

FILED

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

DEC 14 1992

IN THE MATTER OF)
BERNARDO G. BILANG, M.D.)
Kansas License No. 04-22595)
_____)

KANSAS STATE BOARD OF HEALING ARTS
Case No. 91-20112

STIPULATION AND AGREEMENT
AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (hereinafter referred to as "Board") by and through Kevin K. LaChance, Associate Counsel, and Bernardo G. Bilang, M.D. (hereinafter referred to as "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 medicine and surgery. K.S.A. 65-2801, et seq; K.S.A. 65-2869.

2. Licensee was and is licensed to practice medicine and surgery in the State of Kansas, having originally been licensed on June 16, 1989, and having last renewed his license on June 29, 1992. Licensee allowed his license to be cancelled on or about August 20, 1991, by failing to renew his license. Licensee was granted a reinstatement of his license at his request on or about January 15, 1992 after executing an affidavit stating that he would not raise any defenses to preclude the Board from further investigation or initiation of proceedings for any previous or present acts or conduct which would constitute grounds for disciplinary action.

3. On or about January 3, 1991, Licensee delivered a child of Ms. SR, using a midforceps delivery. The baby initially suffered from right facial paralysis which gradually diminished to noticeability only when the baby cried. However, the child currently suffers from Bell's Palsy due to a nerve injury behind the ear and has a cephalohematoma which has become

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calcified. It is alleged that Licensee failed to meet the applicable standard of care of the mother and child on numerous issues, including the very use of the midforceps delivery technique.

4. Based on the above information, the Board has determined there is probable cause to believe Licensee has committed acts which, if proven to be true, would constitute grounds for discipline by the Board. Specifically, Licensee may have committed an act of professional incompetency in that he has performed one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the Board.

5. Such acts or conduct as set forth above could constitute grounds for denial of licensure under the jurisdiction of the Board pursuant to K.S.A. 1991 Supp. 65-2836(b) as defined by K.S.A. 1991 Supp. 65-2837(a)(1). Under the provisions of K.S.A. 1991 Supp. 65-2838(a), the Board has jurisdiction to impose appropriate discipline if a licensee to the Board has engaged in any commissions or omissions to bring licensee within the purview of K.S.A. 1991 Supp. 65-2836. Under the provisions of K.S.A. 1991 Supp. 65-2838(b), the Board has authority to enter into this Stipulation and Agreement.

6. It is the intent and purpose of this Stipulation and Agreement to provide for settlement of all issues without the necessity of proceeding to a formal hearing. K.S.A. 65-2838(b). Licensee voluntarily and affirmatively waives his right to a hearing pertaining to any matter under the jurisdiction of the Board regarding the granting of a license to engage in the practice of medicine and surgery.

Licensee further understands and agrees that by entering into this Stipulation and Agreement, he is waiving his right to a hearing. Licensee voluntarily and knowingly waives his right to present a defense by oral tes-

timony 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 and procedural motions and defenses that could be raised if an administrative hearing would be held.

The terms and conditions of the Stipulation and Agreement 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.

This Stipulation and Agreement shall not be binding on the Board until an authorized signature is affixed at the end of this document. Upon signature by Licensee to this document, it shall be deemed a unilateral contract and agreement and shall bind Licensee to the terms and conditions set forth in the Stipulation and Agreement whether or not the Board's signature is affixed to the document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

7. 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 medicine and surgery in the State of Kansas.

b) Licensee admits that this Stipulation and Agreement and the filing of such a document are in accordance with the requirements of law; that the Board has jurisdiction to consider the Stipulation and Agreement and is lawfully constituted to consider this matter to include consideration of this Stipulation and Agreement. 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 it by any provision of law.

c) In lieu of the initiation of formal proceedings and/or findings by the Board, Licensee, by signature attached to this Stipulation and Agreement, hereby voluntarily agrees to the conditions placed on his license to engage in the practice of medicine and surgery in the State of Kansas.

d) Licensee hereby agrees to a probationary limitation, restriction and condition of his license to engage in the practice of medicine and surgery in the State of Kansas based on the following specific conditions:

i) Licensee agrees to permanently cease the practice of obstetrics within the State of Kansas.

ii) Licensee does not admit any negligence in the care given to patient SR or her baby.

Licensee's agreement to the probationary limitations, conditions, and restrictions of his license are evidenced by his signature affixed to this document.

e) Licensee's failure to comply with the provisions of the Stipulation and Agreement will result in the Board taking disciplinary action as the Board deems appropriate in compliance with the Kansas Administrative Procedure Act.

It is further understood that if Licensee fails to fulfill any of the obligations under the Stipulation and Agreement, the Board will be released from its Stipulation and Agreement and subsequent Enforcement Order and shall be free to take whatever steps it deems appropriate to include exercise of its right to issue a Summary Revocation Order as set forth below.

Licensee acknowledges that proof submitted to the Board by an Affidavit or other form that Licensee has failed to meet the conditions of the Stipulation and Agreement or any provision of Kansas law shall be deemed good and sufficient evidence to support the alleged violation to determine non-compliance with this Stipulation and Agreement and Enforcement Order.

Any breach of the Stipulation and Agreement and Enforcement Order shall result in the Board issuing a Summary Revocation Order of Licensee's license to engage in the practice of medicine and surgery in the State of Kansas in which Licensee agrees not to contest, defend, or challenge in any civil or administrative proceeding.

f) 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 and Agreement 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.

g) This Stipulation and Agreement 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.

h) Licensee acknowledges that he has read this Stipulation and Agreement and fully understands the Contents.

i) Licensee hereby releases the Board, its employees and 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 and Agreement or the contents of this Stipulation and Agreement.

j) Licensee acknowledges that this Stipulation and Agreement has been entered in freely and voluntarily given.

k) Licensee acknowledges that this document shall be deemed a public record upon Licensee's signing this document, whether or not an authorized Board signature appears on same.

8. All correspondence or communication between Licensee and the Board shall be by certified mail addressed to Kansas State Board of Healing Arts, ATTENTION: Office of the Disciplinary Counsel, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

9. Licensee shall obey all federal, state, and local laws and rules governing the practice of medicine and surgery in the State of Kansas that may be in place at the time of execution of the Stipulation and Agreement or may become effective subsequent to the execution of this document.

10. Licensee has an affirmative duty to notify the Board of changes in his personal professional status which would inhibit the compliance with the above conditions in the Stipulation and Agreement or subsequent Enforcement Order.

11. Upon execution of this Stipulation and Agreement by the affixing of a Board authorized signature below, the provisions of this Stipulation and Agreement shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order under K.S.A. 1991 Supp. 65-2838. This Stipulation and Agreement and Enforcement Order shall constitute the Board's Order when filed with the Office of the General Counsel for the Board and no further Order is required.

IN WITNESS WHEREOF, the parties have executed this agreement on the

11th day of December, 1992.

KANSAS STATE BOARD OF HEALING ARTS

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

December 11, 1992
Date

Bernardo G. Bilang, M.D.
Bernardo G. Bilang, M.D.
Licensee

12-11-92
Date

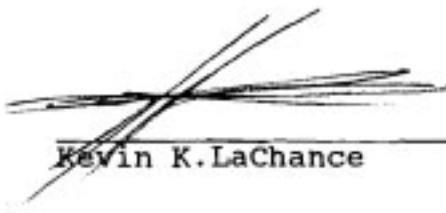
Prepared and Approved By:


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

CERTIFICATE OF SERVICE

I, Kevin K. LaChance, Associate 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 certified United States mail, postage prepaid, on this 14TH day of December, 1992 to:

Bernardo G. Bilang, M.D.
13303 Whispering Palms Place SW #106
Largo, Florida 34644



Kevin K. LaChance

P 137 321 767

Certified Number