

**FILED**

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

**JUN 12 1992**

**KANSAS STATE BOARD OF  
HEALING ARTS**

IN THE MATTER )  
 )  
OF )  
 )  
JORGE J. HERRERA, M.D. )  
Kansas License No. 15726 )  
\_\_\_\_\_ )

Case No. 92-00200

**STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**

COMES NOW, the Kansas State Board of Healing Arts (Board), and Jorge J. Herrera, M.D., (Licensee) and stipulate and agree as follows:

1. The Board is the sole and exclusive regulatory agency in the State of Kansas regarding the practice of the healing arts, specifically the practice of medicine and surgery.

2. Licensee has been licensed in the State of Kansas authorized to engage in the practice of medicine and surgery, having been issued License No. 4-15726, issued June 14, 1974.

3. Information was provided in April of 1992 which indicated that Licensee had possibly been engaged in inappropriate prescribing practices of prescription and schedule II controlled substances. This constitutes unprofessional conduct to include administration and/or dispensing of a controlled substance in an improper and inappropriate manner or not in the course of Licensee's professional practice and is in violation of K.S.A. 1991 Supp. 65-2837(b)(23).

4. The Board has jurisdiction pursuant to K.S.A. 1991 Supp. 65-2838(a) to impose appropriate discipline if Licensee has committed an act administering a controlled substance in an improper manner or not in the course of Licensee's professional practice, K.S.A. 1991 Supp. 65-2837(b)(23) and for the jurisdiction reasons set forth in paragraph 3 above. Under the provisions of K.S.A. 1991 Supp. 65-2838(b), the Board has the authority to enter into this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER.

5. It is the intent and purpose of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** to provide for settlement of all issues without the necessity of proceeding to a formal disciplinary hearing. The terms and conditions of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** are entered into between the undersigned parties and is submitted for the purpose of allowing those terms and conditions to become an Order of the Board.

This **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** shall not become binding on the Board until an authorized signature is affixed on the last page of this document. Upon signature by Licensee to this document it shall be deemed a unilateral contract and agreement and shall bind Licensee to all terms and conditions set forth in the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** whether or not the Board signature is affixed to the document. Licensee acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

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

a. The Board is the duly authorized administrative agency in the State of Kansas with appropriate statutory authority to regulate the practice of the healing arts to include the practice of medicine and surgery.

b. Licensee admits that the form of the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** and the filing of such document are in accordance with the requirements of law; that the Board has jurisdiction to consider the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** and is lawfully constituted to consider this matter to include consideration of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**.

Licensee further acknowledges that the Kansas Healing Arts Act, as set forth in the statute and as recited in the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**, is constitutional on its face and as applied in this case.

Licensee further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provision of law.

Licensee further acknowledges that the Board will decide the issue regarding resolution of this matter and acceptance of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** as it relates to the Kansas Healing Arts Act.

c. In lieu of presenting the investigative data to the Board, Jorge Herrera, M.D. stipulate and agrees as follows:

1. There will be no findings as to the underlying allegations and there will be no admission of violation or liability on the part of Jorge Herrera, M.D.

2. Dr. Herrera shall, on May 29, 1992 voluntarily surrender his license to engage in the practice of medicine and surgery.

3. Surrender of said licensure is made during a disciplinary investigation. Such surrender of Licensee's license will be treated as a surrender during a pending disciplinary investigation and for reporting purposes to any state or national medical federation, clearing house for disciplinary sanctions of health care providers and licensees, National Practitioner Data Bank or public inquiries.

4. Licensee shall voluntarily surrender his Drug Enforcement Administration controlled substances registration number in compliance with Federal law on or before May 29, 1992.

d. Licensee does not admit as true the allegations contained in paragraph 3 of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**. However, Licensee will not contest or dispute said allegations. It is the intent and purpose of this **STIPULATION** to provide for settlement of all such issues without the necessity of proceeding to a formal disciplinary hearing.

e. Licensee further understands and agrees that by entering into this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**, he is waiving his right to a hearing. The Licensee voluntarily and knowingly waives his rights to present a defense by oral testimony and documentary

evidence, to submit rebuttal evidence, to conduct such cross-examination of witnesses as may be desired and to waive any and all substantive and procedural motions and defenses that could be raised if an administrative hearing would be held.

7. This **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** 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; Kansas State Board of Healing Arts and Jorge Herrera, M.D.

8. Licensee acknowledges that this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** has been entered into freely and voluntarily given.

9. Licensee hereby releases the Kansas State Board of Healing Arts, its employees and agents, from all claims to mean those damages, actions, liabilities and cause of actions, 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 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 of proceeding or any description against the Board, its employees or agents, arising out of acts leading to the execution of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** or the content of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**.

10. Licensee acknowledges he has read or has had read to him all the numbered paragraphs above 1 through 9, that Licensee fully understands the contents and has received a copy of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**.

11. Upon execution of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** by the affixing of a Board authorized signature below, the provisions of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** shall become an Order of the Board and shall be deemed a proper and lawful **ENFORCEMENT ORDER** under K.S.A. 1991 Supp. 65-2838. This **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** shall constitute the Board's Order when filed with the office of General Counsel for the Board and no further Order is required.

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**STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**  
Jorge J. Herrera, M.D.

IN WITNESS WHEREOF the parties have executed this agreement on this 12<sup>th</sup> day of June, 1992.

KANSAS STATE BOARD OF HEALING ARTS

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

June 12, 1992  
Date

Licensee  
Jorge Herrera  
Jorge Herrera, M.D.

6-9-92  
Date

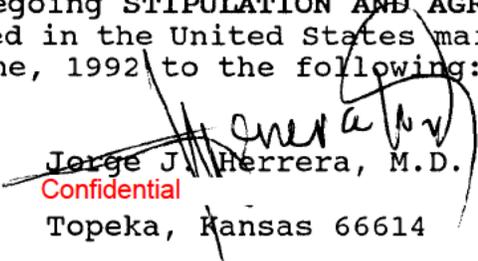
PREPARED AND APPROVED BY:

Debra L. Billingsley  
DEBRA L. BILLINGSLEY  
Disciplinary Counsel  
Kansas State Board of Healing Arts  
235 South Topeka Boulevard  
Topeka, Kansas 66603  
(913) 296-7413

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER  
Jorge J. Herrera, M.D.

CERTIFICATE OF SERVICE

I, Debra L. Billingsley, hereby certify that a copy of the above and foregoing STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER was deposited in the United States mail, postage prepaid, on the 4th day of June, 1992 to the following:

  
Jorge J. Herrera, M.D.

Confidential

Topeka, Kansas 66614

Debra L. Billingsley