

**FILED** *AMB*

MAR 29 2010

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

**KS State Board of Healing Arts**

In the Matter of )  
 )  
**Ram S. Makker, M.D.** ) KSBHA Docket No. 10-HA00031  
 )  
Kansas License No. 04-27710 )  
 )  
\_\_\_\_\_ )

**CONSENT ORDER FOR SURRENDER OF LICENSE**

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Kelli J. Stevens, Litigation Counsel, (“Petitioner”), and Ram S. Makker, M.D., (“Licensee”), by and through his counsel, Mark Stafford, of Holbrook & Osborn, P.A., and move the Board for approval of a Consent Order regarding 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 as reported to the Board is (confidential)  
(confidential) Roslyn Heights, New York 11577.
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. 04-27710 on approximately August 15, 1998, and having last renewed such license on approximately July 1, 2009. Licensee’s license is currently inactive.
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 the 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 possible 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. A Petition was filed with the Board in this matter on September 22, 2009, alleging disciplinary grounds pursuant to K.S.A. 65-2836(j) of the Healing Arts Act due to Licensee having had a license to practice the healing arts revoked by the proper licensing authority of another state. The specific allegations are set forth in the Petition and incorporated by reference into this Consent Order.

9. Licensee waives his right to contest the allegations contained in the Petition and consents to a finding that there are grounds for discipline against his license.
10. Pursuant to K.S.A. 65-2836, the Board may revoke Licensee's license; alternatively, Licensee may surrender his license while under investigation. Pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Healing Arts Act.
11. According to K.S.A.65-2836(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
12. 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. 24 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
13. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against his license to engage in the practice of medicine and surgery:

**VOLUNTARY SURRENDER OF LICENSE**

- a. Licensee hereby voluntarily offers to **SURRENDER** his license to practice medicine and surgery in Kansas. The Board accepts the offer of surrender. Such surrender shall be reported to the National Practitioner Data Bank as a surrender of license in lieu of further proceedings. The surrender generally shall be treated as a revocation for other reporting and reinstatement purposes. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the

provisions of K.S.A. 65-2844, except the provision prohibiting an application for reinstatement for a three (3) year period of time.

- b. At any time subsequent to the surrender of licensure, Licensee may apply for reinstatement of his license. The burden of proof by clear and convincing evidence shall be on Licensee to justify reinstatement or issuance of a postgraduate permit. Any such application shall be considered in accordance with all applicable statutes, law, rules and regulations regarding qualifications for reinstatement.
- c. At any time subsequent to the surrender of licensure, and in the event that Licensee is admitted or provisionally admitted to a postgraduate training program within the State of Kansas, Licensee may apply for a postgraduate training permit or other appropriate educational license. The Board may grant the application to facilitate Licensee's rehabilitation of professional competency, with due regard for the allegations contained in the Petition.
- d. All proceedings conducted on an application for reinstatement or for a postgraduate permit shall be in accordance with the provisions of the Kansas Administrative Procedure Act and shall be reviewable in accordance with the Kansas Judicial Review Act.
- e. Licensee shall be required to pay the fee for reinstatement of a revoked license with any application for reinstatement.
- f. Licensee agrees that in the event he applies for reinstatement of his license or for a postgraduate training permit, the allegations contained in the

Petition and this Consent Order will be considered as findings of fact and conclusions of law.

14. 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.
15. 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.
16. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.

17. 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.
18. 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.
19. 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 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.
20. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
21. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
22. 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

23. This Consent Order constitutes disciplinary action.
24. 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:

**VOLUNTARY SURRENDER OF LICENSE**

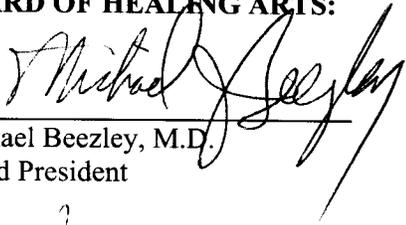
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- e. Licensee shall be required to pay the fee for reinstatement of a revoked license with any application for reinstatement.
- f. Licensee agrees that in the event he applies for reinstatement of his license or for a postgraduate training permit, the allegations contained in the Petition and this Consent Order will be considered as findings of fact and conclusions of law.

IT IS SO ORDERED on this 29<sup>th</sup> day of March, 2010.

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

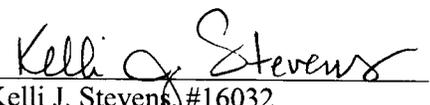
  
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Michael Beezley, M.D.  
Board President

3/29/10  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Ram S. Makker, M.D.  
Licensee

3/17/10  
\_\_\_\_\_  
Date

**PREPARED AND APPROVED BY:**

  
\_\_\_\_\_  
Kelli J. Stevens, #16032  
*Litigation Counsel*  
Kansas Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068  
785-368-8212

**AGREED TO BY:**

  
\_\_\_\_\_  
Mark Stafford, #13233  
*Attorney for Licensee*  
Holbrook & Osborn, P.A.  
800 SW Jackson Street, Ste. 900  
Topeka, Kansas 66612

**CERTIFICATE OF SERVICE**

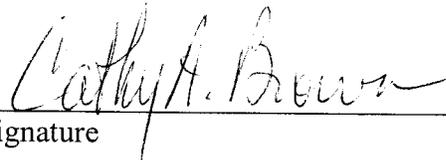
I, hereby certify that I served a true and correct copy of the above and foregoing  
**CONSENT ORDER** on the 29<sup>th</sup> day of March, 2009, via United  
States mail, first class postage pre-paid and to the following:

Ram S. Makker, M.D.  
(confidential)  
Roslyn Heights, New York 11577

Mark Stafford  
Holbrook & Osborn, P.A.  
800 SW Jackson Street, Ste. 900  
Topeka, Kansas 66612

and the original was filed with the office of:

Kathleen Selzler Lippert  
Acting Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

  
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Signature