

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED *CAB*
APR 15 2013
KS State Board of Healing Arts

In the Matter of)
)
JEAN-MICHEL HASSAN, M.D.)
Kansas License No. 04-31410)

Docket No. 13-HA00079

CONSENT ORDER WITH LIMITATIONS ON SURGERY

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Associate Litigation Counsel, Brandy Snead (“Petitioner”), and Jean-Michel Hassan, M.D. (“Licensee”), by and through his counsel, Brian Wright, and move the Board for approval of a Consent Order affecting Licensee’s license to practice as a doctor of 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: 555 West 15th Street #D, Liberal, Kansas 67901.
2. Licensee has been entitled to engage in practice as a doctor of medicine and surgery in the State of Kansas, having been issued License No. 04-31410 on approximately August 13, 2005, having last renewed such license on approximately July 1, 2009. The status of Licensee’s license is currently “cancelled” for failure to renew, though at all times relevant to the facts stated herein, Licensee held an active license in Kansas. Licensee was in “active” status from approximately August 13, 2005, through June 30, 2010.
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. 65-2870.
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, K.S.A.

65-2801 *et seq.* and K.S.A. 65-2869. 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 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. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to the Kansas Healing Arts Act to take action with respect to Licensee's license.
9. 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 allegations contained herein. Licensee further waives his right to dispute or otherwise contest these allegations in any future proceeding before this Board.

10. Licensee has had thirteen (13) malpractice settlements paid out on Licensee's behalf in 2012 for a total **Confidential**. The actual incident dates underlying the settlements spanned between November 11, 2006, and September 2, 2009, with eleven (11) incidents occurring in the year 2008.

- 1) On February 2, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that several sinus surgeries performed by Licensee caused nerve damage resulting in the 81-year-old male patient experiencing double vision. The surgery occurred on September 02, 2009.
- 2) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 46-year-old female patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on November 17, 2008.
- 3) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 50-year-old female patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on November 17, 2008.
- 4) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 47-year-old patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on November 10, 2008.
- 5) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 56-year-old female patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on September 15, 2008.

- 6) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 24-year-old male patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on August 4, 2008.
- 7) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 54-year-old male patient was not told to cease taking Plaquemil prior to the surgery, which resulted in excessive bleeding following nasal surgery. The surgery occurred on June 30, 2008.
- 8) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 38-year-old patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on June 30, 2008.
- 9) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 61-year-old female patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on June 30, 2008.
- 10) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 69-year-old female patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on June 23, 2008.
- 11) On September 4, 2012, a settlement **Confidential** was paid on behalf of Licensee to settle a claim that a 42-year-old male patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on June 9, 2008.

- 12) On September 4, 2012, a settlement ^{Confidential} was paid on behalf of the Licensee to settle a claim that a 56-year-old female patient developed a deviated septum. The patient claimed the nasal surgery was unnecessary and did not result in the represented benefits. The surgery occurred on April 21, 2008.
- 13) On April 27, 2012, a settlement ^{Confidential} was paid on behalf of Licensee to settle a claim that Licensee used an un-insulated cautery in error during a tonsillectomy procedure that resulted in a 4-year-old male patient being burned on the right side of his mouth, leaving the patient with minor scarring. The surgery occurred on November 11, 2006.
11. Licensee's acts, if proven, constitute violations of the Kansas Healing Arts Act as set forth in K.S.A. 65-2836(w), in that Licensee has adverse settlements against him resulting from medical liability claims related to acts or conduct which would constitute grounds for disciplinary action under this section.
12. Licensee waives his right to contest the allegations contained in this Consent Order and consents to a finding that there are grounds for the Board to pursue disciplinary action against his license.
13. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, or deny Licensee's license. Pursuant to K.S.A. 65-2863a, the Board also has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
14. Pursuant to K.S.A. 77-505 and 65-2838(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
15. All pending investigation materials for Investigative Nos. 10-00597, 10-00675, 11-00130, 11-00212, 11-00297 and 11-00505 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. In March 2013, Disciplinary

Panel No. 25 authorized and directed Board Counsel to seek settlement of this matter with the provisions contained in this Consent Order.

16. 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.
17. 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. 64-4921 *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.
18. 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.
19. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.

20. 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.
21. 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.
22. 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.
23. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
24. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
25. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 800 SW Jackson, Lower Level Suite A, Topeka, Kansas 66612.
26. 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 Final Order when filed with the office of the Executive Director for the Board and no further Order is required.
27. This Consent Order constitutes disciplinary action.

28. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
29. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action on his license to engage in the practice of medicine and surgery:

LIMITATION ON SURGERIES


- a. Licensee's status is currently "cancelled." However, if Licensee were to have his license reinstated, Licensee's license will be immediately limited by prohibiting the performance of any type of surgery as defined below.
- b. For the purposes of the limitation, the term "surgery" is defined as manual or operative method that involves the partial or complete excision or resection, destruction, incision, or other structural alteration of human tissue by any means, including the use of lasers, performed upon the human body for the purpose of preserving health, diagnosing or treating disease, repairing injury, correcting deformity or defects, or for aesthetic, reconstructive, or cosmetic purposes. The limitation will also include endoscopic procedures.
- c. This definition of surgery specifically excludes the intramuscular injection of medications, the access of a peripheral venous structure for the purposes of drawing blood, or administering fluids and medications.
- d. Furthermore, Licensee understands that the limitations on his license are not self-terminating and will remain in place, until such time as he presents clear and convincing evidence to the Board showing that he is competent to perform surgery. Should clear and convincing evidence be presented to the Board that Licensee is competent to perform surgery, the Board is not precluded from requiring Licensee to be directly supervised

while performing surgery. Thus, Licensee acknowledges that it is possible that the limitation may not be lifted.

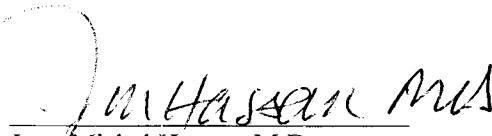
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 15 day of April, 2013.

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


Kathleen Selzler Lippert
Executive Director

4/15/13
Date


Jean-Michel Hassan, M.D.
Licensee

03/13/2013
Date

PREPARED AND APPROVED BY:

Brandy Sneed

Brandy Sneed #25301
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson
Lower Level Suite A
Topeka, Kansas 66612

3-19-13

Date

AGREED TO BY:

Brian Wright

Brian Wright, # 12874
Attorney for Licensee
4312 Tenth Street Place
Great Bend, KS 67530

3-13-13

Date

CERTIFICATE OF SERVICE

I, Cathy A. Brown, hereby certify that I served a true and correct copy of the CONSENT ORDER FOR LIMITATIONS by United States mail, postage prepaid, on this 15th day of April, 2013 to the following:

Brian Wright, Esquire
Attorney for Licensee
4312 Tenth Street Place
Great Bend, KS 67530

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 hand-delivered to:

Brandy Snead, Associate Litigation Counsel
Melissa Massey, Compliance Coordinator
Katy Lenahan, Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson
Lower Level Suite A
Topeka, Kansas 66612

Cathy A. Brown
Staff Member