

FILED

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

AUG 17 1992

IN THE MATTER

OF KIM-GIAM HUYNH, M.D.
Kansas License No. 19009

KANSAS STATE BOARD OF HEALING ARTS
Case No. 92-00029

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (Board), and KIM-GIAM HUYNH, 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. K.S.A. 65-2801 et seq.; K.S.A. 65-2869."

2. Licensee is currently licensed in the State of Kansas authorized to engage in the practice of the healing arts, specifically, practice of medicine and surgery, in compliance with K.S.A. 65-2869, having been issued License No.19009, original date of issue being March 9, 1981 and was at all times pertinent to the dates set forth in this document under the jurisdiction of the Board.

3. Information was provided to the Board from August, 1991 through February, 1992, which indicated that Licensee has written FIFTY-SEVEN (57) prescriptions for individuals without maintaining appropriate medical records, in compliance with Kansas law, specifically K.S.A. 1991 Supp. 65-2837(b)(25). Additionally, the Board was able to determine during an on-site investigation at

Larned State Hospital, Larned, Kansas, that Licensee had engaged in the treatment, diagnosis, and prescribing for one (1) patient, in particular, in which the underlying diagnosis or assessment made by Licensee warranted additional action by Licensee in compliance with Kansas law, which was not undertaken by Licensee.

4. Based on the above information, the Board has determined there is probable cause to believe that Licensee has committed an act of unprofessional conduct, as defined in the Kansas Healing Arts Act, and had engaged in the practice of medicine and surgery in the State of Kansas, while in apparent violation of the Kansas Healing Arts Act.

5. Such acts or conduct as set forth above would constitute grounds for discipline under the jurisdiction of the Kansas State Board of Healing Arts pursuant to K.S.A. 1991 Supp. 65-2836(b) as further defined in K.S.A. 1991 Supp. 65-2837(b)(25). Under the provisions of K.S.A. 1991 Supp. 65-2838(b), the Board has jurisdiction to impose appropriate discipline if a Licensee of the Board has engaged in any commissions or omissions to bring Licensee within the purview of K.S.A. 1991 Supp. 65-2836. Under the provisions of K.S.A. 1991 Supp. 65-2838, the Board has authority to enter into this STIPULATION AND AGREEMENT.

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

- a. 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.

- b. 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. Upon signature by Licensee, this document shall be deemed a public record. Licensee acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

7. 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.
- c. 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.
- d. Licensee further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provision of law.
- e. 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.
- f. 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.

g. In lieu of the initiation of formal proceedings and/or any findings by the Board, Licensee hereby voluntarily stipulates and agrees to the following probationary conditions, restrictions, and limitations as appropriate disciplinary sanctions:

- (i) Licensee shall accept a public censure as authorized by K.S.A. 1991 Supp. 65-2836 as appropriate disciplinary sanction for failing to maintain medical records in compliance with Kansas law and Kansas Administrative Regulations under jurisdiction of the Kansas State Board of Healing Arts.
- (ii) Licensee hereby agrees to restrict his practice to the institutional setting under the jurisdiction of the Kansas Social and Rehabilitation Services, Larned State Hospital, Larned, Kansas, until such time as Licensee maintains an appropriate medical practice in compliance with provisions of Kansas law and

undertakes appropriate plan for memorialization and documentation of medical records in compliance with Kansas law. Such opening of an office, clinic, facility, or location to regularly meet and receive patients or engage in the practice of medicine and surgery outside of the institutional setting associated with the Kansas Department of Social and Rehabilitation Services, Larned State Hospital, Larned, Kansas shall not be authorized until such time Licensee submits to the Board or Board Designee sufficient documentation regarding medical record documentation format and provisions for maintaining medical records in compliance with Kansas law. Licensee is free to petition the Board at any time regarding his submission of medical record documentation format and plan.

8. Nothing in the agreement shall be construed to deny the Board jurisdiction to investigate the alleged violations of the Healing Arts Act or to investigate complaints received under the Kansas Risk Management Law, K.S.A. 65-4921 et seq. that are unknown or that are not covered under the conditions of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER or past acts which are unknown to the Board or subsequent acts.

9. 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 Licensee. However, such cannot be modified by Licensee during the course of any administrative action brought pursuant to K.S.A. 65-2836 and/or K.S.A. 77-501 et seq.

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

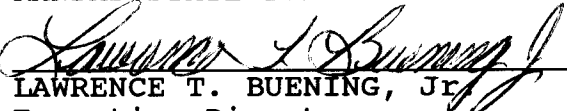
11. Licensee hereby releases the Kansas State Board of Healing Arts, its employees and agents, from all claims to mean those damages, actions, liabilities and cause of actions, both administrative and civil including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions; K.S.A. 77-601 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 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, appeal, or proceeding of any description against the Board, its employers 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.

12. Licensee acknowledges he has read or has had read to him all the numbered paragraphs above 1 through 11, that Licensee fully understands the contents and has received a copy of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER.

13. 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 Executive Director for the Board and no further Order is required.

IN WITNESS WHEREOF the parties have executed this agreement on this 15th day of August, 1992.


KANSAS STATE BOARD OF HEALING ARTS



LAWRENCE T. BUENING, Jr.
Executive Director

Aug 15, 1992

Date

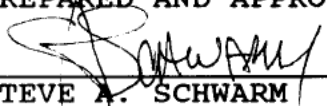


KIM-GIAM HUYNH, M.D. Licensee

04 Aug 1992

Date

PREPARED AND APPROVED BY:



STEVE A. SCHWARM
Kansas State Board of Healing Arts
235 South Topeka Boulevard
Topeka, Kansas 66603
(913) 296-7413

CERTIFICATE OF SERVICE

I, Steve A. Schwarm, hereby certify that a copy of the above and foregoing Stipulation and Agreement and Enforcement Order was mailed on the ~~24th~~^{17th} day of ~~July~~^{AUGUST}, 1992 to the following:

KIM-GIAM HUYNH, M.D.

Confidential

LARNED KS 67550

SAS 7:huynh.stp

