

FILED

JUN 24 1996

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

**KANSAS STATE BOARD OF
HEALING ARTS**

Case # 94-00124

IN THE MATTER OF)
)
JOHN B. LESTER, M.D.)
Kansas License No. 04-14727)
)
)

STIPULATION AND AGREEMENT
AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts ("Board") by and through Kevin K. LaChance, Disciplinary Counsel, and John B. Lester, M.D. ("Licensee"), by and through Kenneth Reilly, Counsel for 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 or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued license number 04-14727 on July 1, 1971. At all times relevant to the allegations set forth below, Licensee has held a current license to engage in the practice of medicine and surgery in the State of Kansas, having last renewed his license on June 17, 1994.

3. Information provided to the Board indicates that Licensee may have committed acts which, if proven to be true, would constitute violations of the Healing Arts Act, K.S.A. 65-2801 et seq. Specifically, it has come to the attention of the Board that Licensee was convicted in the District Court of Johnson County, Kansas, on or about December 13, 1994, of one count of aggravated indecent liberties with a child, a level 4, person felony count, and one count of sexual battery, a Class A person misdemeanor count. Both counts were related to Licensee's practice of the healing arts and were

found to have occurred during treatment of Licensee's patients. The convictions are pending appeal.

4. Such acts or conduct as set forth above could constitute grounds for disciplinary action by the Board pursuant to provisions of the Healing Arts Act. K.S.A. 65-2836(c). Under the provisions of K.S.A. 65-2838(a), the Board has jurisdiction to impose appropriate discipline if a licensee of the Board has engaged in any commissions or omissions to bring the licensee within the purview of K.S.A. 65-2836. Under the provisions of K.S.A. 65-2838(b), the Board has authority to enter into this Stipulation and Agreement and Enforcement Order ("Stipulation").

5. It is the intent and purpose of this Stipulation to provide for the protection of the public pending exhaustion of the appeals process regarding the convictions. The terms and conditions of the Stipulation are entered into between the undersigned parties and is submitted for the purpose of allowing these terms and conditions to become an Order of the Board. This Stipulation is not intended to effect a final settlement of potential disciplinary issues before the Board.

This Stipulation and Agreement shall not be binding on the Board until an authorized signature is affixed at the end of this document. Upon signature by Licensee to this document, it shall be deemed a unilateral contract and agreement and shall bind Licensee to the terms and conditions set forth in the Stipulation and Agreement whether or not the Board's signature is affixed to the document. Licensee specifically 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 of the State of Kansas with appropriate statutory authority to regulate the practice

of the healing arts to include the practice of medicine and surgery in the State of Kansas.

b) Licensee admits that this Stipulation and the filing of such a document are in accordance with the requirements of law; that the Board has jurisdiction to consider the Stipulation and Agreement and is lawfully constituted to consider this matter to include consideration of this Stipulation. Licensee further notes that the Kansas Healing Arts Act 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.

c) Licensee hereby agrees to the following temporary suspension of his license to engage in the practice of medicine and surgery in the State of Kansas based on the following conditions:

i) Licensee's license shall be placed on temporary suspension, pending the outcome of his criminal conviction appeal.

ii) Upon a successful appeal, or after exhaustion of appeal rights, either party may file a petition before the Board to modify this Stipulation, to include proceeding with disciplinary action.

d) Licensee has the duty to inform the Board of his criminal case status. Licensee's agreement to the above terms pertaining to his license are evidenced by his signature affixed to this document.

e) Nothing in this agreement 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. 65-4921 et seq, that are unknown and are not covered under the conditions of this Stipulation and Agreement or subsequent acts which are unknown to the Board or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

f) This Stipulation constitutes the entire agreement between the parties and may only be modified and/or amended by a subsequent document executed in the same manner by the parties.

g) Licensee acknowledges that he has read this Stipulation and fully understands its Contents. Licensee acknowledges that this Stipulation has been entered in freely and voluntarily given.

h) Licensee hereby releases the Board, its employees and agents, from all claims to mean those damages, actions, liabilities and causes of actions, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions; K.S.A. 77-601et seq. This release shall 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 or proceeding of any description against the Board, its employees or agents, arising out of acts leading to the execution of this Stipulation or the contents of this Stipulation.

i) Licensee acknowledges that this document shall be deemed a public record upon Licensee's signing this document, whether or not an authorized Board signature appears on same, and shall be reportable to the National Practitioner Databank, Federation of State Medical Boards, and other reporting agencies.

10. 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 under K.S.A. 65-2838. This Stipulation and Agreement and Enforcement 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.

IN WITNESS WHEREOF, the parties have executed this agreement on the

24th day of June, 1995.

KANSAS STATE BOARD OF HEALING ARTS

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

June 24, 1996
Date

John B. Lester, M.D.
John B. Lester, M.D.
Licensee

5/18/96
Date

Prepared and Approved As To Form By:

[Signature]

Kevin K. LaChance, #15058
Disciplinary Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
(913) 296-7413

Kenneth Reilly

Kenneth Reilly
Counsel for Licensee
Shook, Hardy, & Bacon
One Kansas City Place
1200 Main
Kansas City, MO 64105
(816) 474-6550

CERTIFICATE OF SERVICE

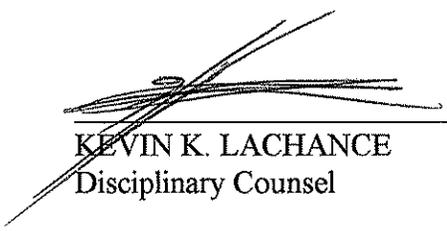
I, Kevin K. LaChance, Disciplinary Counsel, Kansas State Board of Healing Arts, do hereby certify that on the 25TH day of June, 1996, a copy of the above and foregoing **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** was deposited in the United States mail, postage prepaid to the following:

John B. Lester, M.D.
CONFIDENTIAL

Kenneth Reilly
Shook, Hardy, & Bacon
One Kansas City Place
1200 Main
Kansas City, MO 64105

and the original was hand delivered to:

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



KEVIN K. LACHANCE
Disciplinary Counsel