

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)	
)	Docket No. 13-HA <u>00078</u>
Charles Henry Fletcher, P.A.)	
Kansas License No. 15-00518)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Seth K. Brackman, Associate Litigation Counsel, (“Petitioner”), and Charles H. Fletcher, P.A. (“Licensee”), *pro se*, and move the Board for approval of a Consent Order affecting Licensee’s license to practice as a physician’s assistant 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 67230-**Confidential**
2. Licensee is entitled to engage in the practice as a physician’s assistant in the State of Kansas, having been issued License No. 15-00518 on approximately February 15, 1997. Licensee’s license is currently 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 as a physician’s assistant. K.S.A. 65-28a01 *et seq.*
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. 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 Physician Assistant Licensure 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 and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-28a05(c) and K.A.R. 100-28a-8, to take action with respect to Licensee's license under the Kansas Physician Assistant Licensure Act, K.S.A. 65-28a01, *et seq.*
9. On or about the morning of April 26, 2011, Licensee presented to his place of employment at the West Med-Ped Clinic of Wichita, which is a walk-in clinic.

10. Licensee gave a hand-written note to the receptionist requesting the receptionist to call in a prescription to Walgreens for Patient 1, 5/28/66, Lortab 7.5/500 #30, sig 1/1 po tid, no refill, under Heather Roe, D.O.'s name.
11. Dr. Roe was not working at the West Med-Ped Clinic that day; rather she was working at the East Med-Ped Clinic of Wichita. Dr. Roe and Licensee would never work at the same location.
12. The receptionist at the West Med-Ped Clinic could not find records for a Patient 1. The receptionist called in the prescription to Walgreens, but informed a senior receptionist at the East Med-Ped Clinic of the situation.
13. The senior receptionist discovered Patient 1 was **Confidential** and was not a patient of the Med-Ped Clinic.
14. The senior receptionist contacted Dr. Roe. Dr. Roe informed the senior receptionist that she did not authorize the prescription for Patient 1, and she reported the incident to the managing department.
15. The managing department confronted Licensee about calling the prescription in under Dr. Roe's name. Licensee apologized and said it would never happen again.
16. After Licensee was confronted by the managing department, Patient 1 presented herself to the East Med-Ped Clinic of Wichita to see Dr. Roe.
17. Patient 1 explained she is a nurse in a local emergency room and had been seen in her emergency room for a severe headache that morning.
18. Patient 1 told Dr. Roe she did not want to be labeled as a drug-seeker in her own ER, so she asked **Confidential** to write her a prescription.

19. On or about May 3, 2011, Licensee was terminated from his employment at the Med-Ped Clinic of Wichita for having the prescription medication called in to Walgreens **Confidential** under Dr. Roe's name.
20. Licensee failed to meet the applicable standard of care in that he:
 - a. Prescribed medication for **Confidential** and
 - b. Requested that a prescription medication be called in under Dr. Roe's name without Dr. Roe's authorization.
21. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-28a05(a) and as further defined in K.A.R. 100-28a-8(j), K.A.R. 100-28a-8(r), and K.A.R. 100-28a-8(u).
22. 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 Physician Assistant Licensure Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.
23. Pursuant to K.S.A. 65-28a05, the Board may revoke, suspend, limit, or censure Licensee's license.
24. According to K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
25. All pending investigation materials in KSBHA Investigation number 11-00566 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 27

authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

26. 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 as a physician assistant 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 Physician Assistant Licensure Act, K.S.A. 65-28a01, *et seq.*
27. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Physician Assistant Licensure Act, to investigate complaints received 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 Physician Assistant Licensure Act.
28. 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.

29. 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.
30. 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.
31. 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.
32. 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.

33. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
34. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
35. 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.
36. Licensee shall obey all federal, state and local laws and rules governing the practice of a physician's assistant 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.
37. 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. 77-505 and K.S.A. 77-526. 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.

38. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

39. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following regarding his license to engage in the practice as a physician's assistant:

SUSPENSION

40. Licensee's license shall be suspended for a period of thirty (30) days beginning April 17, 2013. Licensee's suspension shall be lifted on May 18, 2013.

EDUCATION

41. Licensee shall complete ten (10) hours of additional continuing education credits at his own expense; specifically in the area of Proper Prescribing Practices.

42. The courses must be pre-approved by the Board's designated member. Licensee shall submit the courses to Associate Litigation Counsel, Seth Brackman, who will provide the information to the designated Board member for approval.

43. Licensee shall provide proof of successful completion of all ten (10) hours of additional continuing education credits no later than October 31, 2013.

44. Unless otherwise approved by the designated Board member, said continuing education course(s) shall consist of a formal live lecture format.

45. These hours shall be in addition to those hours required for renewal of licensure.

46. All documentation required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Compliance Coordinator, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

PROTOCOLS

47. Licensee shall provide a copy of his current supervising physician protocol to the Board by April 19, 2013. He shall continue in the future, at all times, to maintain an accurate supervising physician protocol with the Board.


TIMEFRAME

48. Failure to complete the above requirements by the deadlines listed above shall be considered a violation of this Consent Order and will result in further disciplinary action.
49. Licensee may request, in writing, for an extension of time to complete the continuing education credits if the proper education courses are not available within the timeframe provided. The designated Board member shall determine whether Licensee is granted the extension of time.

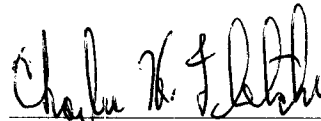
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 15 day of April, 2013.

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


Kathleen Selzler Lippert
Executive Director

4/15/13.
Date


Charles H. Fletcher, P.A.
Licensee

4/12/2013
Date

PREPARED AND APPROVED BY:



Seth K. Braekman, #23726
Associate Litigation Counsel
800 SW Jackson Street
Lower Level-Suite A
Topeka, Kansas 66612
(785) 368-7257
(785) 368-7103 - facsimile

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, first-class, postage prepaid, on this 15th day of April 2013, to the following:

Charles H. Fletcher, P.A.
Licensee
Confidential
Wichita, Kansas 67230-**Confidential**

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:

Seth K. Brackman
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

Katy Lenahan
Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Cathy A. Brown
Staff Member