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AUG 18 1997

**KANSAS STATE BOARD OF
HEALING ARTS**

STATE OF KANSAS

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of)
)
Peter J. Cristiano, M.D.)
Kansas License No., 04-21118)
_____)

Case No. 95-00168
& 95-00205

**JOURNAL ENTRY MODIFYING APRIL 1997 STIPULATION
AND AGREEMENT AND ENFORCEMENT ORDER**

NOW on this 16th day of August, 1997, this matter comes before the Kansas State Board of Healing Arts (Board) on Motion of Respondent, Peter J. Cristiano, M.D., to vacate or in the alternative to modify the Board's April 1997 Stipulation and Agreement and Enforcement Order. The Board appears through Kevin LaChance, Disciplinary Counsel, Kansas State Board of Healing Arts. Respondent appears in person and by and through counsel, Steve A. Schwarm, Goodell, Stratton, Edmonds & Palmer, L.L.P. There are no other appearances and none are necessary.

PROCEDURAL HISTORY

1. In April 1997, a proposed Stipulation and Agreement and Enforcement Order was presented to the Board for consideration. The proposed Stipulation and Agreement and Enforcement Order as presented to the Board had been signed by Respondent, and recommended for acceptance by Mr. LaChance, Board's Counsel. The Board accepted the proposed Stipulation and Agreement and Enforcement Order, and made such an Order of the Board.

2. On June 27, 1997, the Board modified the above April 1997 Stipulation upon Motion of Respondent. The modification changed the date of attendance for a continuing medical education program from May 1997 to November 1997. There have been no other modifications to the April 1997 Stipulation.

FINDINGS OF FACT

1. Respondent has filed a motion with the Board to vacate or in the alternative to modify the April 1997 Stipulation in part to include removal of any reference to restriction as to prescribing of Cylert and/or Ritalin as is reflected in paragraph 5,a,i on page 3 of the April 1997 Stipulation.

2. Respondent also requests the Board modify paragraph 3 of the April 1997 Stipulation by removing the last sentence of paragraph 3 which reads "[I]licensee neither confirms nor denies the allegations" and insert in it's place that "[I]licensee denies the allegations."

3. Respondent proposes it is appropriate to eliminate paragraph 5,a,i of the April 1997 Stipulation in that as it relates to Respondent's prescribing of Cylert and Ritalin the following considerations will be addressed by Respondent:

- A. Prior to the prescribing of Cylert, ^{including its generic equivalents,} Respondent shall confirm that such prescription agrees with the current edition of the Physician Desk Reference (PDR) as to the patient's current diagnosis. Should Respondent through his independent judgment, based on the presentation of the patient, determine that Cylert is an appropriate medication, but such is not specifically authorized by the current edition of the PDR for the patient's diagnosis, Respondent shall seek a second opinion from a health care provider prior to prescribing such drug, and/or refer the patient to a health care provider specialist or another health care provider as

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deemed appropriate. Such action on the part of the Respondent shall not be deemed a termination of the physician/patient relationship unless the referral to the health care provider specialist or other health care provider specifically provides for such. Such shall not be deemed to be a limitation or restriction on Respondent's practice.

- B. The prescribing of Ritalin^{including its generic equivalents} for all practitioners should be assessed on a regular basis to determine the effectiveness of the drug regime. As to the prescribing of Ritalin, if Respondent prescribes any such medication, Respondent shall inform the patient, patient's parent, and/or patient's legal guardian that the patient must schedule a mandatory 30 day or 60 day follow-up appointment with Respondent for the necessity of assessing the appropriateness of refills, if any. Should the patient then fail to keep either the 30 day or 60 day follow-up appointment, Respondent or Respondent's staff upon proper instruction and/or delegation from Respondent, will take reasonable steps to contact the patient, the patient's parent and/or patient's legal guardian and recommend to the patient to schedule a follow-up appointment. Respondent shall document the recommendation for the 30 day or 60 day follow-up appointment and attempts to contact the patient should the patient fail to keep the appointment. Such documentation shall be deemed

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to be in compliance with K.A.R. 100-24-1 as is required for all practitioners. Such shall not be deemed to be a limitation or restriction on Respondent's practice.

4. Respondent had instituted the above considerations into his practice prior to the Stipulation being adopted by the Board in April 1997.

CONCLUSIONS OF LAW

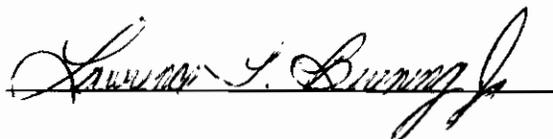
1. This Board has continuing jurisdiction of the April 1997 Stipulation and Agreement and Enforcement Order.

2. Having continuing jurisdiction of the April 1997 Stipulation and Agreement and Enforcement Order, the Board may vacate and/or modify the April 1997 Stipulation as it deems appropriate.

WHEREFORE, having considered the records and having heard arguments of counsel, and being otherwise duly advised in the premises, the Board finds that the above considerations advanced by Respondent are appropriate and that any such restriction reflected in the Board's April 1997 Stipulation and Agreement and Enforcement Order in its paragraph 5 regarding restrictions as to the prescribing of Cylert and Ritalin is hereby vacated. Furthermore, the modification requested under paragraph 2, Findings of Fact, above, is also granted. No other provision of the April 1997 Stipulation Agreement and Enforcement Order is modified by this Journal Entry, except for the June 27, 1997 modification regarding attendance at the November 1997 mini-residency continuing medical education program.

There are no additional matters to come before the Board regarding this matter or Respondent. This Journal Entry shall become the order of the Board when it is filed in the Board office.

IT IS SO ORDERED.



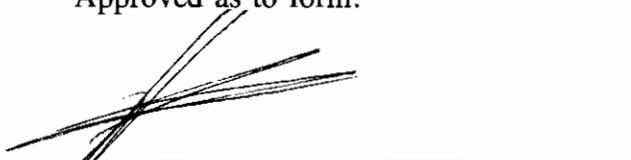
Lawrence J. Bunnell

Prepared and approved by:



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Approved as to form:



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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of August, 1997, a true and correct copy of the above and foregoing was ~~deposited in the United States mail, postage prepaid,~~ addressed to:
hand delivered *LSB*

Steve A. Schwarm - #13232
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and a copy hand delivered to:

Kevin LaChance
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235 South Topeka Blvd.
Topeka, KS 66603

Lawrence J. Schwarm