

FILED *CAB*

AUG 12 2016

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)	
)	Docket No. 16-HA 00114
Carolyn M. Clark, M.D.)	
Postgraduate Permit No. Pending)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Tracy Fredley, Associate Litigation Counsel ("Respondent"), and Carolyn M. Clark, M.D. ("Applicant"), *pro se*, and move the Board for approval of a Consent Order affecting Applicant's post-graduate permit to practice medicine and surgery in the State of Kansas.

The Parties stipulate and agree to the following:

1. Applicant's last known mailing address to the Board is: **Confidential**
Gardner, Kansas 66030
2. On or about May 9, 2016, Applicant submitted to the Board an application for a post-graduate permit in medicine and surgery. Such application was deemed complete and filed with the Board on June 28, 2016.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts. K.S.A. 65-2801 *et seq.*
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 by K.S.A. 77-505. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

Consent Order
Carolyn M. Clark, M.D.

5. The Kansas Healing Arts Act is constitutional on its face and as applied in the case. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. Applicant voluntarily and knowingly waives her right to a hearing. Applicant voluntarily and knowingly waives her right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination of witnesses. Applicant voluntarily and knowingly agrees to waive all 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. Applicant 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 pursuant to K.S.A. 65-2803(a) and K.S.A. 65-2836(k), to take action with respect to Applicant's post-graduate permit under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*
9. In her application for a post-graduate permit, Applicant disclosed that she was a provider at Lansing/Leavenworth Family Health Center ("LLFHC") from June 2014 to present date. *See* Application – Bates-stamped (B.S.) p. 7. However,

Applicant has never held a post-graduate permit or license to practice medicine and surgery in the State of Kansas or any other state, country or jurisdiction.

10. Records show that Applicant was employed at LLFHC from June 17, 2014 to May 18, 2016, as a “Postgraduate Student Medical Doctor”.
11. The President of LLFHC, Dr. Peter Cristiano, drafted a letter to Board staff stating that Applicant’s job duties included “her treating patients for various illnesses with the supervision of Dr. Cristiano. After talking with Dr. Cristiano, she would suggest medicines to prescribe that might be needed for patients. She would also order labs, and other testing as needed after talking with Dr. Cristiano.” Applicant would also complete physical examinations on patients.
12. Board staff requested patient records for at least five (5) patients who Applicant treated during her employment. The Board received five (5) progress note records, which included, but are not limited to the following:
 1. Patient 1: The patient was diagnosed with Acute URI (upper respiratory infection) – NOS – 465.9 (Primary) and Viral pharyngitis NOS – 462
 2. Patient 2: The patient was diagnosed with Unspecified acute conjunctivitis and prescribed erythromycin ophthalmic ointment.
13. Applicant acknowledges that if formal hearing proceedings were conducted and Applicant presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Applicant has violated the Kansas Healing Arts Act with respect to the above allegations. Applicant further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

14. Applicant's acts, if proven, constitute a violation under K.S.A. 65-2803(a) due to Applicant engaging in the practice of the healing arts without a license, which includes treating and diagnosing patients, and completing physical examinations.
15. Pursuant to K.S.A. 65-2836(k), the Board may revoke, suspend, limit, censure or place under probationary conditions Applicant's post-graduate permit to practice medicine and surgery if an Applicant violates any lawful rule and regulation promulgated by the Board.
16. According to K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
17. All pending investigation materials in KSBHA Investigative Case Number 16-00643 regarding Applicant were fully reviewed and considered by the designated Board member who serves on the Board's Disciplinary Panel No. 31 and who is appointed to review all post-graduate permit applications. The designated member authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
18. Applicant further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Applicant 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 Applicant's post-graduate permit to practice medicine and surgery in the State of Kansas. Applicant hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Applicant 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, Applicant 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.*

19. 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.
20. Applicant 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 Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

21. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.
22. 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.
23. Applicant 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 Applicant is not present. Applicant 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.
24. Applicant, 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.
25. Applicant acknowledges that she has read this Consent Order and fully understands the contents.
26. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.

27. Applicant shall obey all federal, state and local laws and rules governing the practice of osteopathic 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.
28. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order under K.S.A. 77-505. 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.
29. The Board may consider all aspects of this Consent Order in any future matter regarding Applicant.
30. In lieu of conducting a formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public disciplinary action and civil fine against her post-graduate permit to practice medicine and surgery:

PUBLIC CENSURE

31. Upon Applicant being granted an Active post-graduate permit to practice medicine and surgery in accordance with this Consent Order, Applicant is hereby **Publicly Censured** for engaging in the practice of the healing arts without a license, all in violation of K.S.A. 65-2803(a) and K.S.A. 65-2836(k).

FINES

32. Applicant is hereby ordered to pay a CIVIL FINE pursuant to K.S.A. 65-2863(a) in the amount of \$5,000.00. The total amount of \$5,000.00 shall be paid, in full, to the Board on or before September 30, 2016.

33. In the event that the Board does not receive a payment due and owing, the total amount of the levied CIVIL FINE still due and owing shall become immediately due and payable in full upon written notice by the Board to Applicant stating that payment has not been received.

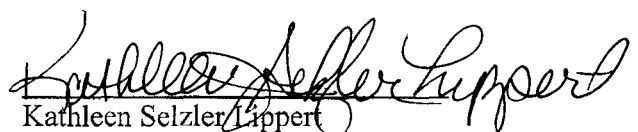
34. Applicant shall make all payments in the form of a cashier's check or money order payable to the Kansas State Board of Healing Arts and send all payments to the attention of: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

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 FURTHER ORDERED that upon meeting all technical requirements for a post-graduate permit, Applicant shall be granted a post-graduate permit, pursuant to the conditions above.

IT IS SO ORDERED on this 12 day of Aug, 2016.

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


Kathleen Selzler Lippert
Executive Director

8/12/16
Date

Carolyn Clark
Carolyn M. Clark, M.D.
Applicant

6/27/16
Date

PREPARED AND APPROVED BY:

Tracy Fredley

Tracy Fredley, #25467
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level Ste A
Topeka, Kansas 66612
Phone: 785-368-7257
Fax: 785-368-8210
Email: tracy.fredley@ks.gov

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 12th day of August, 2016, to the following:

Carolyn Clark
Confidential
Gardner, KS 66030

And the original was hand-filed with:

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


And a copy was hand-delivered to:

Tracy Fredley
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

General Counsel's Office
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

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



Consent Order
Carolyn M. Clark, M.D.