

**FILED**

MAY 26 1994

BEFORE THE BOARD OF HEALING  
OF THE STATE OF KANSAS

**KANSAS STATE BOARD OF  
HEALING ARTS**

IN THE MATTER OF )  
 )  
WILLIAM J. ARKELL, D.O. )  
Kansas License No. 05-19177 )  
 )

Case No.'s 93-00067  
91-00406

STIPULATION AND AGREEMENT  
AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (hereinafter "Board") by and through Kevin K. LaChance, Disciplinary Counsel, and William J. Arkell, D.O. (hereinafter "Licensee"), and stipulate and agree as follows:

1. The Board is the sole and exclusive regulatory agency in the state of Kansas regarding the practice of the healing arts, specifically the practice of osteopathic medicine and surgery. K.S.A. 65-2801, et seq; K.S.A. 65-2870.

2. Licensee is or has been entitled to engage in the practice of osteopathic medicine and surgery in the State of Kansas, having been issued license number 05-19177 on June 6, 1981. At all times relevant to the allegations set forth below. Licensee has held a current license to engage in the practice of osteopathic medicine and surgery in the State of Kansas, having last renewed his license on July 30, 1993.

3. Information provided to the Board indicates that Licensee may have committed acts which, if proven to be true, would constitute violations of the Healing Arts Act, K.S.A. 65-2801 et seq; K.S.A. 65-2836. The information relates to Licensee's

practice of surgery; the Board notes that Licensee voluntarily ceased practicing hospital inpatient and outpatient surgical procedures approximately two (2) years ago. Licensee represents to the Board that his practice is in long-term geriatric care and he further represents that he has no present intention of performing surgical procedures in the future. Licensee has no objections to the restrictions placed on his license by this order.

4. Such acts or conduct as set forth above could constitute grounds for disciplinary action by the Board pursuant to provisions of the Healing Arts Act. Under the provisions of K.S.A. 65-2838(a), the Board has jurisdiction to impose appropriate discipline if a licensee of the Board has engaged in any commissions or omissions to bring licensee within the purview of K.S.A. 65-2836. Under the provisions of K.S.A. 65-2838(b), the Board has authority to enter into this **STIPULATION AND AGREEMENT ENFORCEMENT ORDER** (hereinafter "**STIPULATION**").

5. It is the intent and purpose of this **STIPULATION** to provide for settlement of all issues without the necessity of proceeding to a formal hearing. Licensee voluntarily and affirmatively waives his right to a hearing pertaining to any matter under the jurisdiction of the Board regarding his license to engage in the practice of medicine and surgery. Licensee voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, to conduct such cross-examination of witnesses as may be

desired and to waive any and all substantive procedural motions and defenses that could be raised if an administrative hearing would be held.

The terms and conditions of the STIPULATION are entered into between the undersigned parties and is submitted for the purpose of allowing these terms and conditions to become an Order of the Board. Licensee specifically acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

6. In consideration of the conditions, terms, covenants, and promises contained herein, the parties agree as follows:

(a) The Board is the duly authorized administrative agency of the State of Kansas with appropriate statutory authority to regulate the practice of the healing arts to include the practice of osteopathic medicine and surgery in the State of Kansas.

(b) Licensee admits that this STIPULATION and its filing are in accordance with the requirements of law; that the Board has jurisdiction to consider the STIPULATION and is lawfully constituted to consider this matter to include consideration of this STIPULATION. Licensee further notes that the Kansas Healing Arts Act is constitutional on its face and as applied in this case. Licensee further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to by any provision of law.

(c) In lieu of formal proceedings and/or findings by the

Board, Licensee, by signature attached to this **STIPULATION**, hereby voluntarily agrees to the conditions placed on his license to engage in the practice of osteopathic medicine and surgery in the State of Kansas. Specifically, Licensee agrees that he will not perform inpatient or outpatient surgery of any type in the state of Kansas. Licensee may perform on-site minor procedures as necessary in connection with his intended nursing home practice. Licensee may apply to the Board for termination of the above limitation. Licensee does not admit to any violation to the Healing Arts Act by the placement of his signature on this document.

Licensee's agreement to the above terms pertaining to his license are evidenced by his signature affixed to this document.

(d) Nothing in this agreement 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 unknown and are not covered under the conditions of this **STIPULATION** or subsequent acts which are unknown to the Board or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

(e) This **STIPULATION** constitutes the entire agreement between the parties and may only be modified and/or amended by a subsequent document executed in the same manner by the parties.

(f) Licensee hereby releases the Board, its employees, or agents, from all claims to mean those damages, actions, liabilities

and causes of actions, 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 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 STIPULATION or the Contents of this STIPULATION.

(g) Licensee acknowledges that his STIPULATION has been entered in freely and voluntarily given. Licensee acknowledges that he has read this STIPULATION and fully understands its Contents.

(h) Licensee acknowledges that this document shall be deemed a unilateral contract and binding when signed by Licensee. This document is a public record and is reportable to the National Practitioner Databank, Federation of State Medical Boards, and other reporting agencies.

7. Upon execution of this STIPULATION by the affixing of a Board authorized signature below, the provisions of this STIPULATION shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order under K.S.A. 65-2838. This STIPULATION shall constitute the Board's Order when filed with the

Office of the Executive Director for the Board and no further Order is required.

IN WITNESS WHEREOF, the parties have executed this agreement on the 26<sup>th</sup> day of May, 1994.

KANSAS STATE BOARD OF HEALING ARTS

Lawrence T. Buening, Jr.  
Lawrence T. Buening, Jr.  
Executive Director

May 26, 1994  
Date

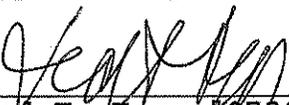
William J. Arkell D.O.  
William J. Arkell, D.O.

May 25, 1994.  
Date

Prepared and Approved By:

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Revin K. LaChance, #15058  
Disciplinary Counsel  
Kansas Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068  
(913) 296-7413

Approved By:

  
\_\_\_\_\_  
Ted F. Fay, #07293  
HOLBROOK, HEAVEN & FAY, P.A.  
6700 Antioch, Suite 420  
Merriam, Kansas 66204-0867  
(913) 677-1717

CERTIFICATE OF SERVICE

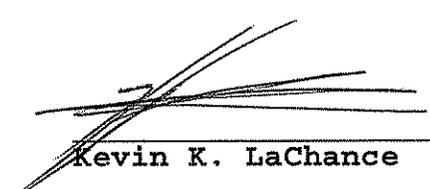
I, Kevin K. LaChance, Disciplinary Counsel, Kansas State Board of Healing Arts, hereby certify that I served a true and correct copy of the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** by United State Mail, postage prepaid, on this 26<sup>th</sup> day of May, 1994 to the following:

William J. Arkell, D.O.  
1903 Euclid, Suite 4  
Horton, Kansas 66439

Ted F. Fay  
HOLBROOK, HEAVEN & FAY, P.A.  
6700 Antioch, Suite 420  
Merriam, Kansas 66204-0867

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

  
\_\_\_\_\_  
Kevin K. LaChance