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MAY 03 2010

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

KS State Board of Healing Arts

In the Matter of)
)
Darin J. Elo)
Kansas License No. 04-28284)

Docket No. 10-HA 00141

TEMPORARY CONSENT ORDER

COMES NOW, The Kansas State Board of Healing Arts, (“Board”), by and through Kelli J. Stevens, Litigation Counsel (“Petitioner”), and Darin J. Elo, M.D. (“Licensee”), by and through Mark W. Stafford of Holbrook and Osborn, P.A, and move the Board for approval of a Temporary Consent Order affecting Licensee 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 as provided to the Board is 1115 Brynwood Court, Lawrence, Kansas 66049.
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. 04-28284 on approximately August 14, 1999. On or about January 21, 2010 Licensee contacted the Board and requested that his license be changed from active to inactive status. On or about March 31, 2010, Licensee requested that his license be returned to active status.
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 Temporary Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Temporary Consent Order as

provided by K.S.A. 77-505 and 65-2823. Upon approval, these stipulations shall constitute the findings of the Board, and this Temporary Consent Order shall constitute a Final Order.

5. The Kansas Healing Arts Act is constitutional on its face and is 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 and Petitioner voluntarily and knowingly waive the opportunity to a hearing. Licensee and Petitioner voluntarily and knowingly waive the opportunity to present an oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination of witnesses. Licensee and Petitioner voluntarily and knowingly agree to waive the opportunity to offer all possible substantive and procedural motions and arguments that could be raised if an administrative hearing were held.

7. The terms and condition of the Temporary Consent Order are entered into and between the undersigned parties and are submitted for the purpose of allowing these terms and conditions to become an Order of the Board. The statements and agreements in this Temporary Consent Order shall not be binding upon the Board or upon Licensee 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 Temporary Consent Order on behalf of the Board.

8. On or about January 19, 2010, Licensee voluntarily reported information to the Board, and the Board has investigated and has reason to believe that there may be grounds

(confidential) to consider action with respect to Licensee's license under the Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. On or about January 14, 2010, an incident occurred in which Licensee physically struck a combative and inadequately restrained patient who had grabbed Licensee's leg while other staff attempted to treat the patient in the emergency room. The patient had been brought to the emergency room by police because of the patient's violent behavior.

10. (confidential)

(confidential)

(confidential) Licensee discontinued practice and requested that his license be changed to inactive status.

11. (confidential)

(confidential)

12. (confidential)

(confidential)

13. (confidential)

(confidential)

h.

(confidential)

MENTORING

- i. Licensee shall notify the Board, prior to commencing professional practice, that he has established a mentoring arrangement with a supervisor or another Kansas-licensed physician practicing emergency medicine or in an urgent care setting for the purpose of providing feedback to Licensee regarding interactions with difficult patients and handling stress during practice. Notification should include the name, practice specialty and practice location of the mentor. Licensee shall personally meet with the mentor at least once a week for the first four weeks of practice, and thereafter as the mentor deems necessary, but no less than on a bi-monthly basis.
- j. The mentor shall submit reports to the Board on a bi-monthly basis on the 15th day of each month in which a report is due. Such reports shall be sent to: Compliance Coordinator, Kansas Board of Healing Arts, 235 South Toneka Boulevard, Toneka, Kansas 66603.

(confidential)

(confidential)

15. The above temporary limitations and other provisions are not self-terminating.

Licensee may request that the Board modify or terminate the limitations or other provisions as

(confidential)

, or for other good cause.

16. Licensee agrees that upon approval of this Temporary Consent Order by the Board, he will execute release forms authorizing the Board to receive records and information

(confidential)

17. Licensee agrees that his failure to comply with the provision of the Temporary Consent Order following its adoption 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.

18. Licensee and Petitioner agree that nothing in this Temporary Consent Order shall be construed to deny the Board authority to investigate allegations of misconduct proscribed by the Healing Arts Act, or to deny jurisdiction to initiate administrative proceedings alleging violations of the Healing Arts Act, regarding incidents that are unknown to the Board at the time it approves this Temporary Consent Order.

19. 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, 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 Temporary 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 proceedings of any description against the Releasees. This paragraph shall not apply to any intentional or malicious misconduct that was unknown and not reasonably discoverable at the time this Temporary Consent Order was approved.

20. Licensee further understands and agrees that upon signature by Licensee and upon approval by the Board, this document shall be deemed a public record and shall be reported to any reporting entities authorized by law to receive disclosure of the Temporary Consent Order. Licensee acknowledges by his signature, and the Board agrees by its approval, that

portions of this document that are confidential pursuant to any provision of applicable law shall not be disclosed to the public in any manner except in compliance with applicable law, and that disclosure which is not in compliance with applicable law shall void paragraphs 13(b)-(e) and portions (b)-(e) of the Board's Order entered below.

21. This Temporary 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.

22. 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 to conjunction with the presentation of this proposed Temporary Consent Order, whether Licensee is present. Licensee further acknowledges that the Board may upon reasonable notice to Licensee, conduct further inquiry as it deems necessary before the complete or partial acceptance or rejection of any offer of settlement.

23. 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.

24. Licensee acknowledges that he has read this Temporary Consent Order and fully understands the contents.

25. Licensee acknowledges that this Temporary Consent Order has been entered into freely and voluntarily.

26. Licensee agrees that all correspondence or communication between Licensee and the Board relating to notifications or reports required by this Temporary Consent Order may not be deemed received unless acknowledged as being received or delivered by certified mailed addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

27. 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 Temporary Consent Order or may become effective subsequent to the execution of this document.

28. This Temporary Consent Order shall constitute the Board's Order as provided by K.S.A. 65-2838 upon approval by the Board and the signature of an authorized representative of the Board, and shall become effective when filed with the office of the Executive Director for the Board and served upon the parties in accordance with law.

29. The Board may consider all aspects of this Temporary Consent Order in any further matter regarding Licensee.

IT IS THEREFORE ORDERED that the Temporary 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 the effective date of this Temporary Consent Order, Licensee's request for a change of his license from inactive to active shall be granted on a temporary basis and be subject to further consideration by the full Board for issuance of a Final Order at its next regularly scheduled Board meeting on June 18, 2010.

IT IS FURTHER ORDERED that:

TEMPORARY LIMITATION

- a. Licensee's practice is temporarily **LIMITED** to preclude solo practice or practice in an emergency room setting.

MONITORING

b.

c.

d.

e.

(confidential)

f.

g.

h.

MENTORING

- i. Licensee shall notify the Board, prior to commencing professional practice, that he has established a mentoring arrangement with a supervisor or another Kansas-licensed physician practicing emergency medicine or in an urgent care setting for the purpose of providing feedback to Licensee regarding interactions with difficult patients and handling stress during practice. Notification should include the name, practice specialty and practice location of the mentor. Licensee shall personally meet with the mentor at least once a week for the first four weeks of practice, and thereafter as the mentor deems necessary, but no less than on a bi-monthly basis.

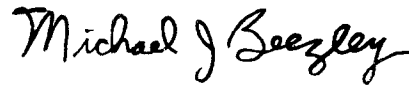
- j. The mentor shall submit reports to the Board on a bi-monthly basis on the 15th day of each month in which a report is due. Such reports shall be sent to: Compliance Coordinator, Kansas Board of Healing Arts, 235 South Topeka Boulevard, Topeka, Kansas 66603.

(confidential)

(confidential)

IT IS SO ORDERED on this 3rd day of May, 2010.

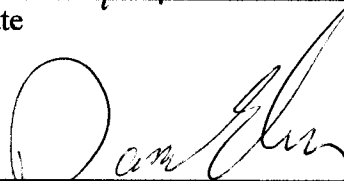
**FOR THE KANSAS STATE
BOARD OF HEALING ARTS:**



Michael J. Beezley
Presiding Officer

5/3/2010

Date

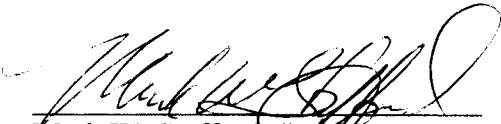


Darin J. Elo, M.D.
Licensee

4/26/10

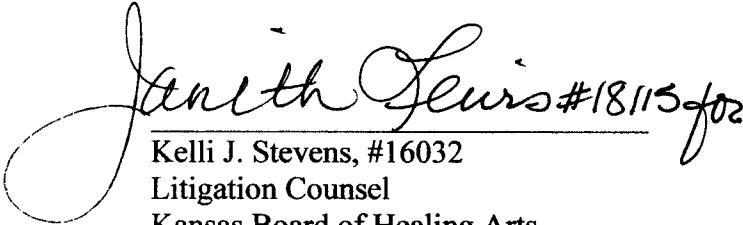
Date

PREPARED BY:



Mark W. Stafford, # ~~13233~~
Holbrook & Osborn, P.A.
800 S.W. Jackson, Suite 900
Topeka, Kansas 66612
785-232-6200
Attorney for Licensee

PREPARED AND APPROVED BY:



Kelli J. Stevens, #16032
Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961
Attorney for Petitioner

CERTIFICATE OF SERVICE

I, hereby certify that I served a true and correct copy of the above and foregoing
CONSENT ORDER via United States mail, first-class, postage pre-paid on the 3rd
day of May, 2010 to the following:

Mark Stafford
Holbrook & Osborn, P.A.
800 S.W. Jackson, Suite 900
Topeka, Kansas 66612
Attorney for Licensee

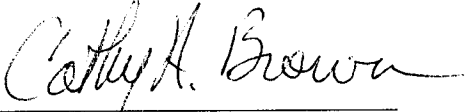
and a copy was hand-delivered to:

Melissa Massey
Compliance Coordinator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

Katy Lenahan
Licensing Administrator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

and a copy was hand-delivered for filing to:

Kathleen Selzler Lippert
Acting Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603



Signature