

FILED

A

FEB 17 2017

KS State Board of Healing Arts

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

In the Matter of)	
)	Docket No. 17-HA00040
Malik A. Hamid, M.D.)	
Kansas License No. 04-33248)	

CONSENT ORDER

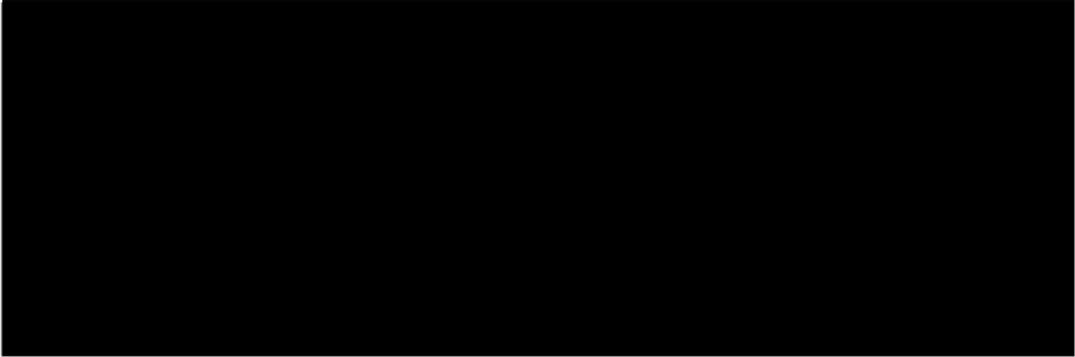
COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Joseph S. Behzadi, Associate Litigation Counsel ("Petitioner"), and Malik A. Hamid, M.D. ("Licensee"), *pro se*, and move the Board for approval of a Consent Order affecting Licensee's license to practice medicine and surgery in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is: [REDACTED]
Fairway, Kansas 66205.
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. 04-33248 on approximately August 16, 2008. Licensee's license is currently and has been active since the aforementioned date.
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.* and 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. 77-505 and 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 the case. Licensee agrees that, in considering this matter, the Board is not acting 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 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. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-2836(b), K.S.A. 65-2836(s), K.S.A. 65-2836(t), and K.S.A. 65-2837(b)(12) to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. On or about April 4, 2012, a Radiologic Technologist (“LRT”) employed by The University of Kansas Hospital filed a complaint with her supervisor alleging Licensee inappropriately touched her.
10. According to the LRT, earlier that day, Licensee walked into operating room #9 and approached her, and then pinched her on the nipple.
11. The LRT indicated to her supervisor that this was not the first time an incident of this nature occurred with the Licensee.
12. Several other nursing staff members were present when Licensee inappropriately touched the LRT. Their statements were taken by Human Resources.

13. 


14. 


15. 

16. [REDACTED]

[REDACTED]

17. [REDACTED]

[REDACTED]

18. [REDACTED]

19. [REDACTED]

[REDACTED]

20. [REDACTED]

[REDACTED]

21. [REDACTED]

22. On or about June 4, 2012, Licensee submitted his on-line application for renewal. Disciplinary question D asks “In the past 12 months have any privileges related to your profession as a healthcare provider been suspended, restricted, limited or voluntarily surrendered or has any peer review or professional association initiated or taken any action against you?” Licensee answered “no” to this question.

23. On or about June 4, 2013, Licensee submitted his on-line application for renewal. Disciplinary question D asks “In the past 12 months have any privileges related to

your profession as a healthcare provider been suspended, restricted, limited or voluntarily surrendered or has any peer review or professional association initiated or taken any action against you?" Licensee answered "no" to this question.

24. 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 Kansas Healing Arts Act with respect to the above allegations contained in the above paragraphs in any further proceedings before this Board.
25. Licensee's acts, if proven, constitute unprofessional conduct or dishonorable conduct or professional incompetency as set forth in K.S.A. 65-2836(b).
26. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12) in that Licensee's conduct is likely to deceive, defraud or harm the public.
27. Licensee violated K.S.A. 65-2836(s), for sanctions or disciplinary actions have been taken against the licensee by a peer review committee for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.
28. Licensee violated K.S.A. 65-2836(t), in that licensee failed to report to the board any adverse action taken against him by a peer review body for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.
29. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license and pursuant to K.S.A. 65-2863a

the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.

30. According to K.S.A.65-2838(b) and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
31. All pending investigation materials in KSBIIA Investigation number 15-00446 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 31 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
32. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice medicine and surgery in the State of Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

33. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas 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 Kansas Healing Arts Act.
34. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as “Releasees”, from any and all claims, including but not limited to those alleged damages, actions, liabilities, both administrative and civil, including the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.* arising out of the investigation and acts leading to the execution of this Consent Order. This release shall forever discharge the Releasees 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 Releasees.
35. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.
36. 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.

37. 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.
38. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel 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 proceedings 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.
39. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
40. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
41. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612.

42. 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.
43. 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.
44. This Consent Order constitutes public disciplinary action.
45. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
46. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against his license to engage in the practice of medicine and surgery:

CENSURE

47. Licensee is **publicly censured** for violating the Kansas Healing Arts Act.

EDUCATION

48. Licensee shall attend and successfully complete the in-person ProBe: Ethics and Boundaries Program presented by the Center for Personalized Education for Physicians ("CPEP") on or before April 8, 2017, unless otherwise approved by the Board.

49. All costs associated with such program shall be at Licensee's own expense to include, but not be limited to, the cost of the program, the cost of travel to and from the program, and the cost of accommodations while attending the program.
50. These hours shall be in addition to those continuing education hours required for renewal of licensure.
51. On or before February 9, 2017, Licensee shall notify the Compliance Coordinator in writing of which course date Licensee has registered to attend.
52. Licensee shall provide proof of successful completion of the ProBe program to the Compliance Coordinator within thirty (30) calendar days of successfully completing the program.
53. Proof of completion of the education requirements shall be submitted by sending the same to:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Ste. A
Topeka, Kansas 66612

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 17 day of Feb, 2017.

**FOR THE KANSAS STATE
BOARD OF HEALING ARTS:**


Kathleen Selzler Lippert
Executive Director

RECEIVED

NOV 29 2016

KBHA

Date



Malik A. Hamid, M.D.
Licensee

11/29/16

Date

PREPARED AND APPROVED BY:



Joseph S. Behzadi, #24065
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
785-296-8022: Phone
785-368-8210: Fax
joseph.behzadi@ks.gov

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 17th day of February, 2017, to the following:

Malik A. Hamid, M.D.
[REDACTED]
Fairway, Kansas 66205

And the original was hand-filed with:

Kathleen Selzler Lippert
Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was delivered to:

Joseph S. Behzadi
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

John Nichols
Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

