

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

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KS State Board of Healing Arts

In the Matter of)
Francis Abraham, DPM)
)
Kansas License No. 12-00085)
_____)

Docket No. 09-HA00052

FINAL ORDER

NOW ON THIS 20th day of February, 2009, this matter comes on for conference hearing on Licensee's Motion to Modify the Consent Order. Licensee appears in person with counsel, Todd Shadid of Klenda, Mitchell, Austerman & Zuercher. Stacy Bond, Associate Litigation Counsel, appears for the Board. There are no other appearances.

WHEREUPON, Having the agency record before it, hearing the statements and arguments of the parties and being duly advised in the premises, the Board FINDS and ORDERS as follows:

1. A Consent Order was filed with the Board on October 14, 2008, requiring Licensee to complete a Board-approved DVD prescribing course and provide proof of completion by December 31, 2008.
2. Counsel for the Board and Licensee's counsel decided upon the University of Medicine and Dentistry of New Jersey's Mini-Residency Appropriate Prescribing Course.

3. Said course is not specific to the practice of podiatry and successful completion would require Licensee to learn new areas of practice unrelated to podiatry.
4. Mercer University's College of Pharmacy and Health Sciences course entitled "Appropriate Prescribing of Controlled Substances: A Symposium for Physicians and Dentists" is more appropriate for Licensee's practice.

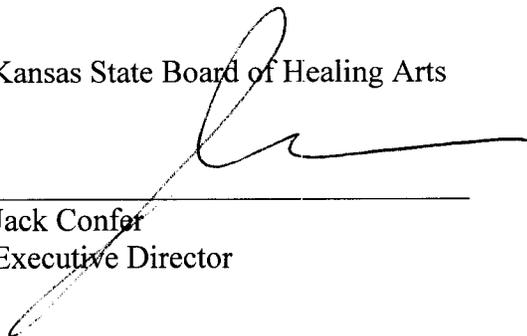
IT IS, THEREFORE, ORDERED that the Consent Order filed on October 14, 2008, be hereby modified such that Licensee is required to attend Mercer University's College of Pharmacy and Health Sciences course entitled "Appropriate Prescribing of Controlled Substances: A Symposium for Physicians and Dentists" and provide proof of successful completion within 120 days of the date of this Order.

PLEASE TAKE FURTHER 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 the Board's Executive Director at 235 SW. Topeka Blvd., Topeka, KS 66603.

IT IS SO ORDERED.

Dated this 6TH day of MARCH, 2009.

Kansas State Board of Healing Arts



Jack Confer
Executive Director

Certificate of Service

I certify that a true copy of the foregoing Final Order was served this 9th day of March, 2009, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Francis Abraham
220 S. Hillside
Wichita, KS 67211

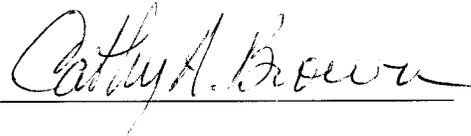
and

Todd Shadid
Klenda, Mitchell, Austerman & Zuercher
301 N. Main St. Ste. 1600
Wichita, KS 67202-4816

And a copy was hand-delivered to the office of

Stacy Bond
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603

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



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

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KS State Board of Healing Arts

In the Matter of)
)
Francis Abraham, DPM) Docket No. 09-HA-00052
Kansas License No. 12-00085)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Dan Riley, Associate Counsel (“Petitioner”), and Francis Abraham, DPM (“Licensee”), by and through his counsel, Todd E. Shadid, and move the Board for approval of a Consent Order affecting Licensee’s license to practice podiatry in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: 220 S. Hillside, Wichita, Kansas 67211.
2. Licensee is or has been entitled to engage in the practice of podiatry in the State of Kansas, having been issued License No. 12-00085 on approximately July 1, 1961. Licensee’s license is active.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts, specifically the practice of podiatry, K.S.A. 65-2001 et seq. All pending investigative materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board’s Disciplinary Panel. The Disciplinary Panel authorized and directed Board Counsel to seek settlement of this matter with the provisions contained in this Consent Order.
4. The Consent Order and the filing of such document are in accordance with applicable law and the Board may enter into an informal

settlement of this matter as provided by K.S.A. 77-505, without the necessity of proceeding to a formal hearing.

5. Upon approval, the provisions in this Consent Order shall constitute the findings of the Board, and this Consent Order shall be the Board's Final Order.

6. The Kansas Podiatry Act is constitutional on its face and as applied in the case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

7. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.

8. The terms and conditions of the Consent Order are entered into between the undersigned parties and are submitted for the purpose of allowing these terms and conditions to become an Order of the Board. This Consent Order shall not be binding on the Board until an authorized signature is affixed at the end of this document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.

9. Pursuant to K.S.A. 65-2006, the Board has authority to revoke, suspend, censure, , impose a fine or otherwise limit Licensee's license due to the fact that Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.

10. On or about July 16, 2007, the Board received a letter from BlueCross BlueShield of Kansas indicating that apparent improprieties had been

identified related to the Drug Enforcement Agency number assigned to the Licensee. An investigation was conducted by the Board which included the review of the medical records of five (5) individuals which were prescribed narcotics by the Licensee.

11. The information produced by the investigation indicates alleged conduct by the Licensee, which if proven, would violate the Kansas Podiatry Act, and applicable provisions of the Kansas Healing Arts Act.

12. Pursuant to K.S.A. 65-2006, the Board has grounds to discipline Licensee's license to practice podiatry in the State of Kansas.

13. According to K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

14. To avoid the uncertainty, time and costs involved in conducting a formal proceeding and the making of findings by the Board, Licensee desires to resolve this matter by entering into this Consent Order. This Consent Order shall not be deemed an admission by Licensee of a violation of the Kansas Podiatry Act or the Kansas Healing Arts Act. By his signature affixed to this Consent Order, Licensee hereby voluntarily agreed to the following disciplinary action against his license to engage in the practice of podiatry in Kansas:

- a. Licensee shall successfully complete a DVD prescribing course at his own expense. The course must be pre-approved by the Board or its designee. Licensee shall provide proof of successful completion by December 31, 2008.
- b. Licensee is prohibited from ordering, prescribing, dispensing or administering medications to any employee, his spouse, his children,

his grandchildren or any person with whom Licensee does not have a podiatric physician-patient relationship, within the applicable scope and standard of care for a podiatric practice, and shall comply completely with all requirements for the maintenance of records for all patients.

15. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate in accordance with the Kansas Administrative Procedure Act.

16. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Podiatry Act, or to investigate complaints received under the Risk Management Law, K.S.A. 65-4921 *et seq.*, that are known or unknown and are not covered under this Consent Order, or to initiate formal proceedings based upon known or unknown allegations of violations of the Podiatry Act.

17. Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* This release shall forever discharge the Board of any and all claims or demands of every kind and nature that Licensee has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Licensee shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Board, its employees or agents, arising out of acts leading to the execution of this Consent Order or the content of this Consent Order.

18. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.

19. This Consent Order, when signed by both parties, constitutes the entire agreement between the parties and may only be modified or amended by a subsequent document executed in the same manner by the parties.

20. Licensee agrees that all information maintained by the Board pertaining to the nature and result of any complaint and/or investigation may be fully disclosed to and considered by the Board in conjunction with the presentation of any offer of settlement, even if Licensee is not present. Licensee further acknowledges that the Board may conduct further inquiry as it deems necessary before the complete or partial acceptance or rejection of any offer of settlement.

21. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel and General Counsel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member or General Counsel in any future proceedings on the basis that the Board member or General Counsel has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

22. Licensee acknowledges that he has read this Consent Order fully understands the contents and acknowledges that this Consent Order has been entered into freely and voluntarily.

23. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the

Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

24. Licensee shall obey all federal, state and local laws and rules governing the practice of podiatry in the State of Kansas that may be in place at the time of execution of the Consent Order or may become effective subsequent to the execution of this document. Any such violation will be deemed a violation of this Order and may be subject to further disciplinary action by the Board.

25. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order under K.S.A. 65-2838. This Consent Order shall constitute the Board's Order when filed with the office of the Executive Director for the Board and no further Order is required.

26. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board, and is the Order of the Board.

IT IS FURTHER ORDERED that in lieu of concluding the presently pending formal proceedings, Licensee by his signature affixed to this Consent Order, voluntarily agrees to the following provisions related to his license to practice medicine and surgery in Kansas:

- a. Licensee shall successfully complete a DVD prescribing course at his own expense. The course must be pre-approved by the Board or

its designee. Licensee shall provide proof of successful completion by December 31, 2008.

- b. Licensee is prohibited from ordering, prescribing, dispensing or administering medications to any employee, his spouse, his children, his grandchildren or any person with whom Licensee does not have a podiatric physician-patient relationship, within the applicable scope and standard of care for a podiatric practice, and shall comply completely with all requirements for the maintenance of records for all patients.

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS:

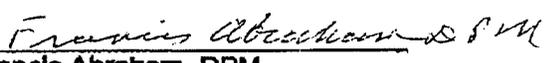
IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS:



John (Jack) Confer
Acting Executive Director

10-18-08
Date



Francis Abraham, DPM
Licensee

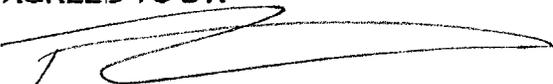
9-23-08
Date

PREPARED AND APPROVED BY:



Dan Riley, #15658
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
(785) 286-3268 Phone
(785) 368-7103 Fax

AGREED TO BY:



Todd E. Shadjid
Attorney for Licensee
Klenda, Mitchell, Austerman & Zuercher, L.L.C.
1600 Epic Center, 301 N. Main
Wichita, Kansas 67202-4888
(316) 267-0331 Phone
(316) 267-0333 Fax

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 14th day of ~~September~~ October, 2008, to the following:

Todd E. Shadid
Attorney for Licensee
Klenda, Mitchell, Austerman & Zuercher, L.L.C.
1600 Epic Center, 301 N. Main
Wichita, Kansas 67202-4888

And the original was hand-filed with:

Jack Confer
Acting Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Dan Riley, #15658
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And to:

Compliance Coordinator
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068



Cathy Brown