

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED *Atlee*
JUN 17 2019

KS State Board of Healing Arts

In the Matter of)
) Docket No.: 19-HA00039
MARGARET E. BARNIDGE, D.O.)
Kansas License No. 05-39764)

CONSENT ORDER FOR SURRENDER

*Indefinite MKB
surrender suspension*

COMES NOW the Kansas State Board of Healing Arts (“Board”), by and through M. Katie Baylie, Associate Litigation Counsel, and Susan R. Gering, Deputy Litigation Counsel (“Petitioner”), and Margaret E. Barnidge, D.O. (“Licensee”), *pro se*, and move the Board for approval of a Consent Order affecting Licensee’s license to practice osteopathic medicine in Kansas. The Board and Licensee stipulate and agree to the following:

FACTS

1. Licensee’s last known mailing address to the Board is: [REDACTED], Kansas 66763. Licensee’s last known e-mail address to the Board is: [REDACTED]
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 No. 05-39764 on approximately March 8, 2017, and having last renewed such license on approximately October 9, 2018.
3. Licensee’s current license status is Emergently Suspended.

Consent Order for ~~Surrender~~ *Indefinite suspension MKB*
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Kansas License No. 05-39764

1. This Consent Order incorporates herein by reference the facts as stated in the Petition that was filed on or about November 5, 2018. (Agency Record, Petition, *In the Matter of Margaret E. Barnidge*, KSBHA Docket No. 19-HA00039.).

2. Generally, *In the Matter of Margaret E. Barnidge*, KSBHA Docket No. 19-HA00039 (KSBHA Investigation No. 19-00312) contains allegations Licensee unlawfully prescribed controlled substances to herself using the identity of other physicians and nurses without authorization.

VIOLATIONS OF THE HEALING ARTS ACT

3. If proven, the Board believes Licensee's acts and conduct during the course of practicing osteopathic medicine in Kansas constitute acts in violation of the Kansas Healing Arts Act as follows:

- a. K.S.A. 65-2836(f), in that Licensee willfully or repeatedly violated the Kansas Healing Arts Act, as well as the pharmacy act of the state of Kansas and the uniform controlled substances act by unlawfully prescribing controlled substances to herself using the identity of other physicians without authorization;
- b. K.S.A. 65-2836(h), in that Licensee engaged in the practice of the healing arts under a false or assumed name, and impersonated another practitioner on multiple occasions, including using the names of physicians Robert Schneider, D.O. and Kathleen Willcox, D.O. as well as nurses Lindsey Cunningham and Brenda Cunningham to obtain prescriptions for controlled substances;

- c. [REDACTED]
[REDACTED]
[REDACTED];
- d. K.S.A. 65-2836(k), in that Licensee violated any lawful rule and regulation promulgated by the Board;
- e. K.S.A. 65-2836(p), in that Licensee prescribed, sold, administered, distributed, or gave a controlled substance to any person, specifically herself, for other than medically accepted or lawful purposes;
- f. K.S.A. 65-2836(q), in that Licensee violated a federal law or regulation relating to controlled substances;
- g. K.S.A. 65-2836(u), in that Licensee surrendered her authority to utilize controlled substances issued by any state or federal agency, when she surrendered her federal DEA registration;
- h. K.S.A. 65-2837(b)(6), in that Licensee committed unprofessional conduct by willful betrayal of confidential information, including the identity and DEA registration numbers of Dr. Schneider;
- i. K.S.A. 65-2837(b)(12), in that Licensee committed unprofessional conduct by committing conduct likely to deceive, defraud or harm the public;
- j. K.S.A. 65-2837(b)(23), in that Licensee prescribed, dispensed, administered, or distributed a prescription drug or substance, including a controlled substance, in an improper or inappropriate manner, or for other than a valid medical purpose, or not in the course of Licensee's professional practice.

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4. Under K.S.A. 65-2836 *et seq.*, the Board has grounds to revoke, suspend, censure, placed on probation or otherwise limit Licensee's license for violations of the Kansas Healing Arts Act.

5. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses, or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Kansas Healing Arts Act as described above. Licensee further waives her right to dispute or otherwise contest the allegations contained in the Petition identified above in any further proceeding before this Board.

SANCTIONS

6. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby agrees to an indefinite suspension of her license to practice osteopathic medicine in the state of Kansas.

7. Licensee acknowledges and agrees that an application or motion for reinstatement of her license will be considered in accordance with all applicable statutes, law, rules and regulations regarding qualifications for licensure and reinstatement. Further, Licensee acknowledges and agrees that an application or motion for reinstatement of her license will be governed by *Vakas v. the Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991).

8. Licensee agrees that in the event she applies for reinstatement of her license, the allegations contained in this Consent Order, whether explicitly set forth or adopted by reference, will be considered by the Board.

9. Licensee shall place her patients' records in the custody of another licensed doctor of medicine and surgery, a licensed doctor of osteopathic medicine, or a records maintenance facility

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in compliance with K.A.R. 100-24-2 and 100-24-3. Licensee shall notify the Board in writing on or before July 30, 2019, of the specific measure taken and the appropriate contact information of the designated record custodian so that the Board can respond to questions from patients about the location of their medical records, and how they can obtain them.

10. Licensee acknowledges that pursuant to K.S.A. 65-2867, it shall be unlawful for Licensee to open or maintain an office for the practice of the healing arts, or to announce or hold out to the public the intention, authority, or skill to practice the healing arts in the state of Kansas.

MISCELLANEOUS PROVISIONS

11. The Board is the sole and exclusive administrative agency of the state of Kansas authorized to regulate the practice of the healing arts, specifically the practice of osteopathic medicine.

12. 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. 77-505 and 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.

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

14. Licensee voluntarily and knowingly waives her right to a hearing. Licensee voluntarily and knowingly waives her 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.

15. 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.

16. A protective order is hereby entered to protect all confidential information under 42 C.F.R. Part II, K.S.A. 65-2839a, [REDACTED] and K.S.A. 65-2898a.

17. According to K.S.A. 65-2838(b) and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

18. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice medicine in the State of Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

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

20. Licensee hereby releases the Board, its individual members (in their official and personal capacity), 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 Judicial Review Act, 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.

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

22. 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.

23. 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.

24. 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.

25. Licensee acknowledges she has read this Consent Order and fully understands the contents.

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

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

28. 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 Final Order when filed with the office of the Executive Director for the Board and no further Order is required.

29. This Consent Order constitutes **public disciplinary action**.

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

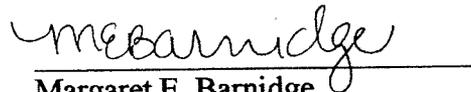
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 11 day of June, 2019.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

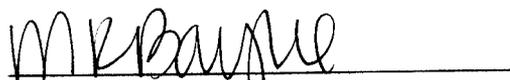

Kathleen Selzler Lippert
Executive Director

Date


Margaret E. Barnidge
Licensee

05/12/2019
Date

PREPARED AND APPROVED BY:


M. Katie Baylie, #27910
Associate Litigation Counsel
Susan R. Gering, #25582
Deputy Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A

Consent Order
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Kansas License No. 05-39764

800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
785-296-1479
785-368-8210 (fax)
katie.baylie@ks.gov
susan.gering@ks.gov
Attorneys for Petitioner

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the foregoing Consent Order was served this 17th day of June, 2019, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Margaret E. Barnidge
Licensee
[REDACTED]
[REDACTED], Kansas 66763

With a copy hand-delivered to:

M. Katie Baylie, Associate Litigation Counsel
Susan R. Gering, Deputy Litigation Counsel
800 SW Jackson Lower Level, Suite A
Topeka, KS 66612

Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson Lower Level, Suite A
Topeka, KS 66612

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

Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts
800 SW Jackson Lower Level, Suite A
Topeka, KS 66612

Susan Gile