

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

**FILED**

FEB 2 2004

KANSAS STATE BOARD OF  
HEALING ARTS

In the Matter of )  
 )  
**LLEWELLYN V. BORGENDALE, M.D.** )  
Kansas License No. 04-125598 )  
\_\_\_\_\_ )

Docket No. 01-HA-06

**CONSENT ORDER**

COMES NOW, the Kansas State Board of Healing Arts ("Board"), by and through Shelly R. Wakeman, Disciplinary Counsel, ("Petitioner") and Llewellyn V. Borgendale, M.D. ("Licensee"), 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 is licensed to practice medicine and surgery in the state of Kansas, having been originally licensed in July 1961. Licensee last renewed his active license on June 12, 2003.
2. On December 12, 2000 the Board and Licensee entered into a Stipulation and Agreement and Enforcement Order ("Stipulation") that was filed in the above-captioned matter, which is incorporated herein by reference.
3. On June 25, 2002, the Board issued its Final Order Following Conference Hearing ("Order") which modified the Stipulation, which is incorporated herein by reference.
4. The Order modified paragraph 10(b)(viii) of the Stipulation, which, as modified, states that there will no longer be any monitoring of patients being treated by Licensee for

anxiety or diet management or for the management of patients who have been maintained on pain medications and have, therefore, been previously reviewed by the monitoring physician (Eric Voth, M.D.). The Order further stated that Dr. Voth would continue to perform chart review and submit monthly monitoring reports to Board staff for patients initiating narcotic pain medication and patients who would be undergoing any significant changes in their pain management protocol.

5. Except as stated in the Order, excerpted above, the Stipulation remained in full force and effect, with the provision that Licensee may again request modification or termination of the Stipulation after June 1, 2003.

6. On or about October 1, 2003 Dr. Voth submitted a recommendation that said Licensee has been successfully practicing under monitoring, and in Dr. Voth's view, the monitoring he provides of Licensee's practice could safely be further reduced to monitoring Licensee's care of only patients who have a new prescription to begin a chronic narcotic therapy. Dr. Voth opines that Licensee seems to clearly understand the indications and needs for pain medications. Dr. Voth further states Licensee's prescribing patterns have been completely acceptable for at least the last year and believes it is safe to move to a less intensive monitoring schedule.

7. Thereafter, on January 13, 2004, Licensee formally requested that the monitoring requirements of the Board's Order be reduced to that recommended by Dr. Voth.

8. 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 medicine and surgery pursuant to K.S.A. 65-2801 *et seq.*; K.S.A. 65-2869.

9.. This 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 in K.S.A. 77-505, without the necessity of proceeding to a formal hearing.

10.. 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.

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

12. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

13. 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. Applicant specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.

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

15. Licensee hereby voluntarily agrees to the following modification of the Stipulation, which was previously modified by the Board's Order:

- (a) Paragraph 10(b)(viii) of the Stipulation is again modified to provide that the monitoring physician will now perform chart review and submit monthly monitoring reports to Board staff only for patients for whom Licensee initiates chronic narcotic therapy.

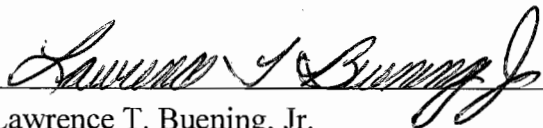
(b) Licensee will provide a copy of this Consent Order to the monitoring physician.

16. Except as above amended, the remainder of the Stipulation will remain in full force and effect. Licensee may again request modification or termination of the Stipulation at any time from and after June 1, 2004.

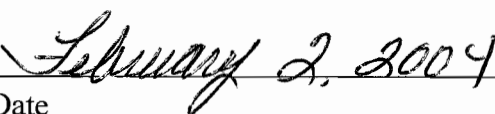
**IT IS THEREFORE ORDERED** that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law and is the Order of the Board.

**IT IS SO ORDERED.**

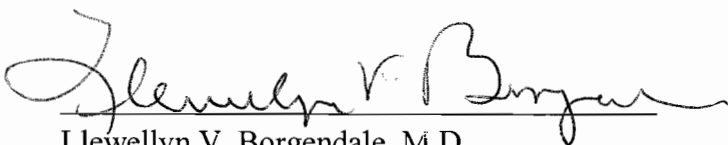
**KANSAS STATE BOARD OF HEALING ARTS**



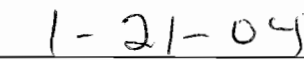
Lawrence T. Buening, Jr.  
Executive Director



Date

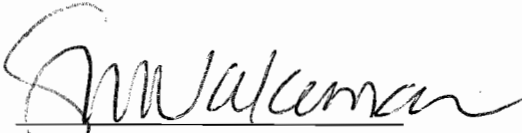


Llewellyn V. Borgendale, M.D.  
Licensee



Date

Prepared by:



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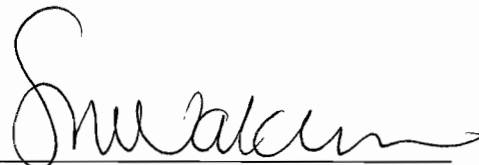
**CERTIFICATE OF SERVICE**

I, Shelly R. Wakeman, Disciplinary Counsel, Kansas State Board of Healing Arts, hereby certify that a true and correct copy of the foregoing CONSENT ORDER was served on this 2nd day of <sup>February</sup> ~~January~~ 2004, by depositing the same in the United States mail, postage prepaid and addressed to:

Llewellyn V. Borgendale, M.D.  
1704 Commercial Circle  
Wamego, Kansas 66547

and the original was hand-delivered to:

Lawrence T. Buening, Jr.  
Executive Director  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068



Shelly R. Wakeman  
Disciplinary Counsel