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KS State Board of Healing Arts

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

In the Matter of)	
)	Docket No.: 17-HA00048
Douglas G. Brooks, M.D.)	OAH No.: 17HA0006
Kansas License No. 04-23085)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Reese H. Hays, Litigation Counsel and Susan R. Gering, Deputy Litigation Counsel (“Petitioner”), and Douglas G. Brooks, M.D. (“Licensee”), by and through his counsel, Weston Moore, Moore Law Center, 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’s last known mailing address to the Board is: [REDACTED] Spring Hill, Kansas 66083.
2. Licensee is or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-23085 on approximately June 15, 1990. Licensee’s license is active.
3. 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. K.S.A. 65-2801 *et seq.*, and K.S.A. 65-2869.
4. 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

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by K.S.A. 77-505 and 65-2838. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. 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.

6. 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, 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.

7. 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.

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

9. This Consent Order incorporates herein by reference the facts as stated in the Petition that was filed on March 23, 2017 involving Licensee's care and treatment of five

chronic pain management patients. Exhibit 1, Petition in the Matter of Douglas G. Brooks, M.D. 17-HA00048.

10. Generally, Licensee provided care and treatment to five (5) chronic pain patients in which he failed to meet the standard of care in which he was grossly negligent or ordinarily negligent. Including; but not limited to, he improperly and inappropriately prescribed and refilled excessive doses of opioid/controlled medications; failed to properly monitor the patients' adherence to treatment; failed to address the red flags for opioid/controlled medications abuse; failed to properly treat/modify his treatment plan; failed to refer to appropriate specialists; failed to address a patient's presenting illness; and failed to properly document within the patients' medical record.

11. While admitting no wrongdoing, 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.

12. Licensee's acts, if proven, constitute unprofessional conduct and/or dishonorable conduct as set forth in K.S.A. 65-2836(b).

13. Licensee, if proven, has violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(a)(1), in that Licensee has 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 for Patients 1, 2, 3, and 4.

14. Licensee, if proven, has violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(a)(2), in that Licensee has committed repeated instances involving a failure to adhere to the applicable standard of care to a degree which constitutes at least ordinary negligence, as determined by the Board for Patients 1, 2, 3, 4, and 5.

15. Licensee, if proven, has violated K.S.A. 65-2837(a)(3), in that Licensee has committed a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts for Patients 1, 2, 3, 4, and 5.

16. Licensee, if proven, has violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(12) in that Licensee's conduct relating to Patients 1, 2, 3, 4, and 5, is likely to harm the public.

17. Licensee, if proven, has violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(23), in that Licensee prescribed a controlled substance in an improper or inappropriate manner, or for other than a valid medical purpose for Patients 1, 2, 3, 4, and 5.

18. Licensee, if proven, has violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(24), in that Licensee has had a repeated failure to practice the healing arts with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances for Patients 1, 2, 3, 4, and 5.

19. Licensee, if proven, has violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(25), in that Licensee failed to keep written medical records that accurately reflect the services rendered to Patients 1, 2, 3, 4, and 5, including patient histories, pertinent findings, examination results and test results.

20. Licensee, if proven, has violated K.A.R. 100-24-1 and, as such, also violated K.S.A. 65-2836(k) by failing to meet the minimum requirements for an adequate patient record for Patients 1, 2, 3, 4, and 5.

21. Licensee, if proven, has violated K.S.A. 65-2836(f) in that Licensee has willfully and/or repeatedly violated the Healing Arts Act for Patients 1, 2, 3, 4, and 5.

22. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.

23. 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.

24. All pending investigation materials in KSBHA Investigation Numbers 10-00673 and 13-00103 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 32. Disciplinary Panel No. 32 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

25. 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 and surgery 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.*

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

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

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

34. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to:

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

35. 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.
36. 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.
37. Licensee shall immediately notify the Compliance Coordinator of any citation, arrest or charge filed against him or of any conviction for any traffic or criminal offenses, excluding minor traffic infractions.
38. Licensee shall immediately notify the Board or its designee of any complaint filed, or investigation opened, by the proper licensing authority of another state, territory, District of Columbia, or other country, or by a peer review body, a health care facility, a professional association or society, or by a governmental agency.
39. Licensee shall at all times keep Board staff informed of his current practice locations addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.
40. This Consent Order constitutes public disciplinary action.

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

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

CHRONIC PAIN TREATMENT LIMITATION

43. For the purpose of this Consent Order, a chronic pain patient is a patient who is treated for pain for three (3) months or longer or past the time of normal tissue healing.

44. Licensee will continue his current practice of not accepting patients in need of chronic pain management care and treatment and will continue his current process of referring any existing chronic pain management patients in need of care and treatment to another treating provider.

45. In addition, Licensee agrees to the following:

- a. No later than December 31, 2017, Licensee will cease providing care and treatment to chronic pain management patients.
- b. Licensee shall refer any current chronic pain management patients to a specialist prior to December 31, 2017, without abandoning the patient in need of care. Licensee shall not resume the care and treatment of chronic pain management patients.
- c. On or before December 31, 2017, Licensee will verify in writing with the Board that he has no chronic pain management patients by providing a list of each chronic pain management patient referred for care and the name of each physician who assumed care.

46. Licensee shall act in good faith to refer chronic pain management patients prior to the time provisions as stated in paragraph 45. If on November 15, 2017, Licensee has not referred all of his chronic pain management patients and for an unforeseen reason or reasons he will not be able to refer one or more chronic pain management patients by December 31, 2017, Licensee shall submit a motion to the Board requesting additional time to complete the referrals. This motion, if filed, will be heard by the Board at the December Board Meeting. Licensee shall have the burden to show the additional time is reasonable and necessary. Licensee shall also have a burden to put forth an acceptable plan to refer the remaining chronic pain management patients post haste.

47. Upon treating a patient for pain for a period of three (3) months or past the time of normal tissue healing, Licensee will refer and transfer the patient to a chronic pain specialist for further care and treatment.

48. Licensee shall provide a copy of the above materials to the Compliance Coordinator at the following address:

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

MONTHLY MONITORING

49. Licensee agrees to submit monthly reports of his narcotic/opioid prescribing for at least 12 months. For each prescription for narcotics/opioids written, ordered, or authorized, Licensee shall document the prescription in a separate log. The log shall be on a form provided by Board staff to Licensee. This log shall serve as a reference to determine all patients who were prescribed narcotics/opioids each month and contain applicable patient

charting information to include at a minimum the patients name, dosage of the prescribed narcotic/opioid, quantity of the prescribed narcotic/opioid, any refills that are prescribed, and the diagnosis for the patient.

50. Licensee shall further provide a complete copy of his KTRACS report. Licensee agrees to also provide any additional written explanation the Board requests, or that Licensee believes is necessary to explain his course of treatment of any and all patients.

51. Further, Licensee agrees that the Board may, at its discretion through the monitoring of this provision, request KTRACS reports to ensure Licensee's compliance with the terms of this provision.

52. Monthly reports, including Licensee's log, shall be submitted to the Compliance Coordinator on the 5th of the month for Licensee's narcotic/opioid prescribing of the immediate preceding month. For example, Licensee's first monthly report shall be submitted for the month of October 2017 on November 5, 2017. Licensee shall continue to submit such reports until such time as this provision is terminated by the Board.

53. Licensee agrees that the Board, or a Board's designee, may at its discretion throughout the monitoring of this provision, request random patient charts for review to ensure Licensee's compliance with the above provision and his adherence to the standard of care.

54. The monthly monitoring provision is not self-terminating. After a period of at least 12 months, Licensee may request to terminate his monthly monitoring provision of this Consent Order. Such request shall be in writing. Licensee shall have the burden of proving that this monitoring provision should be lifted by clear and convincing evidence.

55. Licensee shall provide a copy of the above materials to the Compliance Coordinator at the following address:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

EDUCATION

56. Licensee shall attend and successfully complete the course entitled “Physician Prescribing Course” put on by UC San Diego Physician Assessment and Clinical Education Program (“PACE”), unless otherwise approved.

d. On or before January 31, 2018, Licensee shall notify the Compliance Coordinator in writing of the course date Licensee has registered to attend the PACE Physician Prescribing Course.

e. Licensee shall provide proof of successful completion of the PACE Physician Prescribing Course within thirty (30) days of attending the in-person seminar.

57. Licensee shall attend and successfully complete the course entitled “Medical Record Keeping Seminar” put on by the Center for Personalized Education for Physicians (“CPEP”), unless otherwise approved. In addition, Licensee shall participate in and successfully complete the six (6) month Personalized Implementation Program (“PIP”) following completion of the Medical Record Keeping Seminar.

a. On or before January 31, 2018, Licensee shall notify the Compliance Coordinator in writing of the course date Licensee has registered to attend the CPEP Medical Record Keeping Seminar.

- b. CPEP can be contacted at 720 S. Colorado Blvd., Suite 1100-N, Denver, Colorado 80246 - Phone: 303-577-3232 - Fax: 720-445-3830 or at www.cpepdoc.org.
- c. Licensee shall provide proof of successful completion of the CPEP Medical Record Keeping Seminar within thirty (30) days of attending the in-person seminar.
- d. Licensee shall provide proof of successful completion of the CPEP PIP within thirty (30) days of completion of the six (6) month follow-up program.
58. Unless otherwise approved by the Board, said continuing education course(s)/seminar(s) shall consist of a formal live lecture format.
59. These hours shall be in addition to those hours required for renewal of licensure.
60. All foreseen and unforeseen costs associated with the aforementioned course(s)/seminar(s) shall be at Licensee's own expense to include, but not be limited to, the cost of the course(s)/seminar(s) travel, lodging, program fee, meals, etc.
61. Upon the Board's receipt of proof of successful completion of the above course(s)/seminar(s), the terms of Licensee's Education shall be terminated.
62. Licensee shall provide a copy of the above materials to the Compliance Coordinator at the following address:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

BOARD COSTS

63. Licensee agrees to pay the Office of Administrative Hearings and Appino & Biggs Reporting Service, Inc. incurred COSTS of the Board in conducting these proceedings

under the Kansas Administrative Procedure Act in the amount that is put forth by the Board in a Statement of Costs.

64. Such COSTS shall be paid in full on or before August 31, 2018.

65. Licensee shall make all payments, which shall be in the form of cashier's check or money order, to the "Kansas State Board of Healing Arts" and send all payments to the attention of:

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

TIMEFRAME

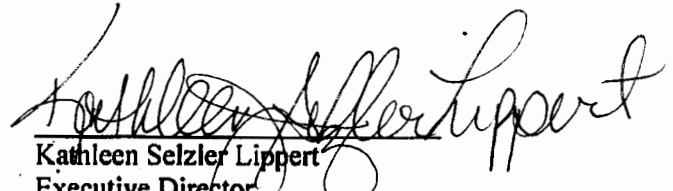
66. The above terms of probation provisions are not self-terminating except as provided for above. Licensee shall have the burden to prove any of the non-self-terminating provisions are lifted by a showing of clear and convincing evidence.

67. For any period of time that Licensee is not actively practicing medicine and surgery in Kansas, the provisions will remain in effect but will be tolled and not counted towards reducing the aforementioned timeframes.

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 17 day of Oct, 2017.

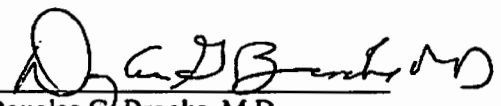
**FOR THE KANSAS STATE
BOARD OF HEALING ARTS:**



Kathleen Selzler Lippert
Executive Director

10/17/17

Date

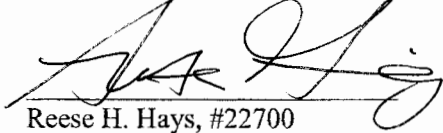


Douglas G. Brooks, M.D.
Licensee

09/21/2017

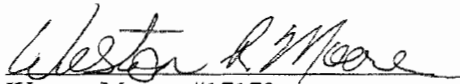
Date

PREPARED AND APPROVED BY:



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APPROVED BY:



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P: (913) 782-7075
F: (866) 896-0287
kslegalhelp@yahoo.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 17th day of October, 2017, to the following:

Douglas G. Brooks, M.D.
Licensee
[REDACTED]
Spring Hill, Kansas 66083

Weston Moore
Attorney for Licensee
Moore Law Center
110 S. Cherry Street, #103
Olathe, Kansas 66061

And the original was hand-filed with:

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

And a copy was hand-delivered to:

Reese H. Hays, Litigation Counsel
Susan R. Gering, Deputy Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

Rubna Aulsright

Consent Order
Douglas G. Brooks, M.D.