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KS State Board of Healing Arts

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

In the Matter of)		
)	Docket No.:	15-HA00079
Roger Evans, M.D.)	OAH Docket No.:	15HA0019
Kansas License No. 04-13261)		

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Anne Barker Hall, Associate Litigation Counsel, and Joseph S. Behzadi, Associate Litigation Counsel ("Petitioner"), and Roger Evans, M.D. ("Licensee"), by and through his attorney Brooke Bennett Aziere, Foulston Siefkin, LLP, 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** Wichita, Kansas 67226.
2. Licensee has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-13261 on approximately January 1, 1965. Licensee's license is active. 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.
3. Licensee submitted his application to switch his active license to exempt status on November 24, 2015. The effective date of the change to exempt status is June 1, 2016. See Exhibit 1, Application for Change of Designation/Type, Roger Evans, M.D.

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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. 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. 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.

7. Petitioner filed a Petition in this matter on April 2, 2015. All of the facts and allegations as stated in the Petition are hereby incorporated by reference. Exhibit 2, Petition in the Matter of Roger Evans, M.D. 15-HA00079.

8. Licensee filed an Answer on April 21, 2015, disputing the allegations set forth in the Petition. See Exhibit 3, Answer in the Matter of Roger Evans, M.D. 15-HA00079.

9. The facts and allegations in this matter are still in dispute. However, the Parties believe it is the best interest of both Parties to settle this matter with Licensee ceasing the active practice of medicine in Kansas and retiring effective as of June 1, 2016. The Parties agree that the Petition will be once again filed with the Board if Licensee does not retire as of June 1, 2016 or wishes to reenter the active practice of medicine in Kansas.

10. According to K.S.A.65-2838(b) and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

11. All pending investigation materials in KSBHA Investigative Case Number 12-00633 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 29 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

12. 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. 65-4921 *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.

13. 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.

14. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.

15. 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.

16. 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.

17. 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.

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

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

20. 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: Compliance Coordinator, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

21. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order under K.S.A. 65-2838.

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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.

22. In lieu of continuing the formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following non-disciplinary action on his license to engage in the practice of medicine and surgery:

EXEMPT LICENSE

23. Licensee's license shall become Exempt on June 1, 2016.

24. Licensee shall notify the Board within fifteen (15) days of applying for licensure to practice medicine and surgery in any jurisdiction where he is not currently licensed. Licensee shall make this notification in writing to the Board in the form of a letter that includes the date upon which he initiated his application, the jurisdiction he is seeking licensure and the reason he is seeking licensure in that jurisdiction. This letter shall be sent to the following address:

Kansas State Board of Healing Arts
Attention: Executive Director
800 SW Jackson, Lower Level-Suite A.
Topeka, KS 66612

PENDING DISCIPLINARY ACTION

25. Within fifteen (15) days of this Consent Order being approved by the full Board, Petitioner shall dismiss pending action, docket No. 15-HA00079 without prejudice.

26. If Licensee applies to obtain an active license to practice medicine and surgery in Kansas, the Petition in this matter shall be refiled by the Board and the formal disciplinary action reinstated against Licensee's license to practice medicine and surgery in the State of Kansas.

27. Following Licensee's retirement on June 1, 2016, Licensee agrees that an application to change his license status to active 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 State Board of Healing Arts*, 248 Kan. 589 (Kan. 1991), and all applicable statutes, laws, rules and regulations regarding qualifications for licensure and reinstatement.

28. If Licensee fails to comply with the terms of this Consent Order Petitioner may refile the Petition.

COSTS

29. Licensee has agreed to pay the Board's incurred costs in conducting these proceedings under that Kansas Administrative Procedure Act and in the amount as put forth by the Board in a Statement of Costs. Exhibit 4, Statement of Costs filed on December 3, 2015.

30. Such costs shall be paid in the form of a Cashier's Check or Money Order to the "Kansas State Board of Healing Arts" in full on or before June 1, 2016.

31. All monetary payments to the Board relating to this Consent Order shall be mailed to the Board by certified mail addressed to:


Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

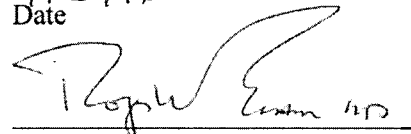
IT IS SO ORDERED on this 13 day of April, 2016.

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

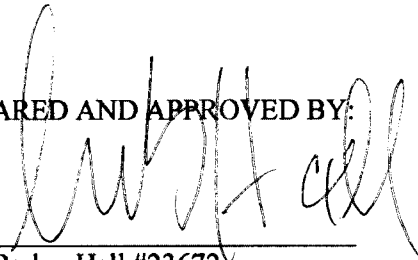

Kathleen Selzler Lippert
Executive Director

4/13/16
Date


Roger Evans, M.D.
Licensee

9 March 2016
Date

PREPARED AND APPROVED BY:



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Associate Litigation Counsel
Joseph Behzadi
Associate Litigation Counsel
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APPROVED BY:



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Wichita, KS 67206

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(866) 346-1939 Fax

baziere@foulston.com

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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 13th day of April, 2016, to the following:

Roger Evans, M.D.
Licensee
Confidential
Wichita, KS 67226.

Brooke Bennett Aziere
Attorney for Licensee
Foulston Siefkin LLP
1551 N. Waterfront Parkway, Suite 100
Wichita, KS 67206

And the original was hand-filed with:

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

And a copy was hand-delivered to:

Anne Barker Hall
Associate Litigation Counsel
Joseph S. Behzadi
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Cathy A. Brown

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