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

FEB 2 2004

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
)
FAIZ AHMED, M.D.)
Kansas License No.4-23917)
_____)

Docket No. 04-HA-36

CONSENT ORDER

COME NOW, the Kansas State Board of Healing Arts ("Board") by and through Shelly R. Wakeman, Disciplinary Counsel ("Petitioner"), and Faiz Ahmed, M.D. ("Licensee"), by and through legal counsel Michael R. Sharp, Sharp & Cobos, P.C. of Austin, Texas, and move the Board for approval of a Consent Order affecting Licensee's license to practice medicine and surgery in the State of Kansas. The parties stipulate and agree to the following:

1. Licensee's mailing address is 3010 Grand Elm Circle 1, Houston, Texas 77068.
2. Licensee is or has been entitled to engage in the practice of medicine and surgery in Kansas, having been issued License No. 4-23917 on February 8, 1992. At all times relevant to the allegations set forth below, Licensee held a current license to engage in the practice of medicine and surgery in Kansas, having last renewed his license on May 8, 2003. Licensee's license status is currently inactive.
3. The Board is the sole and exclusive administrative agency in Kansas authorized to regulate the practice of the healing arts, specifically the practice of medicine and surgery. K.S.A. 65-2801 *et seq.*; K.S.A. 65-2869.

4. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Consent Order as provided by K.S.A. 65-2838. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. The Kansas Healing Arts Act is constitutional on its face and as applied in this case.

6. 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. On or about February 7, 2003, Licensee entered into an Agreed Order ("Texas Order") with the Texas State Board of Medical Examiners ("Texas Board").

The Texas Order was based on allegations that Licensee, who is a neurologist, inappropriately examined female patients by inappropriately touching the breasts of ten patients and the buttocks of one patient during physical examinations in either a hospital or medical office setting. All alleged inappropriate physical examinations took place in the presence of a nurse or the patient's family member. Licensee claims that the examinations were not inappropriate, but were thorough neurological examinations. These alleged inappropriate physical examinations were alleged to have occurred between 1993 and 2002.

10. Licensee was acquitted in a criminal trial that resulted from the allegations and won a civil medical liability trial on the allegations in Texas.

11. These allegations subjected Licensee to disciplinary action in the form of an Agreed Order in Texas based upon Licensee's commission of an act of unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.

12. The Texas Order prohibits Licensee from seeing, examining, diagnosing or otherwise providing care or treatment to female patients for a term of ten (10) years, and imposes other requirements on Licensee's continued practice in Texas.

13. On March 13, 2002, based upon allegations made by patient C.Y. that Licensee inappropriately fondled her breasts on two occasions in 2002 during a medical examination in a hospital setting, Methodist Willowbrook Hospital in Texas summarily suspended Licensee's staff privileges.

14. On May 22, 2002, pursuant to a mediated settlement, Methodist

Willowbrook Hospital reinstated Licensee's privileges and Licensee resigned those privileges on May 23, 2002

15. Following the allegations in 2002, Licensee received a neuropsychiatric examination by a faculty forensic psychiatrist and a psychologist at the Department of Psychiatry and Behavioral Health at Baylor College of Medicine, which concluded that Licensee is not a sexual predator or a physician who would sexually exploit or abuse his female or male patients.

16. Pursuant to K.S.A. 65-2836(j) the Board may revoke, suspend, censure or otherwise limit Licensee's license to practice the healing arts in Kansas due to disciplinary action taken by the Texas Board.

17. Pursuant to K.S.A. 65-2836(s), the Board may revoke, suspend, censure, or otherwise limit Licensee's license to practice the healing arts in Kansas due to disciplinary action taken against Licensee by a health care facility for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under the Healing Arts Act.

18. Licensee admits that because the Texas Board took disciplinary action against Licensee there are grounds to discipline his Kansas license to practice medicine and surgery.

19. According to K.S.A. 65-2838(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

20. In lieu of the conclusion of formal proceedings, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary

measures on his license to engage in the practice of medicine and surgery in Kansas:

- a. Licensee is publicly censured by the Board.
- b. Licensee shall not see, examine, diagnose or otherwise provide care or treatment to female patients.
- c. Licensee's prohibition upon treating female patients shall remain in effect until Licensee is permitted by the Texas State Board of Medical Examiners to resume the care and treatment of female patients. The procedure and requirements for resuming care of female patients is set forth in the Texas Order dated February 7, 2003 and are incorporated herein and made a part hereof by reference.
- d. Licensee shall give a copy of this Consent Order to all hospitals, nursing homes, treatment facilities, and other health care entities in Kansas where Respondent has privileges, has applied for privileges, applies for privileges, or otherwise practices.
- e. Licensee shall ensure that any response to inquiries which are made by any person or entity through any means to Licensee regarding Licensee's Kansas disciplinary history and licensure status includes disclosure of this Consent Order.
- f. If licensee desires to change his Kansas license status from inactive to any other status he shall notify the Board's disciplinary section by writing to Shelly R. Wakeman, Disciplinary Counsel, 235

S. Topeka Boulevard, Topeka, Kansas 66603-3068, in addition to completing the necessary status change forms, paying any required fees and meeting all other status change requirements.

- g. Licensee shall inform the Board in writing of any change of office or mailing address within 30 days of the address change. This information shall be sent to the disciplinary section, listed in item f.
- h. Any violation of the terms, conditions, or requirements of this Consent Order by Licensee shall constitute unprofessional or dishonorable conduct and shall be grounds for further disciplinary action pursuant to the Healing Arts Act.

21. This Consent Order constitutes disciplinary action.

22. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Healing Arts 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 Healing Arts Act.

23. Licensee hereby releases the Board, its individual members in their official and personal capacities, attorneys, employees and agents, hereinafter collectively referred to as "Releasees", from any and all claims, including but not limited to, those alleged damages, actions, liabilities, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-

601 *et seq.* arising out of the investigation and acts leading to the execution of this Consent Order. This release shall forever discharge the Releasees 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 Releasees.

24. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to the National Practitioner Databank, Federation of State Medical Boards, and any other reporting entities requiring disclosure of this Consent Order.

25. 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.

26. 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.

27. Licensee, by signature to this document, waives any objection to the participation of the Board members in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future

proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

28. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

29. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

30. Licensee shall obey all federal, state and local laws and rules governing the practice of medicine and surgery in 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.

31. 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.

32. 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 as findings of fact and conclusions of law.

IT IS FURTHER ORDERED that in lieu of the conclusion of formal proceedings by the Board, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to disciplinary action with respect to his license to engage in the practice of

medicine and surgery, as set out specifically in paragraph 20, items a through h of this Consent Order.

IT IS SO ORDERED on this 2nd day of February, 2004.

FOR THE KANSAS STATE
BOARD OF HEALING ARTS:


Lawrence T. Buening, Jr.
Executive Director

AGREED TO BY:

 1-27-04

Faiz Ahmed, M.D.
Licensee

Date

PREPARED AND APPROVED BY:



Shelly R. Wakeman #15057
Disciplinary Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
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Michael R. Sharp
Sharp & Cobos, P.C.
4705 Spicewood Springs Road, Suite 100
Austin, Texas 78759
Tel. (512) 473-2265
Fax (512) 473-8525
Attorney for Licensee

CERTIFICATE OF SERVICE

I, Shelly R. Wakeman, do hereby certify that I served a true and correct copy of the **CONSENT ORDER** by United States mail, postage prepaid, on this 2nd day of February, 2004 to the following:

Faiz Ahmed, M.D.
3010 Grand Elm Circle 1
Houston, Texas 77068.

Michael R. Sharp
Sharp & Cobos, P.C.
4705 Spicewood Springs Road, Suite 100
Austin, Texas 78759

and the original was hand-delivered to:

Lawrence T. Buening, Jr.
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068


Shelly R. Wakeman