

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)	
)	Docket No. 13-HA <u>00077</u>
ROBERT H. DILLARD, M.D.)	
Kansas License No. 04-27657)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Reese H. Hays, Litigation Counsel (“Petitioner”), and Robert H. Dillard, M.D. (“Licensee”), *pro se* 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: Confidential
Valley Center, Kansas 67147.
2. Licensee is or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been given License No. 04-27657 on approximately August 15, 1998, and having renewed such license on approximately July 1, 2012. Licensee currently holds an active license.
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 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 pursuant to K.S.A. 65-2836(b), K.S.A. 65-2836(r), K.S.A. 65-2836(s) and K.S.A. 65-2837(b)(12) to take action with respect to Licensee's license under the Healing Arts Act, K.S.A. 65-2801, *et seq.*
9. On or about August 28, 2011, Patient #1, a thirty-two year old female, presented to Wesley Medical Center at approximately 0511 with complaints of inability to

urinate, weakness in legs and distended abdomen. Patient #1's medical history indicated that she was three months postpartum.

10. A Foley catheter was placed and approximately 1400 ml of urine was returned. A diagnosis of urinary retention was noted and Patient #1 was discharged at 0740 on August 28, 2011 with a Foley catheter in place and with instructions to see her primary care physician the next day. Upon discharge, Patient #1 had to be transported to her vehicle via a wheelchair.
11. Prior to her dismissal, Licensee did not evaluate Patient #1's inability to walk or stand during her emergency room stay.
12. On approximately August 28, 2011 at 2000, Patient #1 presented again to Wesley Medical Center with complaints of tingling in both legs and numbness from her chest down. Patient #1 was admitted with a diagnosis of neurological disorder and neurogenic bladder.
13. **Confidential**

14. On approximately December 20, 2011, an investigator for the Board sent correspondence and a subpoena to Licensee requesting that he send copies of any and all records regarding Patient #1 to the Board. A deadline of January 3, 2012, was given to Licensee. Licensee failed to respond to the subpoena.

15. 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 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.
16. Licensee's acts, if proven, constitute a violation of the healing arts as set forth in K.S.A. 65-2836(b), K.S.A. 65-2836(r), and K.S.A. 65-2836(s) as follows:
- a. K.S.A. 65-2836(b), Licensee has committed an act of professional incompetency when he failed to meet the standard of care;
 - b. K.S.A. 65-2836(r), Licensee has failed to furnish the Board, its investigators, or representatives, information legally requested by the Board; and
 - c. K.S.A. 65-2836(s), Licensee has had sanctions or disciplinary actions taken against him by a peer review committee and/or a health care facility for acts or conduct similar to acts or conduct that would constitute disciplinary action under this section.
17. Pursuant to K.S.A. 65-2863, 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 Healing Arts Act.
18. According to K.S.A.65-2838(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

19. All pending investigation materials regarding Investigation 12-00265 were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 27 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
20. 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. 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.*
21. Nothing in this Consent Order 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. 64-4921 *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 Healing Arts Act.
22. 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 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 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.

23. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.
24. 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.
25. 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.

26. 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.
27. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
28. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
29. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 800 SW Jackson Lower Level Suite A, Topeka, Kansas 66612.
30. 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.
31. 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 Final Order when filed

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

32. This Consent Order constitutes non-disciplinary action.

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

34. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following action ~~against him, and~~ ^{RAM} ~~limitations~~ ^{RHB} on his license to engage in the practice of medicine and surgery:

EDUCATION


- a. Licensee shall attend and successfully complete Neurology for the Non-Neurologist that is put on by Harvard Medical School, Department of Continuing Education that is scheduled for Sunday, June 16, 2013 to Wednesday June 19, 2013 at the Colony Hotel, Kennebunkport, Maine;
- b. This course shall be in person and at Licensee's own expense;
- c. On or before July 1, 2013, Licensee shall attend and successfully complete the Individualized Communications Course put on by The Center for Personalized Education for Physicians (CPEP).
- d. This course shall be in-person and at the Licensee's own expense.
- e. The terms of this Consent Order are automatically terminating upon successful completion of the courses, and upon proof of successful completion of the above courses submitted to the Board.

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 the Board will retain jurisdiction over this matter and this Licensee.

IT IS SO ORDERED on this 15 day of April, 2013.

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



Kathleen Selzler Lippen
Executive Director

4/15/13
Date


Robert H. Dillard, M.D.
Licensee

3-7-13
Date

PREPARED BY:



Reese H. Hays, #22700
Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Lower Level Suite A
Topeka, Kansas 66612

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 15th day of April, 2013, to the following:

Robert H. Dillard, M.D.
Confidential
Valley Center, Kansas 67147

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:

Reese H. Hays
Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Lower Level Suite A
Topeka, Kansas 66612

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

