

FILED

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

APR 12 1994

**KANSAS STATE BOARD OF
HEALING ARTS**

Case # 94-00017

IN THE MATTER OF)
GARY FORSHEE, D.C.)
License # 01-03208)
_____)

STIPULATION AND AGREEMENT
AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (hereinafter referred to as "Board") by and through Kevin K. LaChance, Associate Counsel, and Gary Forshee, D.C. (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 chiropractic. K.S.A. 65-2801, et seq; K.S.A. 65-2871.

2. Licensee is licensed to practice chiropractic in the state of Kansas, having been issued license number 01-03208 on January 9, 1971. He has maintained active status from that date to present, having last renewed his license on June 30, 1993.

3. The Board legal staff alleges that information provided to the Board indicates that Licensee was involved in conduct with a female patient that, if pursued under the disciplinary procedures of the Healing Arts Act, could result in a finding of a violation of K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(b)(16). Licensee neither confirms nor denies the allegations.

4. Based on the above information, the Board has determined there is probable cause to believe Licensee has committed ^{an} act which, if proven to be true, would constitute grounds for discipline by the Board. Specifically, Licensee may have committed an act of unprofessional conduct by committing

Handwritten initials/signature

~~an act or acts~~^{YJB} of sexual abuse, misconduct, or exploitation related to the licensee's professional practice.

5. Such act or conduct as set forth above could constitute grounds for disciplinary action under the jurisdiction of the Board pursuant to K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(b)16). Under the provisions of K.S.A. 65-2838(a), the Board has jurisdiction to impose appropriate discipline if a licensee to the Board has engaged in any commissions or omissions to bring licensee within the purview of K.S.A. 65-2836. Under the provisions of K.S.A. 65-2838(b), the Board has authority to enter into this Stipulation and Agreement and Enforcement Order (hereinafter "Stipulation").

6. It is the intent and purpose of this Stipulation to provide for settlement of all issues without the necessity of proceeding to a formal hearing. K.S.A. 65-2838(b). Licensee voluntarily and affirmatively waives his right to a hearing pertaining to any matter under the jurisdiction of the Board regarding the above stated allegations.

Licensee further understands and agrees that by entering into this Stipulation, he is waiving 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, to conduct such cross-examination of witnesses as may be desired and to waive any and all substantive and procedural motions and defenses that could be raised if an administrative hearing would be held.

The terms and conditions of the Stipulation 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 shall not be binding on the Board until a Board authorized signature is affixed at the end of this document. Upon signature

by Licensee to this document, it shall be deemed a unilateral contract and shall bind Licensee to the terms and conditions set forth in the Stipulation whether or not the Board's signature is affixed to the document. If the Board specifically rejects the document, Licensee shall be released from the terms and conditions stated herein. Licensee specifically acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

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

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

b) Licensee admits that this Stipulation and the filing of such a document are in accordance with the requirements of law; that the Board has jurisdiction to consider the Stipulation and is lawfully constituted to consider this matter to include consideration of this Stipulation. Licensee further notes that the Kansas Healing Arts Act 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 provision of law.

c) In lieu of the initiation of formal proceedings and/or findings by the Board, Licensee, by signature attached to this Stipulation, hereby voluntarily agrees to the conditions placed on his license to engage in the practice of chiropractic in the State of Kansas.

d) Licensee hereby agrees to a probationary limitation, restriction and condition of his license to engage in the practice of chiropractic in the State of Kansas based on the following specific conditions:

i) Licensee will perform eighty (80) hours of community service within two years of the date he places his signature upon this document. The manner in which this requirement will be performed shall be proposed by the Licensee and must be approved by the Board or its designee..

ii) Licensee will establish office procedures pertaining to the manner in which Licensee will treat female patients, specifically addressing one-on-one situations, henceforth in Licensee's office practice. The procedures will be reduced to writing and presented to the Board for approval. The Board may , in its discretion, delegate approval authority of Licensee's office procedures to its designee.

iii) Licensee agrees to attend a class approved by the Board pertaining to sexual conduct by professionals in their practice within one year of Board approval of this Stipulation. Said class shall be presented for approval by the Board, which, in its discretion, may delegate approval authority to its designee.

Licensee's agreement to the probationary limitations, conditions, and restrictions of his license are evidenced by his signature affixed to this document.

e) Licensee's failure to comply with the provisions of the Stipulation will result in the Board taking disciplinary action as the Board deems appropriate in compliance with the Kansas Administrative Procedure Act.

It is further understood that if Licensee fails to fulfill any of the obligations under the Stipulation, the Board will be released from its Stipulation and subsequent Enforcement Order and shall be free to take whatever steps it deems appropriate to include exercise of its right to issue a Summary Revocation Order as set forth below.

Licensee acknowledges that proof submitted to the Board by an Affidavit or other form that Licensee has failed to meet the conditions of the

Stipulation or any provision of Kansas law shall be deemed good and sufficient evidence to support the alleged violation to determine non-compliance with this Stipulation.

Any breach of the Stipulation shall result in the Board issuing a Summary Revocation Order of Licensee's license to engage in the practice of chiropractic in the State of Kansas in which Licensee agrees not to contest, defend, or challenge in any civil or administrative proceeding.

f) Nothing in this agreement shall be construed to deny the Board jurisdiction to investigate alleged violations of the Healing Arts Act or to investigate complaints received under the Risk Management Law, K.S.A. 65-4921 et seq, that are unknown and are not covered under the conditions of this Stipulation or subsequent acts which are unknown to the Board or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

g) This Stipulation constitutes the entire agreement between the parties and may only be modified and/or amended by a subsequent document executed in the same manner by the parties.

h) Licensee acknowledges that he has read this Stipulation and fully understands the Contents.

i) Licensee hereby releases the Board, its employees and agents, from all claims to mean those damages, actions, liabilities and causes of actions, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions; K.S.A. 77-601 et seq. This release shall discharge the Board of any and all claims or demands of every kind and nature that Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Board, its em-

ployees or agents, arising out of acts leading to the execution of this Stipulation or the contents of this Stipulation and Agreement.

j) Licensee acknowledges that this Stipulation has been entered in freely and voluntarily given.

k) Licensee acknowledges that this document shall be deemed a public record upon Licensee's signing this document, whether or not an authorized Board signature appears on same. Licensee further acknowledges that this document shall be reportable to the Chiropractic Federation, National Disciplinary Information Service (NDIS) and other reporting services.

8. All correspondence or communication between Licensee and the Board shall be by certified mail addressed to Kansas State Board of Healing Arts, ATTENTION: Legal Staff, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

9. Licensee shall obey all federal, state, and local laws and rules governing the practice of chiropractic in the State of Kansas that may be in place at the time of execution of the Stipulation or may become effective subsequent to the execution of this document.

10. Licensee has an affirmative duty to notify the Board of changes in his personal professional status which would inhibit the compliance with the above conditions in the Stipulation.

11. Upon execution of this Stipulation by the affixing of a Board authorized signature below, the provisions of this Stipulation shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order under K.S.A. 65-2838. This Stipulation shall constitute the Board's Order when filed with the Board and no further Order is required.

IN WITNESS WHEREOF, the parties have executed this agreement on the

_____ day of _____, 1994.

KANSAS STATE BOARD OF HEALING ARTS

Lawrence T. Buening, Jr.
Lawrence T. Buening, Jr.
Executive Director

April 12, 1994.
Date

Gary Forshee, D.C.
Gary Forshee, D.C.
Licensee

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Date

Prepared and Approved By:

[Signature]

Kevin K. LaChance, #15058
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
(913) 296-7413

Mary Beth Blake
Mary Beth Blake, #
Counsel for Licensee
Shook, Hardy, & Bacon
9401 Indian Creek Parkway
P.O. Box 25128
Overland Park, Kansas 66225-5128
(913) 451-6060

CERTIFICATE OF SERVICE

I, Kevin K. LaChance, Disciplinary Counsel, Kansas State Board of Healing Arts, hereby certify that I served a true and correct copy of the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** by United States Mail, postage prepaid, on this 12th day of April, 1994 to the following:

Gary K. Forshee, D.C.
15500 State Avenue
P. O. Box 46
Basehor, Kansas 66007

Mary Beth Blake
SHOOK, HARDY & BACON P.C.
40 Corporate Woods, 6th Floor
9401 Indian Creek Parkway
P. O. Box 25128
Overland Park, Kansas 66225-5128

and the original was hand-delivered to:

Lawrence T. Buening, Jr.
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068



Kevin K. LaChance

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER
Gary Forshee, D.C.