

FILED

FEB 20 1991

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

**KANSAS STATE BOARD OF
HEALING ARTS**

IN THE MATTER OF)
)
CLELL B. FLOWERS, JR., M.D.)
Kansas License No. 10864)
_____)

Case No. 90 DC 0227

STIPULATION AND AGREEMENT

COMES NOW, the Kansas State Board of Healing Arts (hereinafter referred to as "Board") by and through Steve A. Schwarm, Litigation Counsel and Clell B. Flowers, Jr., M.D. (hereinafter referred to as "Licensee") and stipulate and agree as follows:

1. The Board is the sole and exclusive regulatory agency in the State of Kansas regarding the practice of the healing arts, specifically the practice of medicine and surgery.

2. Licensee is currently licensed in the State of Kansas, authorized to engage in the practice of medicine and surgery, having been issued License Number 10864. Licensee is and was at all times pertinent to the date set forth in this Stipulation and Agreement, authorized to engage in the practice of medicine and surgery in the State of Kansas.

3. In August, 1990, information was provided to the Litigation Counsel of the Board which indicated that Licensee, for a period of sixteen (16) years, prescribed Valium and Percodan in excessive amounts to a patient under his direct medical care and supervision. By continuing such prescription practice for a period

of 16 years, Licensee has engaged in a course of conduct which if proven could be deemed a violation of K.S.A. 1989 Supp. 65-2836(b) as further defined in K.S.A. 1989 Supp. 65-2837(b)(23).

4. Based on the above information, the Board has determined if said information is proven to be true, there is probable cause to believe that Licensee has engaged in the practice of medicine and surgery in the State of Kansas, while failing to monitor and administer a controlled substance in an appropriate manner and has engaged in an excessive, improper or inappropriate manner of prescribing a narcotic.

5. Under the provisions of K.S.A. 1989 Supp. 65-2836(b) and 65-2837(b)(23) the Board has jurisdiction to impose appropriate discipline for violations of the Healing Arts Act as set forth in K.S.A. 1989 Supp. 65-2836 and K.S.A. 1989 Supp. 65-2837. Under the provisions of K.S.A. 1989 Supp. 65-2838(b) the Board has the authority to enter into this Stipulation and Agreement.

6. It is the intent and purpose of this Stipulation and Agreement to provide for settlement of all issues without the necessity of proceeding to a formal disciplinary hearing. The terms and conditions of this Stipulation and Agreement are entered into between the undersigned parties and is submitted for the purpose of allowing these terms and conditions to become an order of the Board. This Stipulation and Agreement shall not be binding on the Kansas Board of Healing Arts until an authorized signature is affixed to Page 7 of this document.

7. In consideration of the conditions, terms, covenants and promises contained herein the parties agree as follows:

A) The Board is a duly authorized administrative agency of the State of Kansas with the appropriate statutory authority to regulate the practice of the healing arts to include the practice of medicine and surgery in the State of Kansas.

B) Licensee denies any wrongdoing, unprofessional conduct, or prescribing of a controlled substance in an excessive, improper, or inappropriate manner or quantity, but admits that this Stipulation and Agreement and the filing of such document are in accordance with the requirements of law; that the Board has jurisdiction to consider the Stipulation and Agreement and is lawfully constituted to consider this matter to include consideration of this Stipulation and Agreement. Licensee further notes that the Kansas Healing Arts Act as set forth in the Statute and as recited in the Stipulation and Agreement is constitutional on its face and as applied in this case. Licensee further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provisions of law. Licensee further acknowledges the the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provisions of law. Licensee further acknowledges that the Board will decide the issue regarding resolution of this matter and acceptance of this Stipulation and Agreement as it relates to the Kansas Healing Arts Act and the conditons and limitations imposed upon Licensee's license to engage in the practice of medicine and surgery in the State of Kansas.

C) Licensee's license to engage in the practice of medicine and surgery in the State of Kansas is hereby conditioned and limited. Such limitation is set forth in the following paragraph:

i) Licensee shall within three hundred sixty-five days (365) of the effective date of this Stipulation and Agreement attend and successfully complete the mini-residency medical education course, "The Proper Prescribing of Controlled Dangerous Substances" sponsored by the University of Medicine and Dentistry of New Jersey School of Osteopathic Medicine in Camden, New Jersey, or other similar course approved by the Board. Licensee shall stand all associated costs for transportation and attendance at said mini-residence. Licensee shall have all evaluation reports, documentation, grades and attendance reports forwarded to the attention of the Board.

ii) All correspondence or communication between Licensee and the Board, to include the evaluation reports, documentation, grades and attendance report shall be by certified mail addressed to the Kansas State Board of Healing Arts, 235 S. Topeka Boulevard, Topeka, Kansas 66603.

iii) Failure of Licensee to comply with the provisions of this Stipulation and Agreement and

Enforcement Order, including, but not limited to failure to attend and successfully complete the mini-residency medical education course, "The Proper Prescribing of Controlled Dangerous Substances" and failure to forward all necessary reports to the Board may result in the Board or Board designee holding an informal investigative inquiry which Licensee now consents to in order to show cause why Licensee should not be held in violation of a breach of this Stipulation and Agreement and Enforcement Order and why a hearing on the merits of non-compliance should not be held regarding a violation of one or more provisions of K.S.A. 1989 Supp. 65-2836 to include 65-2836(n). Upon determination that Licensee wilfully breached or violated the Stipulation and Agreement and Enforcement Order or any conditions attached thereto or that Licensee has elected not to comply with the Stipulation and Agreement or contract provisions, the Board will immediately take disciplinary action as the Board deems appropriate in compliance with the Kansas Administrative Procedure Act.

D. Nothing in this agreement shall be construed to deny the Board jurisdiction to investigate the alleged violations of the Healing Arts Act or to investigate complaints received under Risk

Management Law, K.S.A. 65-4921 et seq., that are unknown and are not covered under the conditions of this Stipulation and Agreement or subsequent acts which are unknown to the Board.

E) This Stipulation and Agreement 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.

F) Licensee acknowledges that Licensee has read this Stipulation and Agreement and fully understands the contents.

G) Licensee hereby releases the Kansas State Board of Healing Arts, its employees and agents, from all claims to mean those damages, actions, liabilities and causes of actions, both administrative and civil. This release shall discharge the Board of any/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 Board, its employees or agents, arising out of acts leading to the execution of this Stipulation and Agreement or the content of this Stipulation and Agreement.

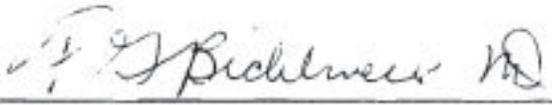
H) Licensee acknowledges that this Stipulation and Agreement has been entered into freely and voluntarily given.

8. This Stipulation and Agreement is for administrative purposes only to resolve this administrative action. The contents of this Stipulation and Agreement in whole or in part shall not be deemed as an admission or acknowledgement of any alleged criminal or civil wrongdoing. This Stipulation and Agreement cannot be used as such in any subsequent proceedings. Furthermore, Licensee shall not be referred by the Board for criminal prosecution based on the allegations set forth in the disciplinary petition or contents of this Stipulation and Agreement.

9. Licensee acknowledges he has read or has had read to him all the numbered paragraphs above, 1 through 8 and has received a copy of this Stipulation and Agreement.

IN WITNESS WHEREOF the parties have executed this agreement on this 15th day of February, 1991.

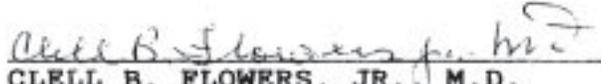
KANSAS STATE BOARD OF HEALING ARTS



FRANKLIN BICHLMEIER, M.D.
Board President

2-15-91

Date


CLELL B. FLOWERS, JR., M.D.

1/30/91

Date

FILED

FEB 20 1991

**KANSAS STATE BOARD OF
HEALING ARTS**

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)

CLELL B. FLOWERS, JR., M.D.)
Kansas License No. 10864)

Case No. 91-DC-0227

ENFORCEMENT ORDER

NOW, on this 9th day of February, 1991, this matter comes on for consideration before the Kansas State Board of Healing Arts (hereinafter referred to as "Board") and Clell B. Flowers, Jr., M.D., (hereinafter referred to as "Licensee") as a result of a Stipulation and Agreement having been entered into between the Board and the above-named Licensee on February 9, 1991.

After reviewing the files and being otherwise duly advised in the premises, the Board finds as follows:

1. That the Board and Licensee have entered into a Stipulation and Agreement, a true copy of which is attached hereto as "Exhibit A" and incorporated herein as if fully set forth.

2. That the attached Stipulation and Agreement should be approved and all conditions, terms and provisions set forth in the Stipulation and Agreement shall be adopted as Findings of Fact and Conclusions of Law and the Order of the Board.

IT IS THEREFORE BY THE BOARD ORDERED AS FOLLOWS:

1. That the findings hereinabove made be and the same are made the Order of the Board.

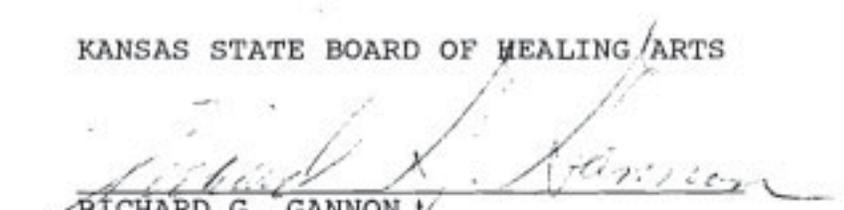
2. That Licensee's License to engage in the practice of

medicine and surgery in the State of Kansas is hereby conditioned and limited to the following:

a) That Licensee shall within three hundred sixty-five (365) days of the effective date of the Stipulation and Agreement attend and successfully complete the mini-residency medical education course, "The Proper Prescribing of Controlled Dangerous Substances" sponsored by the University of Medicine and Dentistry of New Jersey School of Osteopathic Medicine in Camden, New Jersey. Licensee shall stand all associated costs for transportation and attendance at said mini-residency and shall have all evaluation reports, documentation, grades and attendance reports forwarded to the attention of the Board.

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS


RICHARD G. GANNON
Executive Director

2-20-91
Date

Prepared by:

Steve A. Schwarm, 13232
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603
(913) 296-7413

ENFORCEMENT ORDER
Clell B. Flowers, Jr., M.D.

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9. Licensee acknowledges he has read or has had read to him all the numbered paragraphs above, 1 through 8 and has received a copy of this Stipulation and Agreement.

IN WITNESS WHEREOF the parties have executed this agreement on this 15th day of February, 1991.

KANSAS STATE BOARD OF HEALING ARTS

Franklin Bichlmeier M.D.

FRANKLIN BICHLMEIER, M.D.
Board President

2-15-91

Date

Clell B. Flowers, Jr. M.D.
CLELL B. FLOWERS, JR., M.D.

1/30/91

Date