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**FILED**

APR 10 2006

**BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS**

KS State Board of Healing Arts

In the Matter of	)	
	)	
<b>Iris P. Gonzalez, M.D.,</b>	)	
Kansas License No. 4-27034	)	
_____	)	Docket No. 06-HA- <u>87</u>

**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts ("Board") by and through Kathleen Selzler Lippert, Associate Counsel, and Kelli J. Stevens, Litigation Counsel ("Petitioner"), and Iris P. Gonzalez M.D., with attorney Michael Francis, ("Licensee"), 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 to the Board is Washburn University Student Health Services, 170 Morgan Hall, 1700 SW College, Topeka, Kansas 66621.
2. Licensee is or has been entitled to engage in the practice of medicine in the state of Kansas, having been issued License No. 04-27034 on August 16, 1997. Licensee last renewed her license on June 29, 2005.
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 her right to a hearing. Licensee voluntarily and knowingly waives her 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 medicine in Topeka, Kansas.

9. The Board has received information and investigated the same, and has reason to believe that Licensee prescribed controlled substances to seven (7) patients in an inappropriate manner and outside the accepted standard of care, including but not limited to the following:

- a. Licensee failed to perform an adequate history and physical exam on patients prior to prescribing controlled substance pain medication;
- b. Licensee authorized initial prescriptions and refills of controlled substances in standard quantities, without adequate consideration of each patient's particular needs and circumstances;
- c. Licensee failed to adequately counsel patients about misusing prescribed controlled substances;
- d. Licensee prescribed controlled substances for pain, such as Oxycontin, in an inappropriate dosage amount and with inappropriate dosage instructions.
- e. Licensee simultaneously prescribed multiple controlled substance pain medications with the same duration of action and effect without an adequate basis;
- f. With respect to at least three (3) patients, Licensee failed to recognize and address instances of abuse or misuse of controlled substances that had been prescribed by Licensee; and
- g. Licensee issued prescriptions for narcotics specifically as a sleep aid without an adequate basis.

10. While not admitting wrongdoing, 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 healing arts act with respect to the facts and allegations contained in the above paragraphs. Licensee further waives her right

to dispute or otherwise contest the facts and allegations contained in the above paragraphs in any future proceeding before this Board.

11. Licensee's acts constitute unprofessional conduct as defined by K.S.A. 65-2837(b)(23), 65-2837(b)(24), and pursuant to K.S.A. 65-2836(b), the Board has authority to discipline Licensee's license.

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

13. 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 her license to engage in the practice of medicine and surgery:

#### **PUBLIC CENSURE**

- a. Licensee is publicly censured for violating the Healing Arts Act;

#### **MONITORING**

- b. Licensee's controlled substance prescribing shall be monitored for at least one (1) year by another Kansas-licensed and board-certified physician at Licensee's own expense. The monitoring physician must be pre-approved by the Board or the Board's designee;
- c. On or before May 1, 2006, Licensee must submit the curriculum vitae of a proposed monitoring physician who is agreeable to serving in that role;
- d. The Board designates Dr. Nancy Welsh, M.D. to approve/disapprove of the proposed monitoring physician;
- e. Licensee shall maintain a log of all controlled substance prescriptions and refills in a format provided by Board staff. The controlled substance log shall be subject to random inspection by Board investigators;

- f. On a monthly basis, the monitoring physician shall review the controlled substance log and select five (5) patient charts to review. Licensee shall then provide copies of such patient charts to the monitoring physician for review. On the 30<sup>th</sup> day of the following month, the monitoring physician shall submit a report to the Board that includes an assessment for each patient chart as to whether Licensee is prescribing medications in a manner which is recognized by a reasonably prudent practitioner as being acceptable under similar conditions and circumstances, and whether Licensee is following the Guidelines for the Use of Controlled Substances in the Treatment of Pain (if applicable);
- g. The monitoring physician shall immediately notify Board staff if he/she finds any patient case in which he/she reasonably believes Licensee is inappropriately prescribing to any patient;
- h. Licensee is responsible for ensuring the timely submission of the monitoring physician's reports to Board staff. Board staff must receive at least twelve (12) reports. After twelve (12) reports have been submitted by the monitor, Licensee may request termination of the monitoring;

#### **RECORD-KEEPING**

- i. Licensee shall adhere to the Board's Pain Management Guidelines;
- j. Licensee must use a numbered duplicate prescription pad for all controlled substance prescriptions and maintain a copy of all controlled substance prescriptions in the patient chart;

#### **EDUCATION**

- k. Licensee shall attend a controlled substance prescribing course chosen by the Board on or before August 31, 2006; and
- l. On or before October 31, 2006, Licensee shall attend and provide proof of completion of a medical record-keeping/documentation course. Such course must be pre-approved by the Board or the Board's designee.

14. 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 in accordance with the Kansas Administrative Procedure Act.

15. 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.

16. 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.

17. 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 authorized to receive disclosure of this Consent Order.

18. 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.

19. 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.

20. 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 from any source which otherwise may not be admissible or admitted as evidence.

21. Licensee acknowledges that she has read this Consent Order and fully understands the contents.

22. 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: Kathleen Selzler Lippert, Associate Counsel,  
235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

23. 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.

24. 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.

25. 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:

**PUBLIC CENSURE**

- a. License is publicly censured for violating the Healing Arts Act;

**MONITORING**

- b. Licensee's controlled substance prescribing shall be monitored for at least one (1) year by another Kansas-licensed and board-certified physician at Licensee's own expense. The monitoring physician must be pre-approved by the Board or the Board's designee;



- c. On or before May 1, 2006, Licensee must submit the curriculum vitae of a proposed monitoring physician who is agreeable to serving in that role;
- d. The Board designates *Nancy Welsh, M.D.* to approve/disapprove of the proposed monitoring physician;
- e. Licensee shall maintain a log of all controlled substance prescriptions and refills in a format provided by Board staff. The controlled substance log shall be subject to random inspection by Board investigators;
- f. On a monthly basis, the monitoring physician shall review the controlled substance log and randomly select five (5) patient charts to review. Licensee shall then provide copies of such patient charts to the monitoring physician for review. On the 30<sup>th</sup> day of the following month, the monitoring physician shall submit a report to the Board that includes an assessment for each patient chart as to whether Licensee is prescribing medications in a manner which is recognized by a reasonably prudent practitioner as being acceptable under similar conditions and circumstances, and whether Licensee is following the Guidelines for the Use of Controlled Substances in the Treatment of Pain (if applicable);
- g. The monitoring physician shall immediately notify Board staff if he/she finds any patient case in which he/she reasonably believes Licensee is inappropriately prescribing to any patient;
- h. Licensee is responsible for ensuring the timely submission of the monitoring physician's reports to Board staff. Board staff must receive at least twelve (12) reports. After twelve (12) reports have been submitted by the monitor, Licensee may request termination of the monitoring;

#### **RECORD-KEEPING**

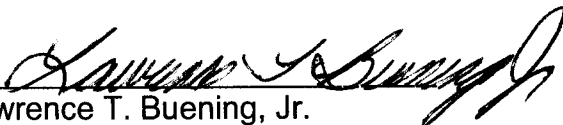
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- j. Licensee must use a numbered duplicate prescription pad for all controlled substance prescriptions and maintain a copy of all controlled substance prescriptions in the patient chart;

**EDUCATION**

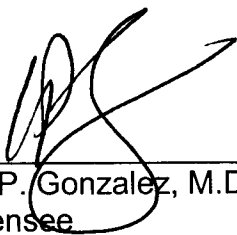
- k. Licensee shall attend a controlled substance prescribing course chosen by the Board on or before August 31, 2006; and
  
- l. On or before October 31, 2006, Licensee shall attend and provide proof of completion of a medical record-keeping/documentation course. Such course must be pre-approved by the Board or the Board's designee.

**IT IS SO ORDERED.**

**KANSAS BOARD OF HEALING ARTS:**

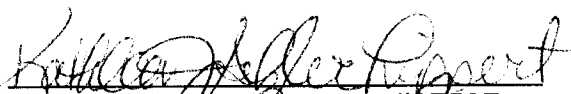
  
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Lawrence T. Buening, Jr.  
Executive Director

Apr 10, 2006  
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Date

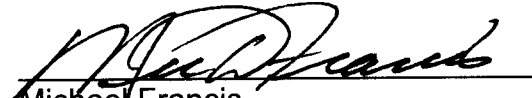
  
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Iris P. Gonzalez, M.D.  
Licensee

4/6/06  
\_\_\_\_\_  
Date

**PREPARED BY:**

  
\_\_\_\_\_  
Kathleen Selzer Lippert #17597  
Associate Counsel  
Kelli J. Stevens #16032  
Litigation Counsel

**APPROVED BY:**

  
Michael Francis  
Attorney for Licensee

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the foregoing CONSENT ORDER was served this 10<sup>th</sup> day of April, 2006, by depositing the same in the United States mail, postage prepaid, and addressed to the following:

Iris Gonzalez, M.D.  
642 NW 62<sup>nd</sup> St.  
Topeka, KS 66617

and a copy was mailed to:

Michael Frances  
Attorney for Licensee  
5100 S.W. 10<sup>th</sup> Street, Suite 100  
Topeka, KS 66604

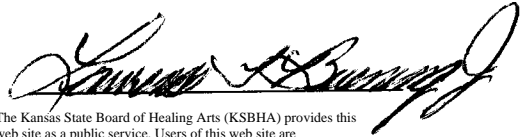
and a copy was hand-delivered to:

Kathleen Selzler Lippert, Associate Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603

and the original was hand-delivered for filing to:

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

Iris P. Gonzalez, M.D.  
Consent Order

  
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