

FILED

AP

AUG 20 2012

KS State Board of Healing Arts

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

In the Matter of)
)
Greg Epperson, M.D.)
Kansas License No. 04-29189)

Docket No.: 11-HA00001

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Associate Disciplinary Counsel, Joshana L. Offenbach ("Petitioner"), and Greg Epperson, M.D., ("Licensee"), by and through his counsel Brian J. Niceswanger, of McDowell, Rice, Smith, and Buchanan, 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 Kansas City, Kansas 66109.
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. 04-29189 on approximately June 23, 2001, and having last renewed such license on approximately June 9, 2011.
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, investigated the same, and a Petition was filed with the Board in this matter on July 7, 2010, alleging grounds for disciplinary action under the Kansas Healing Arts Act. The specific allegations are set forth therein and incorporated into this Consent Order as if fully stated herein.
9. 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 Kansas Healing Arts Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the Petition in any further proceeding before this Board.
10. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836.
 - a. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(a)(1): One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board.
 - b. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(a)(2): Repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board.
 - c. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(a)(3): A pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts.
 - d. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(12): Conduct likely to deceive, defraud or harm the public.

- e. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A 65-2837(b)(24): Repeated failure to practice healing arts with the level of care, skill, and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.
 - f. Licensee violated K.S.A. 65-2836(a) of the Kansas Healing Arts Act, in that Licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.
 - g. Licensee violated K.S.A. 65-2836(r) of the Kansas Healing Arts Act, in that Licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.
 - h. Licensee violated K.S.A. 65-2836(w) of the Kansas Healing Arts Act, in that Licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.
11. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license. Pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
12. Licensee attended the Center for Personalized Education for Physicians ("CPEP") on October 20, 2010 through October 21, 2010 for a Clinical Skills Assessment. CPEP generated an Assessment Report based on the Clinical Skills Assessment. CPEP made the following recommendations:

CONFIDENTIAL

CONFIDENTIAL

13. 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.
14. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 23 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
15. In lieu of conducting a formal proceeding, Licensee by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action and limitations on his license to engage in the practice of medicine and surgery:

PROBATION: EDUCATION

- a. Licensee shall attend and successfully complete the continuing education course "Patient Care Documentation Seminar, Effective and Efficient Methods of Documenting Patient Care" by the Center for Personalized Education for Physicians ("CPEP"), at his own expense. Licensee shall enroll in the follow-up component of the course. The course was pre-approved by Disciplinary Panel No. 23. Licensee shall provide proof of successful completion to the Compliance Coordinator by July 23, 2012.
- b. Licensee shall attend and successfully complete the continuing education course "Resuscitation 2011" jointly sponsored by the Center for Emergency Medical Education and The Center for Medical Education, Inc., at his own expense. The course was pre-approved by Disciplinary Panel No. 23. Licensee shall provide proof of successful completion to the Compliance Coordinator by July 23, 2012.

- c. Licensee shall attend additional continuing medical education courses CONFIDENTIAL
CONFIDENTIAL These courses shall be submitted for approval to the designated Board member, Dr. Templeton.
- d. Licensee shall maintain certification by the American Board of Emergency Medicine.

PROBATION: LIMITATION

- e. Licensee shall not practice medicine and surgery unless he complies with each of the following:
- i. Licensee agrees to have a preceptor, who is another Kansas-licensed physician. Licensee shall establish a relationship with an experienced education preceptor and meet regularly to ensure integration in practice and application of the knowledge that Licensee demonstrated during the CPEP Assessment.
 - ii. Licensee shall provide the preceptor with a copy of the CPEP Assessment Report.
 - iii. Gary Wright, M.D., has been approved by the Disciplinary Panel to be the preceptor for Licensee.
 - iv. The preceptor shall submit quarterly reports (July 15th, October 15th, January 15th and April 15th) to the Board on the form submitted by Licensee. Such reports shall include a summary of whether Licensee is seeing patients, appropriately documenting the medical record, and how Licensee is implementing the recommendations of the CPEP Assessment Report. Licensee is responsible for ensuring that the preceptor's reports are submitted by the quarterly deadlines.
- f. All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Compliance Coordinator, 800 SW Jackson Street, Lower Level-Suite A, Topeka, Kansas 66612.

PROBATION AND LIMITATION TIMEFRAME

- g. The above probation and limitations are not self-terminating. After a period of three (3) years, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing medicine and surgery in

Kansas, the monitoring provisions and limitations will remain in effect but will be tolled and not counted towards reducing the three (3) year timeframe.

COSTS

- h. Licensee is hereby ordered to pay the Board's incurred costs in conducting these proceedings under the Kansas Administrative Procedure Act in the amount of \$2,185.00. This amount includes \$2080.00 in investigative costs and \$105.00 from the Office of Administrative Hearings. The total amount of \$2,185.00 shall be due on or before July 23, 2012.
 - i. In the alternative, Licensee may make monthly payments of \$182.09 for eleven (11) months with a twelfth (12th) and final monthly payment of \$182.01 for a total of \$2,185.00 to be paid over twelve (12) months. The initial payment is due on or before July 15, 2012, with the remainder of the monthly payments due on or before the fifteenth (15th) day of each month thereafter.
 - j. In the event that the Board does not receive a payment due and owing, the total amount of the assessed costs still due shall become immediately due and payable in full upon written notice by the Board to Licensee stating that payment has not been received.
 - k. Licensee shall make all payments payable to the Kansas State Board of Healing Arts and send all payments to the attention of: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level-Suite A, Topeka, Kansas 66612.
16. 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. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. 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.*

17. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas 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 Kansas Healing Arts Act.
18. 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 Judicial Review Act, 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.
19. 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.
20. 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.
21. 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.

22. 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.
23. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
24. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
25. 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, Attention: Compliance Coordinator: 800 SW Jackson Street, Lower Level-Suite A, Topeka, Kansas 66612.
26. 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.
27. 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.
28. This Consent Order constitutes disciplinary action.
29. 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.

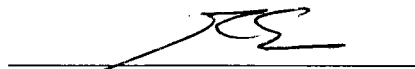
IT IS FURTHER ORDERED that the Board will retain jurisdiction over this matter and this Licensee.

IT IS SO ORDERED on this 20 day of Aug, 2012.

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

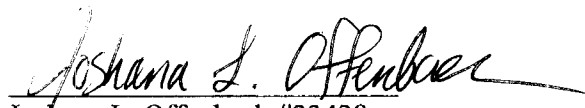

Kathleen Selzler Lippert
Executive Director

8/20/12
Date



Greg Epperson, M.D.
Licensee

5-10-2012
Date

APPROVED BY:


Joshana L. Offenbach #23438
Associate Disciplinary Counsel
Kansas State Board of Healing Arts
800 SW Jackson Street, Lower Level, Suite A
Topeka, KS 66612
785/296-5940

AGREED TO ~~BY~~ BY:


Brian J. Niceswanger #12531
David Stephen Lockett #22231
Attorneys for Licensee
McDowell, Rice, Smith, and Buchanan
7101 College Boulevard
Overland Park, KS 66210

CERTIFICATE OF SERVICE

I, Cathy A. Brown, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 20th day of August, 2012, to the following:

Greg Epperson, M.D.
Licensee
CONFIDENTIAL
Kansas City, KS 66109

Brian J. Niceswanger #12531
David Stephen Lockett #22231
Attorneys for Licensee
McDowell, Rice, Smith, and Buchanan
7101 College Boulevard
Overland Park, KS 66210

And the original was hand-filed with:

Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts, Lower Level-Suite A
800 SW Jackson Street
Topeka, Kansas 66612

And a copy was hand-delivered to:

Joshana L. Offenbach
Associate Disciplinary Counsel
Kansas State Board of Healing Arts
800 SW Jackson Street, Lower Level-Suite A
Topeka, Kansas 66612

Katy Lenahan
Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson Street
Topeka, Kansas 66612

Melissa Massey
Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson Street
Topeka, Kansas 66612

Cathy A. Brown