

APR 23 2007

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

KS State Board of Healing Arts

In the Matter of)
)
VICTOR H. HILDYARD II, M.D.)
Kansas License No. 04-15836)
_____)

Docket No. 07-HA- 00091

CONSENT ORDER

NOW ON THIS 21st Day of April 2007, this matter comes before the Kansas State Board of Healing Arts for approval of a Consent Order. The parties stipulate and agree to the following:

1. 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 to become an Order of the Board. This Consent Order shall not be binding on the Board until adopted by a majority of its members and an authorized signature is affixed at the end of this document.

2. Licensee, by his signature to this document, acknowledges that he has read this Consent Order and fully understands the contents, and affirmatively states that this Consent Order has been entered into freely and voluntarily.

3. Respondent Victor H. Hildyard II, M.D. was issued License No. 04-15836 on July 1, 1974.

4. In an administrative hearing, Docket number 05-HA-05, the Board issued a Final Order dated August 14, 2006 revoking Respondent's license to practice medicine and surgery.

5. Respondent appealed the Board's action in the District Court for Thomas County, Kansas in a case styled as *Victor H. Hildyard II, M.D. v. Kansas State Board of Healing Arts*, Case No. 06-CV-27. The Honorable Jack L. Burr, District Judge, issued a Memorandum Opinion dated December 6, 2006 affirming the Board action.

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6. Respondent appealed the District Court decision to the Kansas Court of Appeals. That appeal is pending under Case No. 07-97915-A.

7. K.S.A. 65-2844 denies Respondent the privilege to apply for reinstatement of his revoked license for a period of three years following the date of the Final Order. The Board may, on its own motion, stay the effectiveness of the order of revocation.

8. The Board and Respondent continue to dispute matters of law, which are issues in the pending appeal. However, the Board and Respondent have discussed professional practice issues, and have reached an agreement for conditions and limitations under which the Board will, on its own motion, stay the revocation and reinstate Respondent's license, under which Respondent will return to the practice of medicine and surgery with limitations.

9. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law, and that the Kansas Healing Arts Act is constitutional on its face and as applied in this case.

10. Licensee's failure to comply with this Consent Order may result in the Board taking further disciplinary action, including termination of this stay of revocation, following the requirements of the Kansas Administrative Procedure Act.

11. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Healing Arts Act, regardless of the date of occurrence, that are not covered under this Consent Order, or to initiate formal proceedings based upon those investigations resulting in alleged violations of the Kansas Healing Arts Act.

12. Licensee hereby releases the Board, its individual members (in their official and personal capacities), attorneys, employees and agents, (collectively referred to in this paragraph as "Board"), from any and all claims, including but not limited to, those alleged damages, actions, liabilities, both administrative and civil, including the Kansas Act for Judicial Review

and Civil Enforcement of Agency Actions, 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 Board of any and all claims and 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.

13. 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.

14. Licensee, by signature to this document, waives any objection to any Board member, including any member of the Disciplinary Panel, participating in the deliberation of this Consent Order, and agrees not to seek the disqualification of any Board member in any future proceeding solely on the basis that the Board member participated in this Board action.

15. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

16. The provisions of this Consent Order may be modified only by further Board order.

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 Healthcare Integrity and Protection Data Bank, the National Practitioner Data Bank, the Federation of State Medical Boards and any other reporting entities authorized to receive disclosure of the Consent Order. Further disclosure of this Consent Order, or any portion of this Consent Order, shall be governed by the Kansas Healing Arts Act, the Board's published Open Records Policy Statement, and the Kansas Open Records Act.

18. Upon approval of this Consent Order by the Board, Respondent shall dismiss case number 07-97915-A, which is pending in the Kansas Court of Appeals. Upon notice that the dismissal has been filed, the Executive Director for the Board shall execute this Consent Order, complete service as indicated by the Certificate of Service attached hereto, and forthwith file it in the Board records. Upon service of this Consent Order, as indicated by the date stated in the Certificate of Service, the provisions of this Consent Order shall become effective as a Final Order, and the stay of revocation of Respondent's license shall commence.

19. Monitoring reports required by this Consent Order shall be addressed to the attention of the Compliance Coordinator for the Board, and all other correspondence or communication between Licensee and the Board relating to this Consent Order shall be addressed to the Executive Director for the Board and sent to the Board office, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

IT IS, THEREFORE, ORDERED as follows:

20. The Board, on its own motion, stays the effectiveness of the revocation stated in the Final Order dated August 14, 2006. This Consent Order does not otherwise modify the findings of fact, conclusions of law, or policy statements in that Final Order. Effective upon service of this Consent Order, as stated in the attached Certificate of Service, the privilege of Victor Hildyard II, M.D. to engage in the practice of medicine and surgery is reinstated.

21. Upon stay of the license revocation and reinstatement of the privilege to practice medicine and surgery, the License of Victor Hildyard II is hereby limited as authorized by K.S.A. 65-2836, and Victor H. Hildyard II, M.D. shall not engage in the practice of the healing arts except in compliance with the following:

- a. Dr. Hildyard shall, at his own expense, complete an evaluation of clinical

skills necessary for family practice. The evaluation shall be conducted by the Center for Personalized Education for Physicians (CPEP) in Colorado. He agrees to make arrangements for the evaluation within 30 days following the effective date of the order. Both parties may provide relevant information to the CPEP Program for consideration as part of the clinical skills assessment. The Board may at any time request information from CPEP regarding Licensee's participation. Once the assessment is scheduled, Licensee shall immediately notify the Compliance Monitor for the Board of the assessment dates. Both parties must be provided with a copy of the Assessment Report from CPEP for review. Licensee shall execute any necessary authorization for CPEP to release information and to release a copy of the Assessment Report to the Board and its staff.

b. Licensee agrees that in any future proceedings before the Board, the Assessment Report shall be admissible as evidence without requiring the Medical Director for CPEP to appear as a witness to either provide an evidentiary foundation for the Assessment Report or to provide substantive testimony relating to the testing procedures, opinions and/or conclusions contained in the Assessment Report. The parties retain the right to raise all other objections to the introduction or to rebut the content of the Assessment Report. However, if either party wishes to examine any person employed by CPEP regarding the contents of the Assessment Report, the party may call such person as a witness, but is fully responsible for arranging their attendance and for paying any necessary witness fees.

c. Within 30 days following receipt of the Assessment Report, the parties agree to confer regarding the necessity and manner for following CPEP recommendations for further education or training.

d. Dr. Hildyard may not manage prenatal care in any pregnancy past the beginning of the 32nd week, and may not manage a complicated pregnancy from the time the complication

is determined, and may not treat during labor and delivery. This limitation does not prohibit him from providing post natal care or any care in an emergency.

e. Dr. Hildyard shall not authorize or administer steroids intramuscularly or intravenously except as described in this paragraph. He shall not authorize more than one injection of a steroid for a patient in a three-month period absent exceptional circumstances. Prior to authorizing injections of steroids, Dr. Hildyard will first try to manage the patient through other drug regimen, which may include oral steroids unless contraindicated. For each patient receiving more than one steroid injection in a three-month period, Dr. Hildyard shall document in the patient record the occasions and exceptional circumstances justifying the injections. Dr. Hildyard shall maintain a log of all patients receiving IM or IV injections of steroids, identifying the patient name and date of the drug's administration. He shall, at his own expense, cause a person approved by the Board to review the log and to monitor the patient records for all persons receiving IM or IV steroids upon his authority, whether administered by him or by an allied health professional acting under his responsibility. Dr. Hildyard is responsible for the monitor to submit a written report to the Board on a quarterly basis, stating in the report the number of files reviewed, the occasions and reasons for any patient receiving more than one injection in a three-month period, any concerns on the part of the monitor, and whether the patient records are consistent with the log identifying patients who received IM or IV steroids. Monitoring reports shall be sent to the attention of the Board's Compliance Coordinator at the Board office. This limitation and monitoring shall continue for a period of at least two years, after which Dr. Hildyard may make a written application for modification or termination of this limitation and monitoring.

f. **(Confidential)**

(Confidential)

(Confidential)

g. (Confidential)

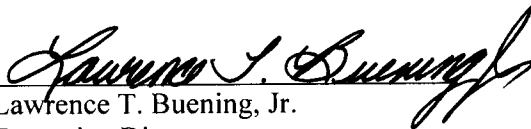
(Confidential)

h. Dr. Hildyard shall, at his own expense, complete an educational course on disruptive behavior offered by an organization approved by the Board. The Board approves the courses offered by Rush and Vanderbilt, and would consider alternative courses at the doctor's request. Arrangements to attend the educational course shall be made within 30 days following the effective date of the order. Once the attendance at the course is scheduled, Licensee shall immediately notify Board counsel of the course's dates. Licensee shall provide to the Board a certificate of attendance upon completion of the course.


IT IS SO ORDERED on this 21st day of April, 2007.

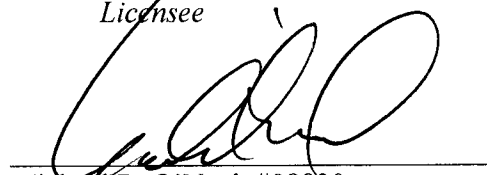
**FOR THE KANSAS STATE BOARD
OF HEALING ARTS:**

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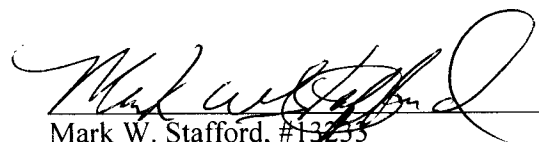

Lawrence T. Buening, Jr.
Executive Director

APPROVED BY:


Victor H. Hildyard II, M.D.
175 S. Range
Colby, KS 67701
Licensee


Michael R. O'Neal, #08830
Gilliland & Hayes, P.A.
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Second Floor
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Attorney for Victor Hildyard II, M.D.

PREPARED BY:


Mark W. Stafford, #13233
General Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the foregoing **Consent Order** was served on the 23rd day of April, 2007 by hand-delivery and by United States mail, first-class postage pre-paid and addressed to:

Victor H. Hildyard II, M.D.
175 S. Range
Colby, KS 67701

Michael R. O'Neal
Gilliland & Hayes, P.A.
20 West 2nd Avenue
Second Floor
Hutchinson, KS 67504-2977

and a copy was hand-delivered to the office of:

Diane L. Bellquist
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065

