

F I L E D

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

APR 12 1999

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
Vernon E. Dyer, M.D.)
Kansas License No. 04-16988)
_____)

Case No. 98-00113

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COME NOW, the Kansas State Board of Healing Arts ("Board") by and through Stacy L. Cook, Litigation Counsel ("Petitioner"), and Vernon E. Dyer, ("Licensee"), and stipulate and agree to the following:

1. The Board is the sole and exclusive administration 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.*

2. Licensee admits that this Stipulation and Agreement and Enforcement Order ("Stipulation") and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Stipulation.

3. Licensee agrees that the Kansas Healing Arts Act is constitutional on its face and as applied in this case.

4. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

5. 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 04-16988 on June 18, 1977. At all times

relevant to the allegations set forth below, Licensee held a current license to engage in the practice of medicine and surgery in the State of Kansas. On October 21, 1997, the Board issued an Ex Parte Emergency Order and Notice of Hearing suspending Licensee's license and providing notice of a hearing to complete the proceedings. Licensee renewed his license on approximately June 23, 1998.

6. The Board has received information, has investigated such information, and has reasonable cause to believe that Licensee has committed certain acts that violate the Healing Arts Act K.S.A. 65-2801 *et seq*; K.S.A. 65-2836. Specifically, Licensee admits that he committed the following acts:

(a) On approximately October 14, 1997, Licensee's privileges at Clara Barton Medical Clinic were suspended (confidential) Pursuant to K.S.A. 65-2836(s), Licensee's license may be revoked, suspended, or otherwise limited in that sanctions or disciplinary actions have been taken against the Licensee for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under the Healing Arts Act. The reason for suspension of Licensee's hospital privileges would constitute grounds for disciplinary action pursuant to K.S.A. 65-2836(e), K.S.A. 65-2836(b), unprofessional conduct, as further defined by K.S.A. 65-2837(b)(12) (confidential) Licensee admits that on October 14, 1997, his privileges at Clara Barton Medical Clinic were suspended (confidential) Licensee denies that on October 14, 1997, he treated patients while (confidential)

(b) (confidential)

(confidential)

(c) (confidential)

(confidential)

(confidential)

7. Violation of the provisions set forth above constitutes grounds for disciplinary action by the Board. According to K.S.A. 65-2838(b), the Board has authority to enter into this Stipulation without the necessity of proceeding to a formal hearing.

8. Licensee voluntarily and knowingly waives his right to a hearing concerning the presentation of this Stipulation to the Board and/or the Presiding officer for approval. 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 in the presentation of this Stipulation for approval. In the presentation of this Stipulation, 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.

9. The terms and conditions of the Stipulation 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 Stipulation shall not be binding on the Board until an authorized signature is affixed at the end of this document. When the Licensee signs this document, the document shall be deemed a unilateral contract and agreement and shall bind Licensee to the terms and conditions set forth herein regardless of whether the Board's signature is affixed to the document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Stipulation on behalf of the Board.

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

(a) The parties wish to resolve the issues first raised by the Petition for Emergency

Suspension Order filed by Petitioner on October 17, 1997. In lieu of the conclusion of formal proceedings following the Ex Parte Emergency Order and Notice of Hearing and/or the making of findings by the Board, Licensee, by signature affixed to this Stipulation, hereby voluntarily agrees to the following disciplinary measures:

(i) Licensee hereby surrenders his license to practice medicine and surgery. Such surrender is treated as a revocation for reporting purposes.

(ii) Licensee agrees that if he applies for reinstatement of his license, such application will be considered in accordance with the provisions of K.S.A. 65-2844. Further, Licensee's application will be governed by Vakas v. The Kansas Board of Healing Arts, 248 Kan. 589 (Kan. 1991), and all applicable statutes, law, and rules and regulations regarding qualification for licensure and reinstatement.

(b) Licensee's failure to comply with the provisions of the Stipulation will result in the Board taking disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

(c) Nothing in this Stipulation 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. 65-4921 *et seq.*, that are known or unknown and are not covered under this Stipulation, or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

(d) Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, 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 forever 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 content of this Stipulation.

(e) Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to the National Practitioner Databank, Federation of State Medical Boards, and any other reporting entities requiring disclosure of this Stipulation.

(f) This Stipulation, 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.

(g) 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.

(h) Licensee, by signature to this document, waives any objection to the participation of the Board members in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be

admissible or admitted as evidence.

(i) Licensee acknowledges that he has read this Stipulation and fully understands the contents.

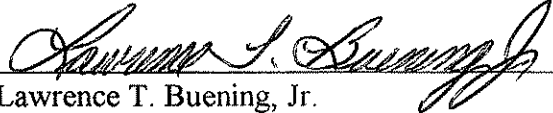
(j) Licensee acknowledges that this Stipulation has been entered into freely and voluntarily.

(k) All correspondence or communication between Licensee and the Board relating to this Stipulation shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Stacy L. Cook, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

(l) Upon execution of this Stipulation by affixing a Board authorized signature below, the provisions of this Stipulation shall become an Order under K.S.A. 65-2838. This Stipulation shall constitute the Board's Order when filed with the Office of the Executive Director for the Board and no further Order is required.

IN WITNESS WHEREOF, the parties have executed this agreement on this 12th day of April, 1999.

KANSAS STATE BOARD OF HEALING ARTS



Lawrence T. Buening, Jr.
Executive Director

4/12/99

Date

Vernon A. Dyer, M.D.
Vernon A. Dyer, M.D.

2/18/99
Date

Prepared By:

Skh

Stacy L. Cook, #16385
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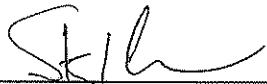
CERTIFICATE OF SERVICE

I, Stacy L. Cook, Litigation Counsel, Kansas Board of Healing Arts, hereby certify that I served a true and correct copy of the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** by United States mail, postage prepaid, on this 12th day of April, 1999, to the following:

Vernon A. Dyer, M.D.
P.O. Box 97
Hoisington, Kansas 67544-0097

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



Stacy L. Cook