

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

F I L E D

OCT 23 1997

In the Matter of)
John Gamble, Jr., D.O.)
Kansas License No. 04-15174)
_____)

KANSAS STATE BOARD OF
Case No. 97-00177 HEALING ARTS

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts ("Board") by and through Kevin K. LaChance, Disciplinary Counsel ("Petitioner"), and John Gamble, Jr., D.O. ("Licensee") and stipulate and agree to certain terms. Stacy L. Cook, Associate Counsel, has been designated to pursue this matter on behalf of Disciplinary Counsel. Petitioner and Licensee hereby stipulate and agree as follows:

1. The Board is the sole and exclusive administration 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.*; K.S.A. § 65-2869.
2. Licensee admits that this Stipulation and Agreement and Enforcement Order ("Stipulation") and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Stipulation.
3. Licensee agrees that the Kansas Healing Arts Act is constitutional on its face and as applied in this case.
4. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

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5. Licensee is or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued license number 04-15174 on December 8, 1972. At all times relevant to the allegations set forth below, Licensee has held a current license to engage in the practice of medicine and surgery in the State of Kansas, having last renewed his license on June 3, 1997.

6. Licensee's license to practice medicine and surgery was subject to certain limitations from February 15, 1989 to December 7, 1990.

7. The Board has received information, has investigated such information, and has reasonable cause to believe that Licensee has committed certain acts that violate the Healing Arts Act. K. S. A. § 65-2801 *et seq*; K.S.A. § 65-2836. It is alleged that Licensee violated K.S.A. § 65-2836(b), committing an act of unprofessional conduct, as further defined by K.S.A. § 65-2837(b), by the use of any false, fraudulent, or deceptive statement in any document connected with the practice of the healing arts, in that Licensee falsely and fraudulently failed to report prior disciplinary action against him in an application for reappointment to membership in a managed care organization. The Board states that it would present substantial evidence in support of its allegations at the administrative hearing. In addition, Licensee admits the allegations as stated herein.

8. 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. Such acts as alleged by the Board as set forth above are grounds for disciplinary action by the Board pursuant to § 65-2838(a). Pursuant to K.S.A. § 65-2838(b), the Board has authority to enter into this Stipulation without

the necessity of proceeding to a formal hearing.

9. Licensee voluntarily and knowingly waives his right to a hearing concerning any matter within the jurisdiction of the Board regarding his license to engage in the practice of medicine and surgery. 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.

10. The terms and conditions of the Stipulation 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 Stipulation shall not be binding on the Board until an authorized signature is affixed at the end of this document. When the Licensee signs this document, the document shall be deemed a unilateral contract and agreement and shall bind Licensee to the terms and conditions set forth herein regardless of whether the Board's signature is affixed to the document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Stipulation on behalf of the Board.

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

(a) In lieu of the commencement of formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Stipulation, hereby voluntarily agrees to the following disciplinary measures placed on his license to engage in the practice of medicine and surgery in the State of Kansas:

(i) Licensee is hereby fined two thousand dollars (\$2,000.00).

(ii) Licensee agrees that the fine as stated above shall be due and payable within thirty (30) days of Board acceptance of this Stipulation.

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

(c) Nothing in this agreement shall be construed to deny the Board jurisdiction to investigate other alleged violations of the Healing Arts Act, to initiate formal proceedings based upon known or unknown allegations of the violations of the Healing Arts Act, or to investigate complaints received under the Kansas Risk Management Law, K.S.A. § 65-4921 *et seq.* that are unknown to the Board at the present time.

(d) Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, 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 forever discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this Stipulation or the content of this Stipulation.

(e) Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to the National Practitioner Databank, Federation of State Medical Boards, and any other reporting entities requiring disclosure of this Stipulation.

(f) This Stipulation, 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.

(g) 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.

(h) Licensee, by signature to this document, waives any objection to the participation of the Board members in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceeding on the basis that the Board member has received investigative information which otherwise may not be admissible or admitted as evidence.

(i) Licensee acknowledges that he has read this Stipulation and fully understand the contents.

(j) Licensee acknowledges that this Stipulation has been entered into freely and voluntarily.

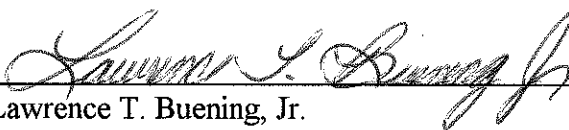
(k) All correspondence or communication between Licensee and the Board shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Office of the Disciplinary Counsel, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

(l) 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 Stipulation or may become effective subsequent to the execution of this document.

(m) Upon execution of this Stipulation by affixing a Board authorized signature below, the provisions of this Stipulation shall become an Order under K.S.A. § 65-2838. This Stipulation shall constitute the Board's Order when filed with the Office of the Executive Director for the Board and no further Order is required.

IN WITNESS WHEREOF, the parties have executed this agreement on this 23^d day of October, 1997.

KANSAS STATE BOARD OF HEALING ARTS


Lawrence T. Buening, Jr.
Executive Director

Oct 23, 1997
Date

John Gamble Jr
John Gamble, Jr., D.O.

8/26/97
Date

Prepared By:

SLC

Stacy L. Cook, #16385
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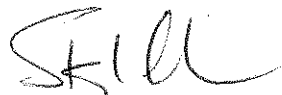
CERTIFICATE OF SERVICE

I, Stacy L. Cook, Associate Counsel, Kansas 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 23rd day of October, 1997, to the following:

John Gamble, Jr., D.O.
6100 Nieman Road, Suite 101
Shawnee, Kansas 66203

and the original was hand-delivered to:

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



Stacy L. Cook