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

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
Thomas David Heidewald, M.D.)
Kansas License No. 4-25594)
_____)

Case No. 00-HA-28

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COME NOW, the Kansas State Board of Healing Arts ("Board"), by and through Stacy L. Cook, Litigation Counsel ("Petitioner"), and Thomas David Heidewald, M.D. ("Licensee"), by and through legal counsel Christopher P. Christian, and stipulate and agree to the following:

1. 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.
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.
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 4-25594 on April 29, 1995. 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 May 17, 1999.

6. 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. Specifically, Petitioner alleges that Licensee committed the following acts:

In approximately February of 1998, Licensee was employed and working in the Emergency Department (ED) in a hospital in Wichita, Kansas. (confidential)

(confidential)

Such conduct is grounds for disciplinary action pursuant to K.S.A 65-2836(b), and/or K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), and/or K.S.A. 65-2836(s).

7. Violation of the provisions as set forth above constitutes grounds for disciplinary action by the Board. Licensee neither denies nor admits the allegations, but wishes to enter into the Stipulation to resolve this matter in lieu of a hearing. Licensee states that his medical competence and ability had never been questioned by his

employer,

(confidential)

test. According 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.

8. 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.

9. 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. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Stipulation on behalf of the Board.

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

(a) In lieu of the conclusion 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 and limitations placed on his license to engage in the practice of medicine and surgery in the State of Kansas:

(i) Licensee is hereby publicly censured for his conduct;

(ii) Licensee shall pay a fine to the Board in the amount of Five Thousand Dollars (\$5,000.00). Such fine is due and payable within forty-five (45) days after the Stipulation is filed with the Board;

(iii)

(confidential)

(iv)

(confidential)

(v)

(confidential)

(vi)

(confidential)

(b) This Order constitutes disciplinary action and limitations on Licensee's license to practice medicine and surgery in the State of Kansas and shall be in effect for at least 2 years. At the end of 2 years, Licensee may request that this Stipulation be terminated.

(c) 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.

(d) Nothing in this Stipulation 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 Stipulation, or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

(e) Licensee hereby releases the Board and its individual members (in their official and personal capacities), its employees and agents (hereinafter individually or jointly referred to as "Releasees"), from any and all claims and causes of action, 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 Releasees from 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 (either directly or indirectly), cause or permit to be prosecuted, any action or proceeding of any description

against Releasees.

(f) Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to all reporting entities requiring disclosure of this Stipulation.

(g) 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.

(h) 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.

(i) 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.

(j) Licensee acknowledges that he has read this Stipulation and fully understands the contents.

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

(l) All correspondence or communication between Licensee and the Board relating to this Stipulation shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Stacy L. Cook, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

(m) 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.

(n) 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 13th day of December, 1999.

KANSAS STATE BOARD OF HEALING ARTS

Lawrence T. Buening, Jr.
Lawrence T. Buening, Jr.
Executive Director

December 13, 1999
Date

Thomas David Heidewald M.D.
Thomas David Heidewald, M.D.

12/7/99
Date

Prepared By:



Stacy L. Cook, #16385
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

Approved as to form by:



Christopher P. Christian, Esq
Hutton & Hutton
8100 E. 22nd Street North
Building 1200
P.O. Box 638
Wichita, Kansas 67201-0638
(316) 688-1166
Attorney for Licensee

CERTIFICATE OF SERVICE

I, Stacy L. Cook, Litigation 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 13th day of December, 1999, to the following:

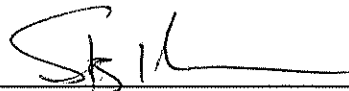
Thomas David Heidewald, M.D.
3498 S.W. Meadowlark Rd.
Benton, Kansas 67017-9079

and

Christopher P. Christian, Esq.
Hutton & Hutton
8100 E. 22nd Street North
Building 1200
P.O. Box 638
Wichita, Kansas 67201-0638

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