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

JUN 5 2002

In the Matter of)
)
ROBERT L. CARNAHAN, M.D.)
Kansas License No. 4-14700)
_____)

**KANSAS STATE BOARD OF
HEALING ARTS**

Docket No. 02-HA-0060

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COME NOW, the Kansas State Board of Healing Arts ("Board") by and through Shelly R. Wakeman, Disciplinary Counsel ("Petitioner"), and Robert L. Carnahan, M.D. ("Licensee"), *pro se*, and stipulate and agree to the following:

1. The Board is the sole and exclusive administrative agency in Kansas authorized to regulate 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 admits that this Stipulation and Agreement and Enforcement Order ("Stipulation") and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Stipulation.

3. Licensee agrees that the Kansas Healing Arts Act is constitutional on its face and as applied in this case.

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

5. Licensee is or has been entitled to engage in the practice of medicine and surgery in Kansas, having been issued license number 4-14700 on July 1, 1971. At all times relevant to the allegations set forth below, Licensee has held a current license to engage in the practice of

medicine and surgery in Kansas, having last renewed his license on June 18, 2001.

6. Licensee's license to practice medicine and surgery was publicly censured by a Stipulation and Agreement and Enforcement Order ("Stipulation") issued October 22, 2001. This Stipulation settled allegations filed against Licensee in a previous case that alleged in two counts that Licensee intentionally falsified or fraudulently altered patient medical records in the hospital, and one count regarding Licensee's prior 30-day suspension from Lawrence Memorial Hospital Medical Staff.

7. On or about October 17, 2001 Lawrence Memorial Hospital, Medical Executive Committee recommended that Licensee's application for Medical Staff reappointment be denied. Licensee requested a hearing, but before one was held, Licensee requested a two year leave of absence from the Medical Staff. Licensee's request for a two year leave of absence was granted and no further action was taken on the recommendation for non-reappointment. Licensee's leave of absence expires on October 18, 2003. Licensee does not have hospital admitting privileges at any hospital at this time.

8. On or about November 12 through 14, 2001 Licensee voluntarily participated in the Colorado Personalized Education for Physicians ("CPEP") program. He was not ordered by the Board to do so. On February 15, 2002 an Executive Summary consisting of 21 pages was issued by CPEP with its findings of the evaluation and recommendations for remediation of deficiencies.

9. CPEP's ultimate recommendation is that Licensee participate in an individualized, structured Education Plan ("Plan") to address his areas of need. Licensee sent to CPEP a partial payment for a Plan to be set up, but as of this date, no Plan has been established.

10. Pursuant to K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(a)(3), and K.S.A. 65-2836(u) the Board may revoke, suspend, censure or otherwise limit Licensee's license. According to K.S.A. 65-2838(b), the Board has authority to enter into this Stipulation without the necessity of proceeding to a formal hearing.

11. Licensee voluntarily and knowingly waives his right to a hearing concerning the presentation of this Stipulation to the Board for the Board's approval. 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 in the presentation of this Stipulation to the Board for its approval. In the presentation of this Stipulation to the Board for its approval, 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. If this Stipulation as drafted is not accepted by the Board, this paragraph shall not be applicable and Licensee is entitled to contest the allegations and present a defense as he deems appropriate in compliance with Kansas Administrative Procedure Act at any subsequent hearing on the merits of the allegations. If the Board accepts the Stipulation as proposed, Licensee agrees to waive his rights as explained above.

12. The terms and conditions of the Stipulation 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 Stipulation 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 Stipulation on behalf of the Board.

13. In consideration of the conditions, terms, covenants, and promises contained

herein, the parties agree as follows:

(a) In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Stipulation, hereby voluntarily agrees to the following limitation placed on his license to engage in the practice of medicine and surgery:

(i.) Licensee's license to practice medicine and surgery is hereby limited in that Licensee is required to enroll in the individualized, structured Education Plan ("Plan") recommended by the Colorado Personalized Education for Physicians program ("CPEP") within 30 days of the date this Stipulation becomes an Order of the Board.

(ii.) Licensee's license to practice medicine and surgery is further limited in that Licensee is required to successfully complete the Plan recommended by CPEP within one year of the date this Stipulation becomes an Order of the Board.

(b) This Order constitutes disciplinary action on Licensee's license to practice medicine and surgery in Kansas.

(c) Licensee's failure to comply with the provisions of the Stipulation will result in the Board taking disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

(d) Nothing in this Stipulation 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 known or unknown and are not covered under this Stipulation, or to initiate formal proceedings based upon known or unknown

allegations of violations of the Healing Arts Act.

(e) Licensee hereby releases the Board, its individual members (in their official and personal capacities), 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 Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq* arising out of the investigation and acts leading to the execution of this Stipulation. 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.

(f) Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to the National Practitioner Databank, the Healthcare Integrity and Protection Databank, Federation of State Medical Boards, and any other reporting entities requiring disclosure of this Stipulation.

(g) This Stipulation, 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.

(h) 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.

(i) Licensee, by signature to this document, waives any objection to the participation of the Board members in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

(j) Licensee acknowledges that he has read this Stipulation and fully understands the contents.

(k) Licensee acknowledges that this Stipulation has been entered into freely and voluntarily.

(l) All correspondence or communication between Licensee and the Board relating to this Stipulation shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Shelly R. Wakeman, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

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

(n) Upon execution of this Stipulation by affixing a Board authorized signature below, the provisions of this Stipulation shall become an Order under K.S.A. 65-2838. This Stipulation shall constitute the Board's Order when filed with the Office of the Executive Director for the Board and no further Order is required.

(o) The Board may consider all aspects of this Stipulation in any future matter regarding Licensee.

IN WITNESS WHEREOF, the parties have executed this agreement on this 5th day of June, 2002.

KANSAS STATE BOARD OF HEALING ARTS

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

June 5, 2002
Date

Robert L. Carnahan M.D.
Robert L. Carnahan, M.D.

6/11/02
Date

Prepared By:

Shelly R. Wakeman
Shelly R. Wakeman #15057
Disciplinary Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(913) 296-7413

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** by United States mail, postage prepaid, on this 5th day of June, 2002 to the following:

Robert L. Carnahan, M.D.
1112 West Sixth Street, #112
Lawrence, Kansas 66044

and the original was hand-delivered to:

Lawrence T. Buening, Jr.
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068


Shelly R. Wakeman