

BEFORE THE BOARD OF HEALING
OF THE STATE OF KANSAS

FILED

JUL 07 1994

IN THE MATTER OF)
)
CHESTER R. DAVIS, M.D.)
Kansas License No. 04-16732)
)

KANSAS STATE BOARD OF
HEALING ARTS
Case No. 93-00186

STIPULATION AND AGREEMENT
AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (hereinafter "Board") by and through Kevin K. LaChance, Disciplinary Counsel, and Chester R. Davis, M.D. (hereinafter "Licensee"), by and through his attorney, Roger Fincher of Bryan, Lykins, and Hejtmanek, and stipulate and agree as follows:

1. The Board is the sole and exclusive regulatory agency in the state of Kansas regarding 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 is or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued license number 04-16732 on December 11, 1976. 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 the State of Kansas, having last renewed his license on June 7, 1993.

3. Information provided to the Board indicates that Licensee may have committed acts which, if proven to be true,

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would constitute violations of the Healing Arts Act, K.S.A. 65-2801 et seq. The alleged conduct would constitute a violation of K.S.A. 1993 Supp. 65-2837(b) as defined by K.S.A. 1993 Supp 65-2837(b)(16). Licensee specifically denies the alleged violation and was acquitted of criminal charges pertaining to said conduct.

4. Under the provisions of K.S.A. 65-2838(a), the Board has jurisdiction to impose appropriate discipline if a licensee of the Board has engaged in any commissions or omissions to bring licensee within the purview of K.S.A. 65-2836. Under the provisions of K.S.A. 65-2838(b), the Board has authority to enter into this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** (hereinafter "**STIPULATION**").

5. It is the intent and purpose of this **STIPULATION** to provide for settlement of all issues without the necessity of proceeding to a formal hearing. K.S.A. 65-2828(b). Licensee voluntarily and affirmatively waives his right to a hearing pertaining to this matter under the jurisdiction of the Board regarding his license to engage in the practice of medicine and surgery. In this matter, Licensee voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, to conduct such cross-examination of witnesses as may be desired and to waive any and all substantive procedural motions and defenses that could be raised if an administrative hearing would be held.

The terms and conditions of the **STIPULATION** are entered into

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between the undersigned parties and is submitted for the purpose of allowing these terms and conditions to become an Order of the Board. Licensee specifically acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

6. In consideration of the conditions, terms, covenants, and promises contained herein, the parties agree as follows:

(a) The Board is the duly authorized administrative agency of the State of Kansas with appropriate statutory authority to regulate the practice of the healing arts to include the practice of medicine and surgery in the State of Kansas.

(b) Licensee admits that this STIPULATION and its filing are in accordance with the requirements of law; that the Board has jurisdiction to consider the STIPULATION and is lawfully constituted to consider this matter to include consideration of this STIPULATION. Licensee further notes that the Kansas Healing Arts Act is constitutional on its face and as applied in this case. Licensee further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provision of law.

(c) In lieu of formal proceedings and/or findings by the Board, Licensee, by signature attached to this STIPULATION, voluntarily agrees that, for a period of ^{RDF FEL} one year from the date of the affixation of a Board approved signature on this document:

A. Licensee will have a female employee, preferably

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a licensed or registered health care provider of the Kansas Board of Nursing, accompanying him at all times while he is providing health care to female patients, and

B. That he will maintain a log of such patient care, as has been previously provided to the Board. Said log shall be subject to inspection and copying at all times without notice by the Board and/or its staff.

Licensee denies any wrong-doing on his part and affirmatively states that in today's litigious climate this measure is appropriate for his self protection.

Licensee's agreement to the above terms are evidenced by his signature affixed to this document.

(d) Nothing in this agreement shall be construed to deny the Board jurisdiction to investigate other alleged violations of the Healing Arts Act or to investigate other complaints received under the Risk Management Law, K.S.A. 65-4921 et seq, that are unknown and are not covered under the conditions of this STIPULATION or subsequent acts which are unknown to the Board or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

(e) This STIPULATION constitutes the entire agreement between the parties and may only be modified and/or amended by a subsequent document executed in the same manner by the parties.

(f) Licensee acknowledges that he has read this STIPULATION

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and fully understands its Contents. Licensee acknowledges that this STIPULATION has been entered in freely and voluntarily given.

(g) Licensee hereby releases the Board, its employees, or agents, from all claims to mean those damages, actions, liabilities and causes of actions, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions; K.S.A. 77-601 et seq. This release shall discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this STIPULATION or the Contents of this STIPULATION.

(h) Licensee acknowledges that this document shall be deemed a unilateral contract and binding when signed by Licensee. This document is a public record and is reportable to the National Practitioner Databank, Federation of State Medical Boards, and other reporting agencies.

7. Upon execution of this STIPULATION by the affixing of a Board authorized signature below, the provisions of this STIPULATION shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order under K.S.A. 65-2838. This STIPULATION shall constitute the Board's Order when filed with the

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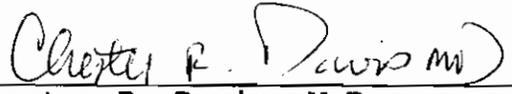
Office of the Executive Director for the Board and no further Order is required.

IN WITNESS WHEREOF, the parties have executed this agreement on the 22nd day of June, 1994.

KANSAS STATE BOARD OF HEALING ARTS


Lawrence T. Buening, Jr.
Executive Director

Date July 7, 1994

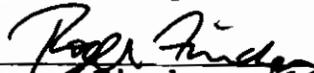

Chester R. Davis, M.D.

Date 6-22-94

Prepared and Approved As to Form By:

~~Kevin K. LaChance, #15058
Disciplinary Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
(913) 296-7413~~

Approved By:


Roger Fincher, #16090
BRYAN, LYKINS & HEJTMANEK, P.A.
222 W. 7th Street
P.O. Box 797
Topeka, Kansas 66601
(913)235-5678

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CERTIFICATE OF SERVICE

I, Kevin K. LaChance, Disciplinary Counsel, Kansas State Board of Healing Arts, hereby certify that I served a true and correct copy of the STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER by United State Mail, postage prepaid, on this 17th day of July, 1994 to the following:

Chester R. Davis, M.D.
1710 S.W. 10th Street, Suite 101
Topeka, Kansas 66604

Roger Fincher
BRYAN, LYKINS & HEJTMANEK, P.A.
222 W. 7th Street
P.O. Box 797
Topeka, Kansas 66601

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



Kevin K. LaChance

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