

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED 

APR 23 2007

KS State Board of Healing Arts

In the Matter of)
)
MICHAEL J. LISTON, M.D.,)
License No. 04-24824)
_____)

Docket No. 07-HA-00082

CONSENT ORDER

COMES NOW the Kansas State Board of Healing Arts ("Board"), by and through Kelli J. Stevens, Litigation Counsel, ("Petitioner") and Michael J. Liston, M.D., ("Licensee") *pro se*, and move the Board for approval of a Consent Order granting retroactive reinstatement of licensure and affecting such license to engage in the practice of medicine and surgery in the State of Kansas. The parties stipulate and agree to the following:

1. Licensee's mailing address as provided to the Board is 3116 Blue Ridge Boulevard, Independence, Missouri 64052.
2. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of medicine and surgery pursuant to K.S.A. 65-2801, *et seq.*
3. Licensee presently holds a license to practice medicine and surgery in Kansas, having been issued license number 04-24824 on or about October 31, 1992.
4. Such license was cancelled for failure to renew on August 1, 2003, and was subsequently reinstated on September 27, 2004.
5. This Consent Order and the filing of such document are in accordance with applicable law and the Board may enter into an informal settlement of this matter as provided in K.S.A. 77-505, without the necessity of proceeding to a formal hearing.

6. Upon approval, the provisions in this Consent Order shall constitute the findings of the Board, and this Consent Order shall be the Board's Final Order.

7. Licensee agrees that the Kansas healing arts act is constitutional on its face and as applied in this case, and that in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

8. Licensee voluntarily and knowingly waives his right to a hearing under the Kansas administrative procedure act, K.S.A. 77-501 *et seq.* 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.

9. 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.

10. The Board alleges and Licensee does not contest the following facts as the basis for this Consent Order:

- a. Licensee practiced the healing arts in Kansas without a license on fifty-one (51) occasions from approximately March 1, 2004 to July 1, 2004. Licensee's practice consisted of interpreting cardiac and vascular images over the internet from a physical location in Missouri, but with a practice address in Lenexa, Kansas;

- b. From approximately March 1, 2004 to June 15, 2004, Licensee believed he was practicing in Missouri, where he held an active license; and
- c. Licensee was notified of by Board staff that it appeared he was practicing in Kansas without a license on June 15, 2004.

11. Licensee has engaged in the unlicensed practice of medicine, in violation of K.S.A. 65-2867(a) of the healing arts act. Pursuant to K.S.A. 65-2836(f), the Board has authority to impose disciplinary action due to Licensee's repeated violation of the healing arts act.

12. In lieu of conducting formal proceedings and/or the making of findings by the Board, Licensee, by his signature affixed to this Consent Order, hereby voluntarily agrees:

- a. Licensee is hereby **FINED** \$2,500.00 for his practice of medicine and surgery in Kansas while his license was cancelled, payable to the Board of Healing Arts, on or before May 30, 2007.

13. 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. 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 healing arts act.

14. Licensee hereby releases the Board, its individual members (in their official and personal capacities), 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.

15. Licensee further understands and agrees that upon his signing the Consent Order this document shall be deemed a public record, and shall be reported to the Federation of State Medical Boards and any reporting entities authorized to receive disclosure of this Consent Order.

16. 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.

17. Licensee agrees that all information maintained by the Board pertaining to the nature and result of any complain 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.

18. Licensee, by signature to this document, waives any objection to the participation of the Board members 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 proceeding 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.

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

20. Licensee acknowledges that she has read this Consent Order, fully understands the contents, and that this Consent Order has been entered into freely and voluntarily.

21. All payments, correspondence or communications between Licensee and the Board relating to this 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.

24. 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 the execution of the Consent Order or may become effective subsequent to the execution of this document.

25. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order. 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.

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 is the Order of the Board.

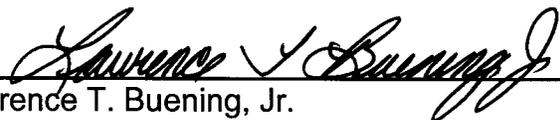
IT IS FURTHER ORDERED that

- a. Licensee is hereby **FINED** \$2,500.00 for his practice of medicine and surgery in Kansas while his license was cancelled, payable to the Board of Healing Arts, on or before May 30, 2007.

IT IS FURTHER ORDERED that Licensee is hereby granted retroactive reinstatement of his license for the period of August 1, 2003 until September 27, 2004; shall be considered to have held active status during such period of time; and the records of the Board shall hereby modified to reflect such retroactive reinstatement.

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS



Lawrence T. Buening, Jr.
Executive Director

April 23, 2007

Date



Michael J. Liston, M.D.
Licensee

4/10/07

Date

Prepared by:



Kelli J. Stevens, #16032
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
(785) 296-7413

CERTIFICATE OF SERVICE

I, the undersigned, Kansas State Board of Healing Arts, hereby certify that I served a copy of the above **CONSENT ORDER** by depositing the same in the U.S. mail, postage prepaid, on this 23rd day of April, 2007, addressed to:

Michael J. Liston, M.D.
3116 Blue Ridge Boulevard
Independence, Kansas 64052

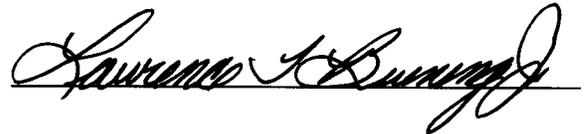
And a copy was hand-delivered to:

Kelli J. Stevens
Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

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

And the original was hand-delivered for filing to:

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

A handwritten signature in black ink, reading "Lawrence A. Buening, Jr.", written over a horizontal line.