

MAY 01 2017

KS State Board of Healing Arts

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

In the Matter of	)	
	)	Docket No. 17-HA00008
Melissa Loseke, D.O.	)	
Kansas License No. Pending	)	

---

**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts, (“Board”), by and through Reese H. Hays, Litigation Counsel, and Susan R. Gering, Associate Litigation Counsel (“Respondent”), and Melissa Loseke, D.O. (“Applicant”), by and through her counsel James D. Myers of Shaffer Lombardo Shurin PC, and move the Board for approval of a Consent Order affecting Applicant’s license to practice osteopathic medicine and surgery in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant’s last known mailing address to the Board is: [REDACTED]  
Elkhorn, Nebraska 68022.
2. On or about April 7, 2015, Applicant submitted to the Board an application for a license to practice osteopathic medicine and surgery. Such application was deemed complete and filed with the Board on August 26, 2016.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts. K.S.A. 65-2801 *et seq.*
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. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board’s Final Order.

---

Consent Order  
Melissa Loseke, D.O.

5. The Kansas Healing Arts Act is constitutional on its face and as applied in the case. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

6. Applicant voluntarily and knowingly waives her right to a hearing. Applicant voluntarily and knowingly waives her right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination of witnesses. Applicant 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. Applicant 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(b), (g), (k), K.S.A. 65-2803(a) and K.S.A. 65-2837(b)(12) to take action with respect to Applicant's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. This Consent Order incorporates herein by reference the facts as stated in the Response to Application for License to Practice Osteopathic Medicine and Surgery that was filed on September 13, 2016. Exhibit 1, Response to Application for License to

Practice Osteopathic Medicine and Surgery of Melissa Loseke, D.O. KSBHA Docket No. 17-HA00008.

10. While admitting no wrongdoing, Applicant acknowledges that if formal hearing proceedings were conducted and Applicant presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Applicant has violated the Kansas Healing Arts Act with respect to the above allegations. Applicant further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

11. Applicant's acts, if proven, constitute a violation under K.S.A. 65-2836(g), where when Applicant unlawfully invaded the field of practice of any branch of the healing arts in which she was not licensed to practice when she provided injections and Vampire Facelift procedure(s) on eight (8) separate occasions to patients at Midwest Restorative Health office in Overland Park, Kansas, when she was not licensed in the State of Kansas to practice osteopathic medicine and surgery.

12. Applicant's acts, if proven, constitute a violation under K.S.A. 65-2836(k) as a result of Applicant violating any rule promulgated by the Board when Applicant provided injections and Vampire Facelift procedure(s) on eight (8) separate occasions to patients at Midwest Restorative Health office in Overland Park, Kansas, when she was not licensed in the State of Kansas to practice osteopathic medicine and surgery in violation of K.S.A. 65-2803(a).

13. Applicant's acts, if proven, constitute a violation of K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(12) in that Applicant minimized the risk of other healthcare providers removing an object from a biohazard container and reusing the object on a

patient, unlikely knew each employees' medical history and present health status to know that the Botox needles were "clean" and would not pose a risk to patient H.O.

14. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Applicant's license to practice osteopathic medicine and surgery.

15. According to K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

16. All pending investigation materials in KSBHA Investigative Case Numbers 15-00730 and 16-00009 and KSBHA Docket No. 17-HA00008 regarding Applicant were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel or the Disciplinary Panel's appointed Disciplinary Panel member for this matter. Disciplinary Panel No. 31, through its appointed Disciplinary panel member, has authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

17. Applicant further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Applicant 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 Applicant's license to practice medicine and surgery in the State of Kansas. Applicant hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Applicant 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, Applicant retains the right to confront and examine all witnesses, present evidence, testify on her 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.*

18. 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.

19. Applicant 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 Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

20. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.

21. 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.

22. Applicant 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 Applicant is not present. Applicant 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.

23. Applicant, 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.

24. Applicant acknowledges that she has read this Consent Order and fully understands the contents.

25. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.

26. Applicant shall obey all federal, state and local laws and rules governing the practice of osteopathic 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.

27. This Consent Order constitutes **public disciplinary** action.

28. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order under K.S.A. 77-505. 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.

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

30. In lieu of conducting a formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public non-disciplinary action against her license to practice osteopathic medicine and surgery:

#### **PUBLIC CENSURE**

31. Applicant is **publicly censured** for violating the Kansas Healing Arts Act.

#### **SUSPENSION**

32. Applicant's license shall be suspended until such time as the Board has received proof of Applicant's successful completion of the Ethics and Boundaries Course Program (ProBE) Program provided by the Center for Personalized Education for Physicians (CPEP).

33. This provision is self-terminating. Applicant's suspension shall be lifted upon the Board's receipt of proof of Applicant's successful completion of the CPEP ProBE Program.

#### **EDUCATION**

34. Applicant shall attend and successfully complete the ProBE Program presented by CPEP on or before September 30, 2017.

35. CPEP may be contacted at 720 S. Colorado Blvd., Suite 1100-N, Denver, Colorado 80246 - Phone: 303-577-3232 - Fax: 303-577-3241 or at [www.cpepdoc.org](http://www.cpepdoc.org).
36. Applicant shall provide proof of successful completion of the above course(s)/seminar(s) to the Compliance Coordinator within thirty (30) calendar days of successfully completing the ProBE Program.
37. Applicant shall sign all necessary releases so that the Board can obtain all documentation from CPEP.
38. On or before May 1, 2017, Applicant shall notify the Compliance Coordinator in writing of the date Applicant has registered to attend the above named course(s)/seminar(s).
39. All foreseen and unforeseen expenses to complete the aforementioned program including travel, lodging, program fee, meals, etc., shall be at Applicant's own expense.
40. These hours shall be in addition to those continuing education hours required for renewal of licensure.
41. All correspondence to the Board relating to this Consent Order shall be mailed to the Board by certified mail addressed to:

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

**FINE**

42. Applicant agrees to pay a FINE of in the amount of ONE THOUSAND DOLLARS AND ZERO CENTS (\$1,000.00).
43. Such fine shall be paid in the form of cashier's check or money order, to the "Kansas State Board of Healing Arts" and shall be paid in full on or before May 31, 2017.

44. Applicant shall send all payments to the Board relating to this Consent Order shall be mailed to the Board via certified mail addressed to:

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.

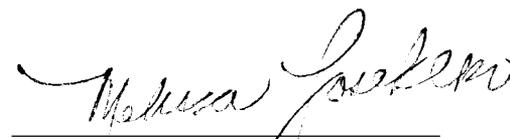
**IT IS FURTHER ORDERED** that upon meeting all technical requirements for a license, Applicant shall be granted a license to practice osteopathic medicine and surgery, pursuant to the conditions above.

**IT IS SO ORDERED** on this 1 day of May 2017.

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

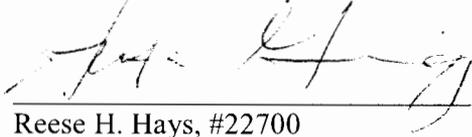
  
Kathleen Selzler Lippert  
Executive Director

5/1/17  
Date

  
Melissa Loseke, D.O.  
Applicant

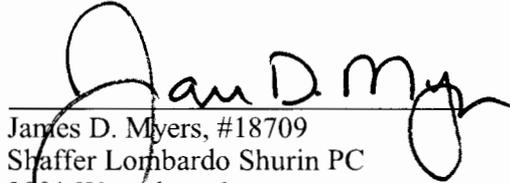
5/20/2017  
Date

PREPARED AND APPROVED BY:



Reese H. Hays, #22700  
Litigation Counsel  
Susan R. Gering, #25582  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612  
Phone: 785-368-8212  
Fax: 785-368-8210  
[reese.hays@ks.gov](mailto:reese.hays@ks.gov)  
[susan.gering@ks.gov](mailto:susan.gering@ks.gov)

APPROVED BY:



James D. Myers, #18709  
Shaffer Lombardo Shurin PC  
2001 Wyandotte Street  
Kansas City, Missouri 64105  
Phone: 816-931-0500  
Fax: 816-931-5775  
[jmyers@sls-law.com](mailto:jmyers@sls-law.com)

**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 1<sup>st</sup> day of May, 2017, to the following:

Melissa Loseke, D.O.  
*Applicant*  
[REDACTED]  
Elkhorn, Nebraska 68022

James D. Myers  
*Attorney for Applicant*  
Shaffer Lombardo Shurin PC  
2001 Wyandotte  
Kansas City Missouri 64108

And the original was hand-filed with:

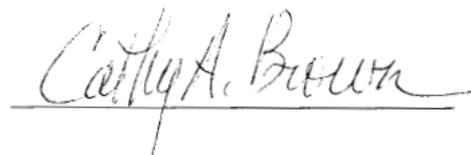
Kathleen Selzler Lippert  
Executive Director  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

And a copy was hand-delivered to:

Reese H. Hays, Litigation Counsel  
Susan R. Gering, Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

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

Licensing Administrator  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612



---

Consent Order  
Melissa Loseke, D.O.