

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

KS State Board of Healing Arts

In the Matter of	)	
	)	Docket No. 08-HA- <i>00233</i>
Robert Rex Lee, M.D.	)	
Kansas License No. 04-10900	)	

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**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts, (“Board”), by and through Kathleen Selzler Lippert, Associate Counsel (“Petitioner”), and Robert Rex Lee, M.D. (“Licensee”), *pro se*, and move the Board for approval of a Consent Order affecting Licensee’s license to practice medicine and surgery in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: 6155 East Harry, Wichita, Kansas 67218-3895.
2. Licensee is or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-10900 on approximately June 15, 1955. Licensee’s license is active.
3. 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. and K.S.A. 65-2869.
4. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Consent Order as provided by K.S.A. 77-505 and 65-2838. Upon approval, these stipulations shall

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constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. The Kansas Healing Arts Act is constitutional on its face and as applied in the case.
6. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. 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.
8. 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 and conditions to become an Order of the Board. This Consent Order 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 Consent Order on behalf of the Board.
9. The Board has received information and investigated the same, and has reason to believe that Licensee acted unprofessionally when he dispensed controlled substances.
10. On or about April 2007, the Drug Enforcement Administration (DEA) opened an investigation related to Licensee's purchasing habits for hydrocodone from a

- pharmaceutical supplier based on an increase in hydrocodone purchased by Licensee between 2003 and 2006.
11. The DEA investigation found that Licensee failed to keep dispensing logs and Licensee could not account for some of the hydrocodone he purchased and / or distributed between 2003 and 2006.
  12. The DEA investigation revealed that some of the hydrocodone was being dispensed to office staff or their family members. Further, the DEA investigation revealed that Licensee did not maintain dispensing logs and / or medical records as required for the hydrocodone that was dispensed.
  13. Licensee's failure to maintain dispensing logs and / or other appropriate medical records violated the pharmacy act of the state of Kansas and /or federal law or regulation relating to controlled substances.
  14. Licensee failed to maintain written medical records which accurately described the services or distribution of hydrocodone.
  15. Licensee failed to properly supervise, direct or delegate acts which constitute the healing arts to his office staff who performed professional services pursuant to Licensee's direction, supervision, order, referral, delegation or practice protocols.
  16. On or about March 2008, Licensee's DEA license expired. Licensee sought renewal of his DEA license and his DEA license was extended to April 30, 2008.
  17. Since May 1, 2008, Licensee has not had a valid DEA license.
  18. Licensee has decided not seek reinstatement of his DEA license.
  19. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses or other evidence, the Board has

sufficient evidence to prove that Licensee has violated the Healing Arts Act.

Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

20. Licensee's acts constitute unprofessional conduct as set forth in K.S.A. 65-2836.

21. Licensee violated K.S.A. 65-2836(f), in that Licensee violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are related to the practice of the healing arts.

22. Licensee violated K.S.A. 65-2836(q), in that Licensee has violated a federal law or regulation relating to controlled substances.

23. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(25), in that Licensee failed to keep written medical records which accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

24. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(30), in that Licensee failed to properly supervise, direct or delegate acts which constitute the healing arts to persons who perform professional services pursuant to such licensee's direction, supervision, order, referral, delegation or practice protocols.

25. Pursuant to K.S.A. 65-2836 the Board has grounds to deny, revoke, suspend, limit, or censure Licensee's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Healing Arts Act.

26. According to K.S.A.65-2838(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
27. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 22 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
28. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action and limitations on his license to engage in the practice of medicine and surgery:

**LIMITATION**

- a. Licensee shall not seek to reinstate his Drug Enforcement Administration ("DEA") authority to prescribe controlled substances. Licensee shall not prescribe, dispense or distribute a prescription drug or substance including a controlled substance which requires a DEA license.
29. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.
30. Nothing in this Consent Order 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. 64-4921 et seq., that are known or unknown and are not covered under this Consent Order, or to initiate

formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

31. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as "Releasees", 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 Releasees 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 or proceeding of any description against the Releasees.
32. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to the National Practitioner Databank, Federation of State Medical Boards, and any other reporting entities authorized to receive disclosure of the Consent Order.
33. 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.
34. 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.

35. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel and General Counsel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member or General Counsel in any future proceedings on the basis that the Board member or General Counsel has received investigative information from any source which otherwise may not be admissible or admitted as evidence.
36. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
37. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
38. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
39. 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 Consent Order or may become effective subsequent to the execution of this document.

40. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order under K.S.A. 65-2838. This Consent Order shall constitute the Board's Order when filed with the office of the Executive Director for the Board and no further Order is required.

41. This Consent Order constitutes disciplinary action.

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

**IT IS THEREFORE ORDERED** that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact and conclusions of law.

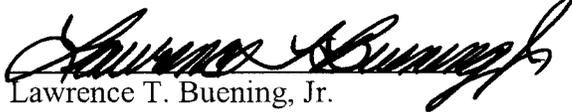
**IT IS FURTHER ORDERED** that:

**LIMITATION**

- a. Licensee shall not seek to reinstate his Drug Enforcement Administration ("DEA") authority to prescribe controlled substances. Licensee shall not prescribe, dispense or distribute a prescription drug or substance including a controlled substance which requires a DEA license.

**IT IS SO ORDERED** on this 21<sup>st</sup> day of June, 2008.

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

  
Lawrence T. Buening, Jr.  
Executive Director

6/23/08  
Date

*Robert Rex Lee, M.D.*

Robert Rex Lee, M.D.  
Licensee

*6-21-08*  
Date

PREPARED AND APPROVED BY:

*Kathleen Selzler Lippert*

Kathleen Selzler Lippert #179571

Associate Counsel

Kansas Board of Healing Arts

235 S. Topeka Boulevard

Topeka, Kansas 66603-3068

785-296-0961

APPROVE BY:

*Robert R. Lee*

Robert R. Lee, Attorney at Law

Wilson, Lee, Gurney & Hess

1861 North Rock Road, Suite 320

Wichita, Kansas 67206

316-685-2245

### CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent

Order by United States mail, postage prepaid, on this 24<sup>th</sup> day of June, 2008, to the

following:

Robert Rex Lee, M.D.

Licensee

6155 East Harry

Wichita, Kansas 67218-3895

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Consent Order

Robert Rex Lee, M.D.

Robert R. Lee, Attorney at Law  
Wilson, Lee, Gurney & Hess  
1861 North Rock Road, Suite 320  
Wichita, Kansas 67206  
316-685-2245

And the original was hand-filed with:

Lawrence T. Buening, Jr.  
Executive Director  
Kansas Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Kathleen Selzler Lippert  
Associate Counsel  
Kansas Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

A handwritten signature in black ink, appearing to read "Lawrence T. Buening, Jr.", written in a cursive style.