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FEB 12 2007

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

KS State Board of Healing Arts

In the Matter of)
)
Steven R. Donnenwerth, M.D.)
Application for Licensure)

Docket No. 07-HA-00053

CONSENT ORDER

COME NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Diane L. Bellquist, Associate Counsel (“Petitioner”), and Steven R. Donnenwerth, M.D. (“Applicant”), *pro se*, and move the Board for approval of a Consent Order as a condition to being granted a license to practice medicine and surgery in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant’s last known address to the Board is **Confidential** Pratt, Kansas 67124.
2. On or about August 28, 2006, Applicant submitted to the Board an application for a license to practice medicine and surgery in Kansas.
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.*
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. 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 this case.

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6. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. Applicant voluntarily and knowingly waives his right to a hearing. Applicant voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit to rebuttal evidence, and to conduct cross-examination of witnesses. Applicant voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
8. 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.
9. Applicant graduated from the University of Kansas School of Medicine in May 2002.
10. From about July 2002 to about January 2005, Applicant had participated in the Des Moines, Iowa affiliated Mercy/Mayo Family Practice Residency Training Program.
11. During that same time period, Applicant was employed by the Mercy Medical Center in Des Moines, Iowa.
12. On or about May 13, 2003, the Residency Program Director at the Des Moines affiliated Mercy/Mayo Residency Training Program met with Applicant to discuss reports of Applicant's alleged inappropriate sexual comments and touching of hospital staff.

13. In about February 2005, Applicant accessed allegedly pornographic websites on the hospital's computers while he was on call. Applicant disputes that the websites he accessed were pornographic, as he contends he was searching the internet for illustrations on the objectification of female bodies, social issues relevant to adolescents, and issues relating to teen pregnancy for a power point presentation that he had given to high school classes over a two and a half year period.

14. On or about March 2, 2005, Applicant's employment with Mercy Medical Center was terminated

(confidential)

(confidential)

15.

(confidential)

(confidential) The Mayo Clinic in Rochester reinstated Applicant's residency training at their facility.

16. On December 22, 2006, Applicant successfully completed his residency training at the Mayo Clinic in Rochester, Minnesota.

17. Applicant intends to practice Family Medicine in Pratt, Kansas.

18. Applicant acknowledges that pursuant to K.S.A. 65-2836(s), the Board would have grounds to deny Applicant's application if after a hearing there was a finding that Applicant had sanctions or disciplinary action by a health care facility for acts or conduct

similar to acts or conduct which would constitute grounds for disciplinary action under the Healing Arts Act.

19. Applicant acknowledges that pursuant to K.S.A. 65-2837(b)(16), the Board would have grounds to deny Applicant's application if after a hearing there was a finding that applicant had committed any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice.
20. 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.
21. In lieu of conducting formal proceedings, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following as conditions to being granted licensure:

MONITORING

- a. Applicant must have a chaperone present with him during all evaluations, examinations and/or treatment of female patients, with the exception of minor children, or other patients, who are accompanied by an adult during the same. Applicant may petition the Board for modification or termination of this monitoring requirement after at least three (3) years have passed from the date this Consent Order is filed.
- b. Applicant shall maintain a daily log identifying all female patients seen by him under the circumstances in paragraph (a). The chaperone must certify on the daily patient log his or her presence during the entire evaluation, examination and/or treatment provided by Applicant. Applicant will be provided with a form for the patient logs. Applicant shall submit such patient logs to the Board each month.

- c. All chaperones must be adults. Applicant shall provide to the Board in writing within ten (10) days of the date of this Consent Order the names of the individuals who will serve as his chaperones, and will keep the Board advised of changes in the identity of the chaperones.
 - d. Applicant will have other hospital staff, who are not previously identified to the Board, serve as a chaperone when practicing in a hospital setting. Applicant will be responsible for procuring the initials of said chaperone in the patient logs.
 - e. Applicant shall at all times keep the Board informed of all practice locations, addresses, and telephone numbers. If Applicant's practice locations change during the effective time period of this Consent Order, he shall identify his chaperone(s) at the new practice locations; and
22. Upon filing of this Consent Order, Applicant's current temporary license to practice medicine and surgery in Kansas will be valid through August 15, 2007, or the date he is granted a permanent license if prior to August 15, 2007.
23. For any period of time that Applicant is not actively practicing in Kansas this chaperone requirement shall remain in effect but will be tolled. Any period of time in which Applicant is not actively practicing in Kansas shall not count towards reducing the number or months duration of the same.
24. This Consent Order constitutes non-disciplinary action and is not a restriction or limitation on Applicant's license to practice medicine and surgery.
25. Applicant's failure to comply with the provisions of the Consent Order may result in the Board taking disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.

26. 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.
27. 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 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 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.
28. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and shall be reported to the Federation of State Medical Boards, and any other reporting entities authorized to receive disclosure of the Consent Order. The parties agree that this Consent Order is not an action that is reportable to the National Practitioner Databank.

29. 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.
30. 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.
31. Applicant, by signature to this document, waives any objection to the participation of General Counsel or the Board members, including the Disciplinary Panel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of General Counsel or any Board member in any future proceedings on the basis that General Counsel or the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.
32. Applicant acknowledges that he has read this Consent Order and fully understands the contents. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.
33. All correspondence or communication between Applicant 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, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
34. Applicant 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.

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

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

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact and conclusions of law.

IT IS FURTHER ORDERED that upon meeting all technical requirements for licensure, Applicant shall be granted a license.

IT IS FURTHER ORDERED that:

MONITORING

- a. Applicant must have a chaperone present with him during all evaluations, examinations and/or treatment of female patients, with the exception of minor children, or other patients, who are accompanied by an adult during the same. Applicant may petition the Board for modification or termination of this monitoring requirement after at least three (3) years have passed from the date this Consent Order is filed.
- b. Applicant shall maintain a daily log identifying all female patients seen by him under the circumstances in paragraph (a). The chaperone must certify on the daily patient log his or her presence during the entire evaluation, examination and/or

treatment provided by Applicant. Applicant will be provided with a form for the patient logs. Applicant shall submit such patient logs to the Board each month.

- c. All chaperones must be adults. Applicant shall provide to the Board in writing within ten (10) days of the date of this Consent Order the names of the individuals who will serve as his chaperones, and will keep the Board advised of changes in the identity of the chaperones.
- d. Applicant will have other hospital staff, who are not previously identified to the Board, serve as a chaperone when practicing in a hospital setting. Applicant will be responsible for procuring the initials of said chaperone in the patient logs.
- e. Applicant shall at all times keep the Board informed of all practice locations, addresses, and telephone numbers. If Applicant's practice locations change during the effective time period of this Consent Order, he shall identify his chaperone(s) at the new practice locations; and
- f. For any period of time that Applicant is not actively practicing in Kansas this chaperone requirement shall remain in effect but will be tolled. Any period of time in which Applicant is not actively practicing in Kansas shall not count towards reducing the number or months duration of the same.

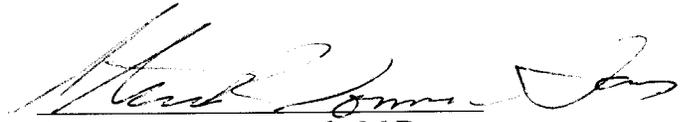
IT IS SO ORDERED on this 12th day of February, 2007.

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


Lawrence T. Buening, Jr.
Executive Director

2/12/07
Date

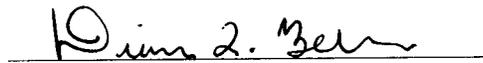
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Steven R. Donnenwerth, M.D.
Applicant

2/10/2007
Date

PREPARED AND APPROVED BY:



Diane L. Bellquist #20969
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961

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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 12 day of February, 2007, to the following:

Steven Donnenwerth, M.D.
Confidential
Pratt, Kansas 67124

And the original was hand-delivered to:

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

And a copy was hand-delivered to:

Diane L. Bellquist
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

