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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	)	
	)	
TIMOTHY P. GATSCHET, M.D.	)	
Kansas License No. 04-21741	)	
_____	)	Docket No. 08-HA-00187

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts ("Board") by and through Janith A. Davis, Associate Counsel ("Petitioner"), and Timothy P. Gatschet ("Licensee"), by and through his counsel Paul Oller, 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 as provided to the Board is 777 N. Silver Springs, #1104, Wichita, Kansas 67212.

2. Licensee is or has been entitled to engage in the practice of medicine and surgery in the state of Kansas, having been issued License No. 04-21741 on approximately June 19, 1987. In 1993, Licensee's license was surrendered/revoked (KSBHA case #9300061) for inappropriate conduct and licensee was subsequently convicted in 1996 of three (3) felony counts of attempted enticement of a child. In 1998, Licensee's license was reinstated (KSBHA case # 9800102) and limited in scope to geriatrics in an approved practice setting, prohibiting him from psychotherapy, and prohibiting from prescribing to himself and prescribing psychotropic drugs to his family members. Licensee currently has an inactive license to engage in the practice of

medicine and surgery in the State of Kansas, having last renewed his license on approximately July 1, 2008.

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 of medicine and surgery. K.S.A. 65-2801 *et seq.*; K.S.A. 65-2869.

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. 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 this case. Licensee agrees that, in considering this matter, the Board is not 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. At all relevant times hereto, Licensee has been actively practicing in the specialty of psychiatry.

9. Petitioner filed a disciplinary Petition on May 6, 2008 alleging that Licensee had committed acts constituting unprofessional and/or dishonorable conduct in violation of the Healing Arts Act, K.S.A. 65-2836(b) and K.S.A. 65-2837(b)(12). The specific allegations are set forth in the Petition filed on May 6, 2008.

10. **(Confidential)**
(Confidential)

11. **(Confidential)**
(Confidential)

12. A protective order is hereby entered to protect all confidential information
(Confidential)

13. **(Confidential)**
(Confidential)

(Confidential)

15. Licensee consents to a finding that he presently has a condition which renders him unable to practice with reasonable skill and safety to patients as contemplated by K.S.A. 65-2836(i).

16. Licensee violated K.S.A. 65-2836(b), 65-2836(i) and K.S.A. 65-2837(b)(12).

17. Licensee waives his right to contest the allegations contained in the Petition and consents to a finding that there are grounds for discipline against his license based on such allegations.

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

19. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 22 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

20. In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary measures against his license to engage in medicine and surgery in the State of Kansas:

a. Licensee hereby **SURRENDERS** his license to practice medicine and surgery, effective upon filing of this Consent Order with the Board. Such surrender shall be treated as a revocation for all purposes, including reporting. Licensee may not apply for

reinstatement of his license until three (3) years after the date the Consent Order is filed with the Board;

b. Licensee agrees that if he applies for reinstatement of his license, such application will be considered by the Board 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 and rules and regulations regarding the qualifications for licensure and reinstatement; and

c. Licensee agrees that in the event he applies for reinstatement of his license, the allegations contained in the Petition will be considered as findings of fact and conclusions of law.

d. Licensee shall place his patients' records in the custody of another licensed physician or records maintenance facility in compliance with K.A.R. 100-24-2 and 100-24-3. Licensee shall notify the Board within twenty (20) days of the date that this Consent Order is adopted, of the specific measure taken and the appropriate contact information so that the Board can respond to questions from patients about the location of their medical records and how they can obtain them.

21. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.

22. Nothing in this Consent Order 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 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 Healing Arts Act.

23. 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.

24. 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 reporting entities authorized to receive disclosure of this Consent Order.

25. 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.

26. 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.

27. Licensee by signature to this document, waives any objection to the participation of the Board members 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 proceeding 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.

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

29. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be by certified mail addressed to the Kansas Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

30. 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 Consent Order or may become effective subsequent to the execution of this document.

31. 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. 65-2838. 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.

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

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board, and is the Order of the Board.

IT IS FUTHER ORDERED that:

a. Licensee hereby **SURRENDERS** his license to practice medicine and surgery, effective upon filing of this Consent Order with the Board. Such surrender shall be treated as a revocation for all purposes, including reporting. Licensee may not apply for reinstatement of his license until three (3) years after the date the Consent Order is filed with the Board;

b. Licensee agrees that if he applies for reinstatement of his license, such application will be considered by the Board 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 and rules and regulations regarding the qualifications for licensure and reinstatement; and

c. Licensee agrees that in the event he applies for reinstatement of his license, the allegations contained in the First Amended Petition will be considered as findings of fact and conclusions of law.

d. Licensee shall place his patients' records in the custody of another licensed physician or records maintenance facility in compliance with K.A.R. 100-24-2 and 100-24-3. Licensee shall notify the Board within twenty (20) days of the date that this Consent Order is adopted, of the specific measure taken and the appropriate contact information so that the Board can respond to questions from patients about the location of their medical records and how they can obtain them.

IT IS SO ORDERED.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

Jack Confer
Acting Executive Director

April 6, 2009
Date

Timothy P. Gatschet, M.D.
Licensee

March 30, 2009
Date

PREPARED BY:

Janith A. Davis, #18115
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

APPROVED BY:

Paul Oller
Attorney for Licensee
110 W. 10th Street
Hays, Kansas 67601

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing **CONSENT ORDER** was served the 6th day of April, 2009, by depositing the same in the United States mail, postage prepaid, and addressed to the following:

Timothy P. Gatschet, M.D.
777 N. Silver Springs, #1104
Wichita, Kansas 67212

Paul Oller
Licensee's Attorney
111 W. 10th Street
Hays, Kansas 67601

and a copy was hand-delivered to:

Janith A. Davis, Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

and a courtesy copy was hand-delivered to:

Katy Lenahan, Licensing Administrator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

and the original was hand-delivered for filing to:

Jack Confer, Acting Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Cathy H. Brown
Signature

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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.: 08-HA-00187**
Timothy P. Gatschet, M.D.	)	
Kansas License No. 04-21741	)	

EMERGENCY *EX PARTE* ORDER OF SUSPENSION

NOW on this 16th day of December 2008, this matter comes before the Presiding Officer upon a Motion for *Ex Parte* Emergency Order of Suspension. Janith A. Davis, Associate Counsel filed a Motion for *Ex Parte* Emergency Order of Suspension. There are no other appearances.

The Presiding Officer has reviewed the agency file in Kansas Board of Healing Arts (KBHA) Docket No. 08-HA-00187. The Presiding Officer finds, concludes and orders as follows:

1. This is a motion for an order pursuant to K.S.A. 65-2838 and 77-536. Under those statutes, the Presiding Officer may issue an order without notice and hearing, and may temporarily limit or suspend a license if the Presiding Officer finds an imminent danger to the public health, safety, or welfare.
2. The Presiding Officer has received and reviewed a Motion for an *Ex Parte* Order suspending Licensee license filed with KBHA on December 12, 2008. The motion requests an emergency suspension of Licensee's license.

3. The motion for an emergency order in the above captioned case alleges that Licensee has violated the Healing Arts Act, specifically, K.S.A. 65-2836(b), in that Licensee has committed acts of unprofessional and/or dishonorable conduct and K.S.A. 65-2837(b)(12), in that Licensee has committed conduct likely to deceive, defraud, or harm the public as detailed in the disciplinary Petition filed on May 6, 2008, which is incorporated herein by reference it its entirety.

4. **(Confidential)**

5. **(Confidential)**

(Confidential)

6.

7. The motion for emergency order alleges there is cause to believe that grounds exist **(Confidential)** for disciplinary action against Licensee.
8. The motion for emergency order alleges that Licensee's continued practice constitutes an immediate danger to the public health, safety or welfare.
9. The motion for emergency order in the above captioned case includes Exhibit 1, **(Confidential)**

FINDINGS OF FACT

10. Timothy P. Gatschet, M.D.'s ("Licensee") last known mailing address to the Board is: 777 N. Silver Springs, #1104, Wichita, Kansas 67212.
11. Licensee is or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-21741 on approximately June 19, 1987.
12. In 1993, Licensee's license was surrendered/revoked (KSBHA case #9300061) for inappropriate conduct and licensee was subsequently convicted in 1996 of three (3) felony counts of attempted enticement of a child.
13. In 1998, Licensee's license was reinstated (KSBHA case # 9800102) and limited in scope to geriatrics in an approved practice setting, prohibiting him from psychotherapy, and prohibiting from prescribing to himself and prescribing psychotropic drugs to his family members.

14. Licensee currently has an inactive license to engage in the practice of medicine and surgery in the State of Kansas, having last renewed his license on approximately July 1, 2008.

15. At all times relevant to the allegations set forth in the Motion, Licensee has held a current and active or inactive license to engage in the practice of medicine and surgery in the State of Kansas.

16. Licensee presently has an inactive license to practice medicine and surgery in the state of Kansas.

17. The Presiding Officer finds that:

a. On May 6, 2008, Petitioner filed a Petition alleging Licensee committed acts in violation of the Healing Arts Act, K.S.A. 65-2836(b) by engaging in unprofessional and/or dishonorable conduct; and K.S.A. 65-2837(b)(12) by engaging in conduct likely to deceive, defraud or harm the public.

b. **(Confidential)**

c.

18.

CONCLUSIONS OF LAW

19. Pursuant to K.S.A. 65-2838(c), the Board has the authority to temporarily suspend Licensee's license to address an imminent threat to the health, safety or welfare of the public.

20. Pursuant to K.S.A. 65-2836, the Board has grounds to revoke, suspend, censure, fine or otherwise limit Licensee's license for violation of the Kansas Healing Arts Act .

21. Pursuant to K.S.A. 77-536, the Board may use emergency proceedings to protect the public from an immediate danger to the public health, safety or welfare.

22. The Presiding Officer finds that there is cause to believe Licensee has violated the Healing Arts Act, specifically,

    a. K.S.A. 65-2836(b), in that Licensee has committed acts of unprofessional or dishonorable conduct; and

    b. K.S.A. 65-2837(b)(12) in that Licensee has engaged in conduct likely to deceive, defraud or harm the public.

    c. **(Confidential)**

23. **(Confidential)**

24. The Presiding Officer further concludes that Licensee's license to practice medicine and surgery should be immediately suspended until such time as an evidentiary hearing can be scheduled.

IT IS THEREFORE, ORDERED that the license of Timothy P. Gatschet, M.D. is hereby immediately suspended.

IT IS FURTHER ORDERED that board counsel shall serve this order in the manner provided by law, and shall complete and file a proof of service.

PLEASE TAKE NOTICE that a hearing on this matter will be scheduled as soon as practicable at the Board office, 235 S.W. Topeka Blvd., Topeka, Kansas. The issue to be determined is whether the emergency order of suspension should remain in place, be modified or terminated. A Notice of Hearing will be issued.

PLEASE TAKE NOTICE that this is an emergency order. An emergency order is effective when rendered. A party to an agency proceeding may seek judicial review of an emergency order by filing a petition in the District Court as authorized by K.S.A. 77-601, et seq. A petition for judicial review is not timely unless filed within 30 days

following service of the order. A copy of any petition for judicial review must be served upon Board's Executive Director at 235 S.W. Topeka Blvd., Topeka, Kansas 66603.

Dated this 16th day of December 2008.

Kansas State Board of Healing Arts

Merle J. Hodges, Presiding Officer

Prepared by:

Janith A. Davis, #18115
Associate Counsel
Kansas Board of Healing Arts
235 South Topeka Blvd.
Topeka, Kansas 66603
(785) 368-7257

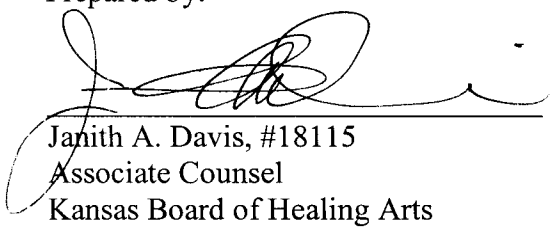
following service of the order. A copy of any petition for judicial review must be served upon Board's Executive Director at 235 S.W. Topeka Blvd., Topeka, Kansas 66603.

Dated this _____ day of December 2008.

Kansas State Board of Healing Arts

_____
Merle J. Hodges, Presiding Officer

Prepared by:



Janith A. Davis, #18115
Associate Counsel
Kansas Board of Healing Arts
235 South Topeka Blvd.
Topeka, Kansas 66603
(785) 368-7257

CERTIFICATION OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the PETITION by United States mail, postage prepaid, on this 19th day of December, 2008, to the following:

Timothy P. Gatschet, M.D.
Licensee
777 N. Silver Springs, #1104
Wichita, Kansas 67212

Paul Oller
Attorney for Licensee
111 W. 10th Street
Hays, Kansas 67601

And the original was hand-filed with:

Jack Confer
Acting Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And a copy hand-delivered to:

Janith A. Davis
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Cathy A. Brown