

FILED

JUL 05 1994

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
)
JAMES A. MALISZEWSKI, M.D.)
Applicant for Licensure by Endorsement)
_____)

Case No. 94-00174

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COMES NOW the Kansas State Board of Healing Arts ("Board") and James A. Maliszewski, M.D. ("Applicant") and stipulate and agree as follows:

1. The Board is the sole and exclusive administrative agency in the State of Kansas statutorily authorized to regulate the practice of the healing arts to include the practice of medicine and surgery pursuant to K.S.A. 65-2801 et seq.

2. Applicant has made application to the Board for licensure by endorsement for an active permanent license to engage in the practice of medicine and surgery in the State of Kansas.

3. The Board has authority to issue a permanent license by endorsement to Applicant pursuant to K.S.A. 65-2833 and 65-2873.

4. Applicant's license to practice medicine was limited in the State of Missouri on December 29, 1993 for alleged improper prescribing of controlled substances. Applicant's license to practice the healing arts was placed on probation for a period of three years.

5. Based on the above information and contents of the record in this matter, probable cause exists to believe there may be grounds for denial of licensure by the Board. Specifically,

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Applicant has had a license to practice the healing arts limited or has had other disciplinary action taken by the proper licensing authority of the State of Missouri constituting a basis for denial of license pursuant to K.S.A. 65-2836(j).

6. 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") in lieu of denying a license based upon the above-mentioned grounds.

7. It is the intent and purpose of this Stipulation to provide for the settlement of all issues without the necessity of proceeding to a formal disciplinary hearing. By executing this Stipulation, Applicant waives all procedural and due process requirements afforded by the Kansas Administrative Procedure Act, K.S.A. 1993 Supp. 77-501 et seq.

8. Applicant agrees this Stipulation and its filing are in accordance with the requirements of law, that the Board has jurisdiction to consider this Stipulation, and that the Board is lawfully constituted to consider this matter.

9. Applicant agrees that the following conditions shall be placed upon his license to engage in the practice of medicine and surgery in the State of Kansas:

(a) Applicant agrees to retain duplicate copies of all controlled substance prescriptions, written or authorized by Applicant, including original telephone prescriptions or telephone authorizations for refills. These copies shall be kept in a file separate from patient charts or files, and shall be maintained in chronological order.

(b) Applicant agrees to submit quarterly written reports to the Office of the Disciplinary Counsel of the Board, stating truthfully whether there has been compliance with the

conditions of this Stipulation. Such reports shall be submitted by January 10, April 10, July 10, and October 10 during each year of the disciplinary period. Each report shall respectively update the three-month period prior to the date of the report.

10. Applicant may petition the Board for termination and/or modification of this Stipulation after a period of three years has elapsed from the date a Board-authorized signature appears upon this Stipulation, or upon the termination of the agreement between the Missouri State Board of Registration for the Healing Arts and Applicant, whichever comes first.

11. Applicant's failure to comply with the provisions of this Stipulation may result in the Board taking disciplinary action in compliance with the Kansas Administrative Procedure Act. Applicant acknowledges that a violation of the terms and conditions of this Stipulation by Applicant may constitute evidence that a violation of the Healing Arts Act has occurred for which the Board may revoke, suspend or limit the license of Applicant pursuant to K.S.A. 65-2836(k).

12. This Stipulation 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.

13. This Stipulation is entered into freely and voluntarily by the parties, and Applicant agrees he has read and understands this Stipulation.

14. Applicant agrees he 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 its contents. This release shall discharge the parties of any claims they may have had at the time of this release

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or might have had, either known or unknown.

15. Applicant acknowledges this document shall be deemed a public record only upon Applicant and a Board-authorized designee signing this Stipulation. Applicant further acknowledges this Stipulation shall be reported to the National Practitioner Data Bank, Federation of State Medical Boards, and any other reporting entities requiring disclosure of this Stipulation.

16. 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 Kansas Risk Management Law, K.S.A. 65-4921 et seq., whether unknown or not covered under the conditions of this Stipulation, or past acts unknown to the Board or subsequent acts.

17. All correspondence or communication by Applicant to the Board shall be by United States mail, first class, postage prepaid, addressed to the Kansas State Board of Healing Arts, Attention: Office of the Disciplinary Counsel, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

18. 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 pursuant to K.S.A. 65-2838(b) without further order.

IN WITNESS WHEREOF the parties have executed this agreement on this 5th
day of July, 1994.

KANSAS STATE BOARD OF HEALING ARTS

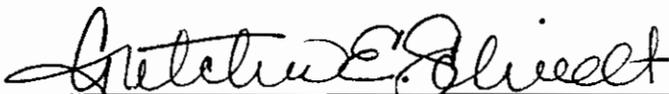

LAWRENCE T. BUENING, JR.
Executive Director

Date July 5, 1994


JAMES A. MALISZEWSKI, M.D.
Applicant

Date July 1, 1994

Prepared and Approved by:


GRETCHEN E. SCHMIDT, No. 16250
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068
(913) 296-7413


DAVID R. ERICKSON
Blackwell, Sanders, Metheny, Weary & Lombardi
Two Pershing Square
2300 Main Street, Suite 1100
Kansas City, Missouri 64108
(816) 274-6800

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CERTIFICATE OF SERVICE

I, Gretchen E. Schmidt, certify that on this 5th day of July, 1994, a true and correct copy of the above and foregoing **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** was deposited in the United States mail, first class, postage prepaid, addressed to the following:

James A. Maliszewski, M.D.
6420 Prospect, Suite T101
Kansas City, Missouri 64132

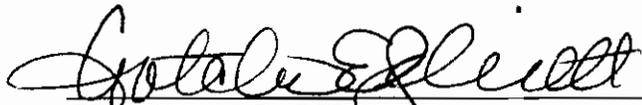
David R. Erickson
Blackwell, Sanders, Metheny, Weary & Lombardi
Two Pershing Square
2300 Main Street, Suite 1100
Kansas City, Missouri 64108
(816) 274-6800

and a copy was hand-delivered to:

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

and the original was hand-delivered to:

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



GRETCHEN E. SCHMIDT