

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

FEB 27 1995

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
)
MARC K. HUTCHISON, M.D.)
)
Kansas License No. 4-18866)
_____)

Case No.: 95-00177

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COMES NOW the Kansas State Board of Healing Arts ("Board") and Marc K. Hutchison, M.D. ("Licensee") and stipulate and agree as follows:

1. The Board is the sole and exclusive administrative agency in the State of Kansas statutorily authorized to regulate the practice of the healing arts to include the practice of medicine and surgery pursuant to K.S.A. 65-2801 et seq.; K.S.A. 65-2869.

2. Licensee has made application to the Board for status change from inactive to active status to practice medicine and surgery in the State of Kansas.

3. Licensee was originally licensed to practice medicine and surgery in the State of Kansas on December 5, 1980. (Confidential)
(Confidential)

(Confidential)

4. There is probable cause to believe grounds may exist to deny Licensee's request for status change. As stated in paragraph 3, Licensee has entered into previous stipulations with the Board due to alleged controlled substance misuse and Licensee may be unable to practice medicine and surgery with reasonable skill and safety to patients (Confidential)

(Confidential) Licensee may also have demonstrated "unprofessional conduct" in violation of K.S.A. 65-2836(b) as defined in K.S.A. 65-2837(b)(12) and K.S.A. 65-2837(b)(23) although there is no allegation of any "unprofessional conduct" at this time. Notwithstanding Licensee's compliance with the Boards continuing medical education requirements for maintenance of licensure, Licensee may be unable to demonstrate satisfactory qualifications and competence to practice medicine and surgery due to his absence from the practice of medicine since August 17, 1988 to the present.

5. Under the provisions of K.S.A. 65-2838(b), the Board has the authority to enter into this Stipulation and Agreement and Enforcement Order ("Stipulation") in lieu of denying Licensee's application for status change.

6. It is the intent and purpose of this Stipulation to provide for settlement of all issues regarding Licensee's request to activate his license. By executing this Stipulation, Licensee waives all procedural and due process requirements afforded to him by the Kansas Administrative Procedure Act, K.S.A. 77-501 et seq.

7. The terms and conditions of this Stipulation are entered into between the parties to become an Order of the Board which shall not become binding on the Board until a Board-authorized signature is affixed on the last page of this document. Licensee acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

8. Licensee agrees this Stipulation and its filing are in accordance with the requirements of law, that the Board has jurisdiction to consider this Stipulation and that the Board is lawfully constituted to consider this matter. Licensee further agrees that Board maintains the Kansas Healing Arts Act, K.S.A. 65-2801 et seq., as set forth is constitutional on its face and as applied in this case.

9. Licensee agrees his license shall be placed on probation for a period of at least one (1) year with the following conditions, restrictions, and limitations:

(a) (Confidential)
(Confidential)

(b) (Confidential)
(Confidential)

(c) (Confidential)
(Confidential)

(d) Licensee shall take the Special Purpose Examination (SPEX) offered by the Federation of State Medical Boards of the United States, Inc.

(e) Licensee agrees his practice of medicine is limited to performing services within the scope of his employment and under supervision of a Kansas licensed physician at St. Luke's Occupational Medicine Health System. The supervision required shall be the same as the level of supervision provided to a resident physician in training in a residency training program approved by the American Association of Medical Colleges. Licensee agrees that should he desire to change employment, Licensee must apply to the Board for prior approval of any new place and or scope of employment. Licensee further agrees to ensure that quarterly reports are received from Allen J. Parmet, M.D., Medical Director of St. Luke's Occupational Medicine Health System, or from any other physician involved in the supervision of his employment at St. Luke's Occupational Medicine Health System. Such quarterly reports shall be provided to the Board by April 10, July 10, September 10 and January 10 of any year in which this Stipulation is in effect.

(f) Licensee agrees not to prescribe Class II, Class III and Class IV narcotics.

10. This Stipulation shall be in effect until the regularly scheduled meeting of the Board on August 12, 1995. If Licensee achieves a passing score on the spex examination, has no change in employment as described in paragraph 9(d) hereof and does not

violate any of the terms of this Stipulation, the Board will entertain Motion to Modify or Terminate the conditions of this Stipulation and Probation.

11. Licensee's failure to comply with the provisions of this Stipulation may result in the Board taking disciplinary action in compliance with the Kansas Administrative Procedure Act. Licensee acknowledges that good and sufficient evidence submitted to the Board indicating Licensee has failed to meet the conditions of this Stipulation or (Confidential) or any provision of the Healing Arts Act may serve as the basis for an alleged violation of compliance with this Stipulation and the initiation of disciplinary proceedings.

12. This Stipulation 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.

13. This Stipulation is entered into freely and voluntarily, and Licensee agrees he has read and understands this Stipulation.

14. Licensee acknowledges the Board on behalf of itself, its employees and agents by entering into this Stipulation does not waive or relinquish any immunities or defenses available under Kansas law and specifically preserves all such immunities and defenses.

15. Licensee understands and agrees that this document shall be deemed a public record only when fully executed by both Applicant and the Board, and shall only at such time be reportable to the National Practitioner Data Bank, Federation of State Medical

Boards, and any other reporting entities requiring disclosure of this Stipulation.

16. Nothing in this Agreement shall be construed to deny the Board jurisdiction to investigate alleged violations of the Health Arts Act or to investigate complaints received under the Kansas Risk Management Law, K.S.A. 65-4921 et seq., whether unknown or not covered under the condition of this Stipulation, or past acts unknown to the Board or subsequent acts.

17. All correspondence or communication by Licensee to the Board shall be by United States mail, first class, postage prepaid, addressed to the Kansas State Board of Healing Arts, Attention: Office of the Disciplinary Counsel, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

18. Upon execution of this Stipulation by the affixing of a Board-authorized signature below, the provisions of this Stipulation shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order pursuant to K.S.a. 65-2838(b) without further Order. This Stipulation shall constitute the Order of the Board when filed with the Office of the Executive Director for the Board.

IN WITNESS WHEREOF the parties have executed this agreement on this 27th day of February, 1995.

KANSAS STATE BOARD OF HEALING ARTS

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

February 27, 1995
Date

Marc K. Hutchison, M.D.
Marc K. Hutchison, M.D.
Licensee

2-23-95
Date

Prepared and Approved by:

Gretchen E. Schmidt
Gretchen E. Schmidt, No. 16250
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068

Reid F. Holbrook
Reid F. Holbrook, No. 6475
Holbrook, Heaven & Fay, P.A.
757 Armstrong
P.O. Box 171927
Kansas City, Kansas 66117-0927
(913) 342-2500
Attorney for Licensee

CERTIFICATE OF SERVICE

I, Lawrence T. Buening, Jr., Executive Director, certify that on this 28th day of February, 1995, a true and correct copy of the above **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** was deposited in the United States mail, first class, postage prepaid, addressed to the following:

Marc K. Hutchison, M.D.
8342 N.W. Overland Drive
Kansas City, Missouri 64151-1054

Reid F. Holbrook
Holbrook, Heaven & Fay, P.A.
757 Armstrong
P.O. Box 171927
Kansas City, Kansas 66117-0927

and copies were hand-delivered to:

Gretchen E. Schmidt
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068

Charlene K. Abbott
Licensing Administrator
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068

and the original was hand-delivered to:

Office of the Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068


LAWRENCE T. BUENING, JR.