

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

APR 15 2015

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KS State Board of Healing Arts

In the Matter of)	
)	Docket No. 14-HA00085
)	
KRIS LEWONOWSKI, M.D.)	OAH Docket No. 14HA0011
Kansas License No. 04-25805)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Jane E. Weiler, Associate Litigation Counsel and Jessica A. Bryson, Associate Litigation Counsel (“Petitioner”), and Kris Lewonowski, M.D. (“Licensee”), by and through Mark Stafford of Simpson, Logback, Lynch, Norris, P.A., and moves 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: **Confidential**
Wichita, Kansas 67206.
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. 04-25805 on approximately August 12, 1995, and having last renewed such license on approximately June 24, 2014.
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 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 this case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. 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 substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
7. 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.
8. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-2836, to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*
9. On or about April 16, 2012, Licensee entered into a Consent Order with the Board *In the Matter of Kris Lewonowski, M.D.*, KSBHA Docket Number 11-HA00078. The Consent Order constituted a lawful order of the Board and constituted disciplinary action against

Licensee's license to practice medicine and surgery in the State of Kansas due to Licensee's violation of K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(12) by committing conduct likely to harm the public.

10. Pursuant to his April 16, 2012, Consent Order, Respondent was mandated to a practice type and setting wherein he may only practice in a supervised, structured environment in which all of Respondent's practice activities were to be overseen and supervised by a Kansas-licensed physician, who had been approved by the Board or the Board's designee, to ensure that Respondent was conducting himself appropriately and appropriately within the standard of care for Respondent's specialty.
11. The Board designated Disciplinary Panel #25 (Disciplinary Panel) to review and approve or disapprove the proposed practice supervisor and plan of supervised practice. In order to allow the Disciplinary Panel to sufficiently be able to determine whether Respondent's proposed practice supervisor and plan of supervised practice was acceptable, Respondent was to submit to the Disciplinary Panel the curriculum vitae of the proposed practice supervisor and a plan of supervised practice.
12. Furthermore, Respondent was required to notify the Board sixty (60) days prior to engaging in professional practice in any other practice type, and Respondent was prohibited from changing his practice setting without the approval of the Board.
13. On or about June 10, 2013, the Board received a letter, dated June 6, 2013, from Mark Stafford (Respondent's Attorney), which informed the Board of Respondent's change in practice effective June 10, 2013, from the Kansas Spine and Joint Institute, Chtd., to the Galichia Medical Group. Additionally, in this same letter, Respondent's Attorney

proposed a new practice monitor for this new practice location. Furthermore, Respondent's Attorney stated, "[Respondent] was not able to give 60 days of advance notice of the change in practice setting as stated in the consent order." However, Respondent's attorney did not submit to the Board a curriculum vitae of the proposed practice supervisor, nor did he submit a plan of supervised practice with this notification.

14. On or about June 11, 2013, Board staff sent a request to Respondent's Attorney to submit a curriculum vitae for Respondent's proposed practice supervisor and a proposed plan of supervised practice to the Board in order for the Disciplinary Panel to be able to properly review Respondent's proposed practice supervisor and proposed plan of supervised practice, and either approve or disapprove the proposed practice supervisor and/or proposed plan of supervised practice in accordance with the Consent Order.

15. On or about July 3, 2013, **Confidential**

Confidential

Confidential submitted to the Board the curriculum vitae of Respondent's proposed practice supervisor.

16. On or about July 10, 2013, Board staff sent a second request to Respondent's Attorney for the proposed supervised practice plan at Galichia Medical Group.

17. On or about July 10, 2013, Respondent's Attorney submitted to the Board Respondent's proposed supervised practice plan for Galichia Medical Group.

18. On or about July 18, 2013, Board staff notified Respondent's Attorney that the Disciplinary Panel, the Board's designee, did not approve Respondent's proposed

practice supervisor or Respondent's proposed supervised practice plan at Galicia Medical Group.

19. On or about July 22, 2013, Respondent's Attorney submitted to the Board a new proposed practice supervisor for Respondent.
20. On or about July 30, 2013, Board staff notified Respondent's Attorney that the Disciplinary Panel, the Board's designee, approved Respondent's practice supervisor, and Respondent's supervised practice plan.
21. On or about August 21, 2013, a representative from the Galicia Medical Group submitted to the Board all medical records of patients treated by Respondent from on or about May 1, 2013, to approximately August 18, 2013. Documentation in these submitted medical records revealed that on or about June 13, 2013, through July 19, 2013, Respondent documented the care and treatment he provided to over one hundred (100) patients at the Galicia Medical Group. The care and treatment of these patients by Respondent was during the time in which he did not have a Board approved practice supervisor or a Board approved plan of supervised practice. Further, Respondent provided care and treatment to these patients prior to the Board's approval of his change in his practice setting.
22. The care and treatment alleged by the Board that occurred between June 13, 2013, and July 19, 2013, included follow-up appointments with patients who had prior surgery and patients who were referred to other practitioners for treatment, as well as appointments with new patients. Licensee disputes that he intentionally violated the prior Consent Order. Further, Licensee asserts that throughout the period of time in which the Board

alleges he practiced without a Board-approved supervisor, Licensee's practice was continuously supervised.

23. 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 Kansas Healing Arts Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.
24. A protective order is hereby entered to protect all confidential information under 42 CFR Part II, K.S.A. 65-2836(i), and K.S.A. 65-4925.
25. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836.
26. Licensee has violated K.S.A. 65-2836(k) in that Licensee violated a lawful order of the Board previously entered into by the Board in KSBHA Docket Number 11-HA00078.
27. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
28. According to K.S.A.65-2838(b) and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
29. All pending investigation materials in KSBHA Investigative Case Number 14-00036 and Docket Number 14-HA00085 regarding Licensee were fully reviewed and considered by

the Board members who serve on the Board's Disciplinary Panel and/or their appointed member for this matter. Disciplinary Panel No. 25 authorized and directed Board counsel, through their appointed member for this matter, to seek settlement of this matter with the provisions contained in this Consent Order.

30. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice medicine and surgery in the State of Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

31. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Healing Arts Act, or to investigate complaints received under the Risk Management Law, K.S.A. 65-4921 *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 Kansas Healing Arts Act.

32. 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 Judicial Review Act, 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.
33. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of this Consent Order.
34. 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.
35. 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.

36. 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.
37. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
38. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
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 Final Order when filed with the office of the Executive Director for the Board and no further Order is required.
41. This Consent Order constitutes public disciplinary action.
42. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

43. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public disciplinary action against his license to engage in the practice of medicine and surgery:

PUBLIC CENSURE

44. Licensee is hereby **PUBLICLY CENSURED** for violating the Kansas Healing Arts Act.

BOARD COSTS

45. Licensee is hereby ordered to pay the Board incurred **COSTS** in conducting these proceedings under the Kansas Administrative Procedures Act in the amount that is put forth by the Board in a Statement of Costs. The total amount of \$2,500.00 shall be due on or before August 31, 2015.

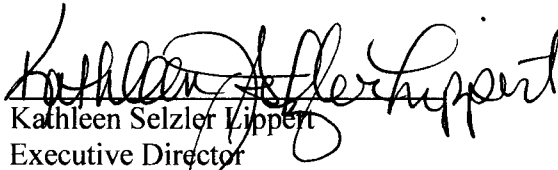
46. Licensee shall make all payments, which shall be in the form of cashier's check or money order, to the "Kansas State Board of Healing Arts" and send all payments to the attention of:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

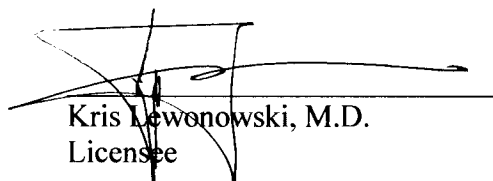
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 15 day of April, 2015.

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



Kathleen Selzler Lippert
Executive Director

4/15/15
Date

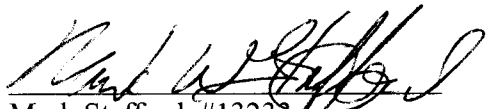

Kris Lewonowski, M.D.
Licensee

3/19/15
Date

PREPARED AND APPROVED BY:



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Mark Stafford, #13233
Attorney for Licensee
Simpson, Logback, Lynch, Norris, P.A.
107 SW 6th Avenue, Suite 210
Topeka, Kansas 66603

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 15th day of April, 2015, to the following:

Kris Lewonowski, M.D.
Licensee
Confidential
Wichita, Kansas 67206

Mark Stafford
Attorney for Licensee
Simpson, Logback, Lynch, Norris, P.A.
107 SW 6th Avenue, Suite 210
Topeka, Kansas 66603

Stephen M. Joseph
Attorney for Licensee
Joseph, Hollander & Craft, L.L.C.
500 North Market St.
Wichita, Kansas 67214

And the original was hand-delivered for filing to:

Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612



A handwritten signature in black ink, appearing to read "Paul Kosta", is written over a horizontal line.