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JUN 11 2007

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

KS State Board of Healing Arts

In the Matter of)	
)	
Howard D. Ellis, M.D.)	Docket No. 06-HA-70
Kansas License No. 04-19055)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Kathleen Selzler Lippert, Associate Counsel ("Petitioner"), and Howard D. Ellis, M.D. ("Licensee"), by and through his attorney Steve Schwarm, Polsinelli, Shalton, Welte and Suelthaus, PC 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 address as provided to the Board is 10600 Quivira Road Ste 120, Overland Park, Kansas 66215.
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 No. 04-19055 on approximately June 19, 1981. Licensee's license is active.
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. 65-2001 et seq. and K.S.A. 65-2869.

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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 the case.
6. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. 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.
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. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.

9. Petitioner has alleged that Licensee failed to keep written medical records which accurately describe the services rendered to the patient and/or used a false, fraudulent or deceptive statement in any document connected with the practice of the healing arts.
10. Petitioner has alleged that Licensee has had adverse action taken by the proper licensing authority of another state and that such action, under the Kansas Healing Arts Act, would constitute disciplinary action and/or a limitation or restriction of privileges while under investigation for conduct similar to acts which would constitute grounds for disciplinary action under the Kansas Healing Arts Act.
11. Petitioner has alleged that Licensee failed to report to the Board any adverse action taken against his license by another state or licensing jurisdiction for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under the Kansas Healing Arts Act.
12. Petitioner has alleged that Licensee had an adverse settlement against his license resulting from a medical liability claim.
13. Petitioner has alleged that Licensee acted unprofessionally in connection with other medical professionals.
14. Pursuant to K.S.A. 65-2836, the Board has grounds to deny, revoke, suspend, limit or censure 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.

15. 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.
16. Licensee admits that if this matter proceeded to a formal hearing the Board staff would present evidence in support that Licensee violated K.S.A. 65-2836(b) and that Licensee's acts, if proven, are grounds for discipline pursuant to K.S.A. 65-2836(b).
17. Licensee does not admit the allegations as set forth in the Petition but for the sole purpose of this Consent Order will not contest the allegations thereby waiving his right to dispute or otherwise contest the allegations contained in the Petition as grounds for this Consent Order or in any future proceedings before the Board and in lieu of the conclusion of formal proceedings, Licensee, by signature affixed to this Consent Order, and when accepted by the Board, hereby voluntarily agrees to the following disciplinary action on his license to engage in the practice of medicine and surgery:

CENSURE

- a. Licensee is publicly censured for violating the Healing Arts Act.

FINES / COSTS

- b. Licensee shall be fined in the amount of \$5,000.00. Said fine is due on or before ~~May 31, 2007.~~ ^{Aug. 1, 2007 KSL} 
- c. Licensee agrees to pay the costs incurred by the Board during the investigation and litigation. The total costs are \$7054.95 which include

\$4,103.00 in investigation costs and \$2,951.95 in litigation costs. Said

costs are due on or before ~~May 31~~ ^{AUGUST 1. RJB}, 2007.

18. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.
19. 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.
20. 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.

21. 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 the Consent Order.
22. 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.
23. 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.
24. Licensee, by signature to this document, waives any objection to the participation of Counsel for the Board and/or the Board members, including the Disciplinary Panel, in the consideration of this offer of settlement and agrees not to seek the disqualification or requalification of any Board member in any future proceedings on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

25. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
26. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
27. 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: Complaint Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
28. 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.
29. 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.
30. This Consent Order constitutes disciplinary action.
31. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

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:

CENSURE

- a. Licensee is publicly censured for violating the Healing Arts Act.

FINES / COSTS

- b. Licensee shall be fined in the amount of \$5,000.00. Said fine is due on or before ~~May 31, 2007.~~ ^{Aug 1, 2007} *AS* *ASB*

- c. Licensee agrees to pay the costs incurred by the Board during the investigation and litigation. The total costs are \$7054.95; which include \$4,103.00 in investigation costs and \$2,951.95 in litigation costs. Said costs are due on or before ~~May 31, 2007.~~ ^{AUGUST 1} *ASB*

IT IS SO ORDERED on this 11th day of June, 2007.

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

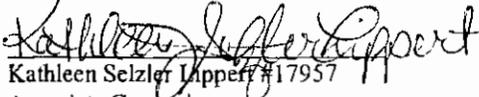
Lawrence T. Buening, Jr.
Lawrence T. Buening, Jr.
Executive Director

June 11, 2007
Date

Howard D. Ellis, M.D.
Howard D. Ellis, M.D.
Licensee

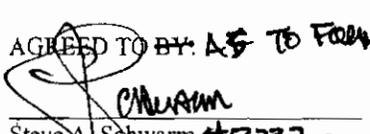
3/1/07
Date

PREPARED AND APPROVED BY:


Kathleen Selzler Lippert #17957
Associate Counsel

Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961

AGREED TO BY: AS TO FORM ^{SAS}


Steve A. Schwarm #13232 ^{SAS}
Attorney for Licensee

Polsinelli, Shalton, Welte, Suelthaus, PC
555 Kansas Avenue, Suite 301
Topeka, Kansas 66603-3443
785-233--1446

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 15th day of June, 2007 to the following:

Howard D. Ellis
Licensee
10600 Quivira Ste 120
Overland Park, Kansas 66215

Steve A. Schwarm
Attorney for Licensee
555 Kansas Avenue, Suite 301
Topeka, Kansas 66603-3443

And the original was hand-delivered for filing to:

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

Howard D. Ellis, M.D.
Consent Order

And a copy was hand-delivered to:

Kathleen Selzler Lippert #17957
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

A handwritten signature in black ink, appearing to read "Kathleen Selzler Lippert". The signature is written in a cursive style and is positioned to the right of the recipient's address.