

JAN 07 2020

KS State Board of Healing Arts

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

In the Matter of)	
)	
JOSEPH BOSILJEVAC, M.D.)	KSBHA Docket No. 19-HA00091
Kansas License No. 04-16711)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Matthew Gaus, Associate Litigation Counsel, and Joseph Bosiljevac, M.D. ("Licensee"), by and through counsel, Kelli Stevens of Forbes Law Group, LLC, and move the Board for approval of a Consent Order affecting Licensee's license to practice medicine and surgery in Kansas. The Parties stipulate and agree to the following:

STIPULATION OF FACTS

1. Licensee's last known mailing address to the Board is: **CONFIDENTIAL**,
CONFIDENTIAL
2. Licensee is and has been licensed to practice of medicine and surgery in Kansas, having been issued License No. 04-16711 on approximately December 11, 1976. Licensee's license is currently designated as exempt.
3. Licensee submitted an Application for Change of Designation/Type from Exempt to Active status on or about October 30, 2018. On his application, Licensee disclosed that had practiced in New York, New York since December 2009. In conjunction with his application, Licensee stated his Kansas practice was closed in 2010. Applicant also provided all of his continuing medical education from October of 2011 to October of 2018.

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4. On or about January 17, 2019, the Board received notification that Licensee met the requirements for medical malpractice coverage and Health Care Stabilization Fund coverage.
5. Thirty-seven (37) days later, on February 22, 2019, Applicant was notified by an email from the Board's licensing staff that he needed to provide the specific dates he last worked in Kansas.
6. Applicant truthfully answered that he practiced in Kansas on February 2, 4, and 6, 2019.
7. Upon request, Applicant provided records showing he had treated a total of eight (8) patients on approximately thirty-eight (38) occasions, beginning as far back as September 21, 2018.
8. At present, Applicant no longer desires to pursue his application for a designation change from exempt to active.
9. 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 medicine and surgery.
10. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into this 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.
11. The Kansas Healing Arts Act is constitutional on its face and as applied in the case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
12. 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,

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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.

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

14. The Board has received information, and investigated the same, and has reason to believe there may be grounds under K.S.A. 65-2836(b) and K.S.A. 65-2836(f), to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*

15. The facts supporting the allegation in this Consent Order are as follows:

- a. In between September 21, 2018 and March 13, 2019, Licensee practiced medicine outside the scope of his exempt license designation by providing medical services to eight (8) patients in Kansas on at least thirty-eight (38) separate dates, either in-person or by telephone or electronic means.
- b. Licensee's website listed a Kansas practice location that would lead the public to believe Licensee was authorized to actively engage in the practice of medicine in Kansas.
- c. On February 28, 2019, Associate Litigation Counsel sent Licensee a warning letter stating that Licensee's practice in Kansas "is prohibited under the Exempt license you currently hold." The letter also informed Licensee that he was required to

“[i]mmediately cease your Kansas practice, and do not return to practice in Kansas until such time as you have obtained an Active license to practice.”

- d. Subsequent to receiving the warning letter, Licensee did not physically practice in Kansas, but Licensee did have telephonic follow up visits for continuity of care purposes with three (3) patients located in Kansas.

16. Licensee’s acts, if proven, constitute a violation of K.S.A. 65-2836(b) for dishonorable conduct in that Licensee violated K.A.R. 100-10a-6 by engaging in professional activities not divulged to the Board in Licensee’s application for an exempt license or any of his renewal applications.

17. Licensee’s acts, if proven, constitute a violation of K.S.A. 65-2836(f), in that Licensee willfully or repeatedly violated a regulation adopted pursuant to the Kansas Healing Arts Act, specifically K.A.R. 100-10a-6, by repeatedly practicing outside the scope of the professional activities divulged to the Board.

18. 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.

19. All pending investigation materials in KSBHA Investigation No. 19-00622 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board’s Disciplinary Panel. Disciplinary Panel No. 34 authorized and directed Board counsel to file a petition. The Petition against Licensee was filed on May 24, 2019. The Disciplinary Panel has now authorized Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

20. 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 with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

21. 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 postgraduate permit in Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether 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.*

22. 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.

23. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as "Releaseses",

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.

24. 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 the 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, 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

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has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

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

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

30. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

31. 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 Consent Order or may become effective subsequent to the execution of this document.

32. 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.

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

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

35. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action regarding his license to practice of medicine and surgery:

PUBLIC CENSURE

36. Licensee is hereby **PUBLICLY CENSURED** for violating the Kansas Healing Arts Act.

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FINE

37. Licensee is hereby ordered to pay a FINE in the amount of FIVE HUNDRED DOLLARS (\$500.00) for violations of the Kansas Healing Arts Act.

38. Such fine shall be due and owing, and must be paid in full to the Board, on or before December 15, 2019.

39. All monetary payments to the Board relating to this Consent Order shall be sent to the Board by certified mail or private carrier with tracking ability, and addressed to:

Kansas Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson Street, Lower Level, Suite A
Topeka, Kansas 66612

TIMEFRAME

40. This Consent Order is self-terminating upon Licensee's payment of the FINE amount in full.

WITHDRAWAL OF APPLICATION

41. Execution of this Consent Order will serve as written confirmation of Licensee's withdrawal of his Application for Change of Designation/Type filed with the Board on or about October 30, 2018.

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 7th day of January, ~~2019~~ 2020.

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FOR THE KANSAS STATE BOARD OF
HEALING ARTS:

3 #23266
Kathleen Selzler Lippert, Executive Director

1/7/2020
Date

Joseph Bosiljevac, M.D., FACS
Joseph Bosiljevac, M.D., Licensee
Licensee

7 October 2019
Date

PREPARED BY:

Kelli Stevens
Kelli J. Stevens, #16032
Forbes Law Group, LLC
6900 College Boulevard, Suite 840
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913-341-8600

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APPROVED BY:



Matthew Gaus, #22609
Associate Litigation Counsel
J. Todd Hiatt, #22150
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
785-368-8210

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing **Consent Order** by United States mail, postage prepaid, on this 7th day of January, ~~2019~~ ²⁰²⁰

to the following:

Joseph Bosiljevac, M.D.

CO
NFI
DEN
TIAI

Licensee

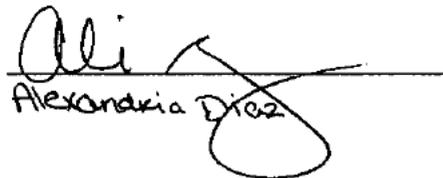
Kelli J. Stevens
Forbes Law Group, LLC
6900 College Boulevard, Suite 840
Overland Park, Kansas 66211
Attorney for Licensee

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

Tucker Poling
Interim Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

Matthew Gaus
Associate Litigation Counsel
J. Todd Hiatt
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612


Alexandria Diez

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