continuation of all provisions of the 2019 Consent Order and 2020 First Amended Consent Order. In regard to the worksite practice monitor, the 2022 Final Order permitted Dr. Lahey, after two years, to submit a written request to the Board to modify or terminate the worksite practice monitor requirements. 2022 Final Order, pp. 9-11.

2024 Final Order

Approving Dr. Lahey's Current Part-Time Practice at IP

10. On or about May 13, 2024, the Board issued a Final Order – Approval of Part-Time: Practice Site; Worksite Monitor; and Patient Chaperone (“2024 Final Order”). The 2024 Final Order approved: (1) Dr. Lahey’s proposed part-time practice at IP; (2) Anna Pfannenstiel, LSCSW, as worksite practice monitor; (3) Dr. Ethan Bickelhaupt, M.D., as clinical monitor; (4) Sean Viteri as patient chaperone; (5) continuation of his part-time practice at RHCL; and (6) continuation of all provisions of the Board’s prior Consent Orders and Orders. 2024 Final Order, pp. 3-7.

Current Request for Practice at Only IP

11. On or about July 25, 2024, Dr. Lahey requested the Board approve: (1) termination of his part-time practice at RHCL; and (2) transition to working only at IP. July 2024 Response, Exhibit 05.

DP#33 Response to Current Request for Practice at Only IP

12. On or about July 31, 2024, DP#33 filed a Response to Licensee's Motion to Modify Final Order ("July 2024 Response") stating:

1. Dr. Lahey requests to terminate employment and practice at RHCL and transition to full-time practice at IP by September 1, 2024;
2. Dr. Lahey requests that RHCL worksite monitor, Dr. Soghrati, and patient chaperone, Christy Goble, be released from their respective duties and obligations under the Board's 2022 Final Order;
3. **CONFIDENTIAL**
4. Dr. Lahey does not request any additional modifications of the 2024 Final Order, other than working full-time instead of part-time at IP; and
5. DP#33 supports Dr. Lahey's request based on his compliance with **CONFIDENTIAL** and Board orders and provided all prior Board orders remain the same. July 2024 Response, pp. 6-7.

Review of Dr. Lahey's Current Practice at RHCL

13. Valerie Colvin, Executive Director, RHCL, submitted written testimony regarding Dr. Lahey's work at RHCL as follows:

1. She spoke with Dr. Lahey in the spring of 2024 about having secured a practice opportunity with a private practice in Lawrence Kansas (IP). He indicated

that the opportunity would enable him to see more patients and return to private practice psychiatry; and

2. As it pertains to Dr. Lahey's performance, the individuals he treated all enjoyed seeing him, staff felt he addressed their concerns well, and overall, the individuals benefited from seeing Dr. Lahey. Many of the staff have known Dr. Lahey for over ten years and have always believed him to be a provider who is compassionate to the needs of our individuals and easy to work with. He is well liked personally, and we are happy to have participated in his efforts to return to practicing. Respondent's Exhibit 1.

Dr. Lahey's Current Practice at IP

14. Dr. Lahey's current part-time work at IP is the practice of psychiatry and mental health services, treating male patients, providing: (1) psychiatric evaluations; (2) assessments; (3) diagnosing; (4) prescribing medication; and (5) providing therapy and psycho-education services. All active practice at IP is part-time, in addition to Dr. Lahey's part-time work at RHCL. DP#33 January 3, 2024, Response to Licensee's Request for Approval of Proposed Practice, Worksite Monitor, and Patient Chaperone ("January 2024 Response"), p. 5 and January 2024 Response Exhibit 5.

15. Dr. Lahey testified regarding his current practice at IP as follows:

1. Reference to his practice at IP as being "private practice" describes IP as a practice owned by private individuals versus RHCL as a practice organized related to state funding;
2. He has a total of 10 patients at the current time, works one day per week, and sees an average of four patients per day. Certain patients are seen once per

week, other patients are seen every other week, and still other patients are seen once per month;

3. In the past, prior to IP, he may have seen a maximum of 15 patients per day, but at the current time seeing that many patients per day would be daunting;
4. He would consider a schedule of 10 patients in one day as a full schedule but manageable and not overwhelming; and
5. Based on the practical limitations of insurance reimbursement, not using telemedicine, and seeing only male patients in-person at the IP Lawrence office, Dr. Lahey would like to work towards the goal of seeing patients two days per week.

Dr. Lahey's Current IP Worksite Monitor

16. Anissa Pfannenstiel, LSCSW, serves as the current worksite monitor at IP. As worksite monitor, Ms. Pfannenstiel: (1) oversees the day-to-day work that Dr. Lahey performs; (2) oversees the patient chaperone; (3) will collaborate with all necessary parties; and (4) reports to the Board as required. *Id.* at pp. 5-6, Board Exhibit 5, and Board Exhibit 6.

Proposed New IP Worksite Monitor

17. Ruby Mae Johnson, Chief Executive Officer of IP, is proposed to replace the current IP worksite monitor Anissa Pfannenstiel. Ruby Johnson testified that:

1. She is aware of the limitations on Dr. Lahey's license and has read the Board's prior orders re: Dr. Lahey;
2. She is aware that Dr. Lahey is limited to part-time work at IP, seeing only male patients and that Dr. Lahey must always be accompanied by a patient chaperone when Dr. Lahey is seeing a patient;

3. She is aware of the requirements for Dr. Lahey's worksite monitor and clinical practice monitor. She has discussed the proposed change of worksite monitor with the current worksite monitor, Anissa Pfannenstiel, and Ms. Pfannenstiel has raised no problems regarding the change;
4. She has visited with the current patient chaperone, Sean Viteri, and believes the current patient chaperone is willing and available to handle working additional hours as a patient chaperone if the number of patients Dr. Lahey treats increases;
5. Dr. Lahey's current practice schedule at IP is one day per week seeing about four male patients over a workday schedule of about eight hours;
6. Dr. Lahey is serving as a good doctor and she is aware of no: (1) complaints; (2) boundary issues; or (3) **CONFIDENTIAL** ;
7. Future plans for Dr. Lahey at IP may include: (1) increasing the number of patients he sees; (2) adding another day or two to Dr. Lahey's work schedule; (3) Dr. Lahey working at the IP offices in Overland Park and Topeka; and (4) if interests align and subject to Board limits, possible full-time work at IP;
8. She is aware of the worksite monitor requirements to: (1) oversee the day-to-day work that Dr. Lahey performs; (2) oversee the patient chaperone; (3) meet weekly with the patient chaperone and sign the monthly summary reports of these meetings prepared by the patient chaperone; and (4) report to the Board as required;
9. She knows Dr. Lahey only as a provider at IP and has no personal relationship with Dr. Lahey outside of work at IP;

10. She is aware that any change of Dr. Lahey's worksite monitor, patient chaperone, or clinical monitor requires prior approval of the Board; and

11. She understands and will accept the responsibility of being the new worksite monitor for Dr. Lahey at IP.

Dr. Lahey's Current IP Patient Chaperone

18. Sean Viteri, serves as the current patient chaperone at IP. Mr. Viteri has almost 2 years of experience at IP in various capacities, such as accounting, payroll, human resources, and management. As patient chaperone, Mr. Viteri is to be present for all of Dr. Lahey's patient sessions. Mr. Viteri understands the role and expectations of a patient chaperone and is willing to serve in this capacity. *Id.* at p. 6, Board Exhibit 5, and Board Exhibit 8.

19. Mr. Viteri testified that in his current role (beginning in May 2024) as patient chaperone for Dr. Lahey at IP: (1) he is present in person when Dr. Lahey sees patients; (2) meets weekly with the current worksite monitor to discuss Dr. Lahey's care and treatment of patients; and (3) submits to the Board monthly reports summarizing the meetings with the worksite monitor.

20. Mr. Viteri testified: (1) typically Dr. Lahey schedules patients on Friday; (2) Mr. Viteri and Dr. Lahey meet prior to the patient visit; (3) during patient visits, Mr. Viteri is in the corner of the room, is able to see and hear what takes place, and tries to stay out of the way; (4) he has seen no issues with patient boundaries or inappropriate patient communication; (5) he has had no issues to report in weekly meetings with the worksite monitor; (6) he has no concerns as Dr. Lahey's patient chaperone if Dr. Lahey increases the number of patients he sees at IP; and (7) he supports the request for Dr. Lahey to be approved to see additional patients at IP.

21. The First Amended Consent Order requires the proposed patient chaperone to be an adult, to speak with the Board, and to be approved by the Board prior to functioning as Dr. Lahey's patient chaperone. First Amended Consent Order, p. 6.

Dr. Lahey's Current IP Clinical Monitor

22. Ethan Bickelhaupt, MD, serves as the current clinical monitor at IP. Dr. Bickelhaupt is a psychiatrist and holds a current active license to practice medicine and surgery in Kansas, having been issued an original active license in 1979. Dr. Bickelhaupt's 40+ year practice includes family medicine and psychiatry, addiction psychiatry, and leadership positions. Dr. Bickelhaupt is currently the Medical Director at CONFIDENTIAL Kansas. Clinical Associates specializes in substance abuse and psychiatric services. As clinical monitor, Dr. Bickelhaupt will review charts, periodically meet with Licensee to discuss patient issues, and will provide reports to the Board as required. January 2024 Response, p. 6, and January 2024 Response Board Exhibits 5 and 7.

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL

III. Conclusions of Law

K.S.A. 65-2801 states the purpose of the Board and the healing arts act is to properly protect the public 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. 65-2836 provides that a licensee's license may be revoked, suspended, or limited, or the licensee may be publicly censured or placed under probationary conditions if the licensee has violated any of the 31 provisions listed in the statute.

IV. Order

IT IS THEREFORE ORDERED

1. The following limitations on Dr. Lahey's Kansas physician license stated in the June 19, 2020, First Amended Consent Order continue:

1. Dr. Lahey may practice in an institutional setting;
2. Dr. Lahey may practice in a group practice, but shall not treat female patients;
3. Dr. Lahey shall not practice in a solo, office sharing, or similar settings;

4. **CONFIDENTIAL**

5.

6. Dr. Lahey shall have a workplace monitor to supervise his practice for a period of two years. The monitor will send quarterly reports to **CONFIDENTIAL** and the Board;

7. Dr. Lahey shall maintain impeccable professional boundaries and will have no personal or social relationships with patients regardless of gender;

8. Dr. Lahey shall not treat any patients without having a patient chaperone present at all times. Any proposed patient chaperone must speak with the Board (or designated staff member) and be approved by the Board;

9. For five years the patient chaperone shall create, maintain, and submit to the Board a daily log of all patients seen by Dr. Lahey;

10. **CONFIDENTIAL**

11. The First Amended Consent Order monitoring provisions are not self-terminating. After a period of five years, Dr. Lahey may request the Board to modify or terminate the provisions.
2. Dr. Lahey's request to terminate employment and part-time practice at RHCL is **GRANTED**.
3. Dr. Soghrati, RHCL worksite monitor, and Christy Goble, RHCL patient chaperone, shall complete all required duties and reports necessary to properly document and close Dr. Lahey's practice at RHCL. Upon **COMPLETION** of required closeout tasks, Dr. Soghrati (worksite monitor) and Christy Goble (patient chaperone) are **RELEASED** from functioning in these roles for Dr. Lahey at RHCL.
4. Subject to the provisions of this Final Order, prior Board orders, and continuing limitations on Dr. Lahey's Kansas physician license, the following individuals are **APPROVED** by the Board to function in roles at IP related to Dr. Lahey as follows:
 1. Beginning January 20, 2025, Ruby Mae Johnson, chief executive officer of IP, shall replace Anna Pfannenstiel, LSCSW, as the **new IP worksite practice monitor**. In the role of Dr. Lahey's IP worksite practice monitor, Ms. Johnson shall complete tasks as follows:
 1. Oversee the day-to-day work that Dr. Lahey performs; oversee the patient chaperone; collaborate with all necessary parties; and report to the Board as required;
 2. Meet weekly with Dr. Lahey's patient chaperone and sign the written monthly summary report of these weekly meetings. The monthly summary report shall be prepared by the patient chaperone, signed by the patient chaperone and worksite monitor, and filed with the Board's Compliance Coordinator by the patient chaperone;
 3. The worksite monitor (Ms. Johnson) shall prepare and submit quarterly written reports to **CONFIDENTIAL** and the Board's Compliance Coordinator summarizing Dr. Lahey's practice at IP and citing any concerns or issues; and

4. Complete all other worksite monitor tasks as required by this Final Order or prior Board orders.

2. Dr. Ethan Bickelhaupt, M.D., will continue as Dr. Lahey's **IP clinical monitor**. In the role of Dr. Lahey's IP clinical monitor, Dr. Bickelhaupt shall complete tasks as follows;

1. Review all of Dr. Lahey's charts and meet with Dr. Lahey at least once per month to discuss patient issues;
2. The clinical monitor shall prepare and submit quarterly written reports to the Board's Compliance Coordinator summarizing Dr. Lahey's practice at IP and citing any concerns or issues; and
3. Complete all other clinical monitor tasks as required by this Final Order or prior Board orders.

3. Sean Viteri will **continue as IP patient chaperone**. In the role of Dr. Lahey's patient chaperone, Mr. Viteri shall complete tasks as follows:

1. The patient chaperone shall (i) accompany each patient seen by Dr. Lahey; and (ii) be physically present in the room through the duration of the entire patient visit – at no time and under no circumstance will Dr. Lahey be alone with a patient. The patient chaperone shall be situated in the room in such a manner that he is able to directly observe and hear all interactions between Dr. Lahey and his patient;
2. Meet weekly with Ruby Johnson, (Dr. Lahey's worksite practice monitor) about the care that Dr. Lahey's patients are receiving;
3. Sean Viteri shall submit the monthly reports listed below to the Board's Compliance Coordinator to be received on or before the 15th day of the following month:
 - i. a daily log (created and maintained by Sean Viteri) identifying by a numbering system that can be correlated to the IP patient identity of all patients seen by Dr. Lahey that day; and
 - ii. a summary report of the weekly meetings between Sean Viteri and Ruby Johnson (worksite practice monitor) evaluating Dr. Lahey's care and treatment of patients at IP. This summary report is to be signed by both Ruby Johnson and Sean Viteri.

5. Dr. Lahey shall not see or treat female patients.
6. Contact information for the Board's Compliance Coordinator is as follows:

Compliance Coordinator
Kansas Board of Healing Arts
800 Jackson, Lower Level-Suite A
Topeka, KS 66612
KSBHA_ComplianceCoordinator@ks.gov

7. Any change Dr. Lahey's practice or in the personal involvement or level of participation of: (1) Sean Viteri as IP patient chaperone; (2) Ruby Johnson, as IP worksite practice monitor; or (3) Dr. Ethan Bickelhaupt, M.D., as IP clinical monitor, must receive prior approval in writing from the Board.
8. Dr. Lahey' practice under this order is further **LIMITED** as follows: (1) Dr. Lahey is limited to seeing a maximum of 10 male patients per day for in-person psychiatric visits at only the IP office in Lawrence, Kansas; (2) Dr. Lahey is limited to practicing two days per week at only the IP office in Lawrence, Kansas; and (3) Dr. Lahey is not permitted to see patients using telemedicine. Any change in: (1) number of patients seen per day; (2) number of days working per week; (3) practice at locations other than the IP office in Lawrence Kansas; or (4) using telemedicine shall require prior approval in writing from the Board.
9. Dr. Lahey's active license is limited to practicing in strict compliance with the above-described IP practice location and IP psychiatric patient population.

Unless specifically modified by the provisions of this Final Order, all provisions of the Board's prior Consent Orders and Final Orders **remain and continue in full effect.**

IT IS SO ORDERED this 25th day of February 2025.

KANSAS STATE BOARD OF HEALING ARTS

/s/ Warran Wiebe, #13572 for
Steven J. Gould, D.C.
Presiding Officer

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 Susan Gile, Executive Director, at 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 by depositing the same in the United States mail, postage prepaid, on this 25th day of February 2025, addressed and emailed to:

Brian P. Lahey, M.D.

CONFIDENTIAL

Licensee

And a copy hand delivered to:

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

Compliance Coordinator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612
KSBHA_ComplianceCoordinator@ks.gov

Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612
KSBHA_Licensing@ks.gov

and the original filed with the office of the Executive Director.



Staff Signature