

FILED

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

DEC 10 1993

KANSAS STATE BOARD OF  
HEALING ARTS

IN THE MATTER OF )  
 )  
JOSEPH W. MANLEY, )  
Kansas License No. 04-14812 )  
\_\_\_\_\_ )

Case # 92-00024

STIPULATION AND AGREEMENT  
AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (hereinafter referred to as "Board") by and through Kevin K. LaChance, Associate Counsel, and Joseph W. Manley, M.D. (hereinafter referred to as "Licensee") and stipulate and agree as follows:

1. The Board is the sole and exclusive regulatory agency in the State of Kansas regarding the practice of the healing arts, specifically the practice of medicine and surgery. K.S.A. 65-2801, et seq; K.S.A. 65-2869.

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 number 04-14812 on June 5, 1971. At all times relevant to the allegations set forth below, Licensee has held a current license to engage in the practice of medicine and surgery in the state of Kansas, having last renewed his license on July 29, 1993.

3. Information received by the legal staff indicates that Licensee may have committed acts which, if proven to be true, would constitute grounds for discipline under the Kansas Healing Arts Act, K.S.A. 65-2801 et seq. Specifically, Licensee is alleged to have committed multiple acts of fraud or misrepresentation in applying for or securing an original, renewal or reinstated license, in violation of K.S.A. 65-2836(a), pertaining to his August 21, 1989 application for reinstatement, his August 7, 1991 application for reinstatement, his July 24, 1992 renewal application, and his May

21, 1993 renewal application. It is further alleged that Licensee has had a license to practice the healing arts revoked suspended or limited or an application for a license denied by the proper authority of another state, in violation of K.S.A. 65-2836(j), as evidenced by the state of Missouri's denial of late registration for cause on June 4, 1992. It is further alleged that Licensee has had sanctions or disciplinary action taken by a peer review committee, health care facility, or governmental agency for acts which would constitute grounds for disciplinary action under this act, in violation of K.S.A. 65-2836(s), as evidenced by actions taken by St. Luke's Hospital, Prime Health Corporation, the Women's Community Health Center, the Plasma Alliance, Bethany Hospital, Menorah Hospital, Prison Health Services, and the Missouri Board of Healing Arts. It is further alleged that Licensee failed to report to the Board that adverse action was taken against Licensee by another licensing jurisdiction, peer review body, or health care facility for acts which would constitute grounds for disciplinary action under the Healing Arts Act, in violation of K.S.A. 65-2836(t), as evidenced by Licensee's failure to report the above information to the Board. Finally, it is alleged that Licensee surrendered his authority to utilize controlled substances issued by any state or federal agency, in violation of K.S.A. 65-2836(u), as evidenced by his voluntary surrender of his Missouri DEA registration privileges in Schedules II through V drugs on October 19, 1992. Based on the above information, the Board has determined there is probable cause to believe Applicant has committed acts which, if proven to be true, would constitute grounds for discipline by the Board.

4. Such acts or conduct as set forth above could constitute grounds for denial of licensure under the jurisdiction of the Board pursuant to the abovestated provisions of the Healing Arts Act. Under the provisions of K.S.A. 65-2838(a), the Board has jurisdiction to impose appropriate

discipline if a licensee to the Board has engaged in any commissions or omissions to bring licensee within the purview of K.S.A. 65-2836. Under the provisions of K.S.A. 65-2838(b), the Board has authority to enter into this Stipulation and Agreement.

5. It is the intent and purpose of this Stipulation and Agreement to provide for settlement of all issues without the necessity of proceeding to a formal hearing. K.S.A. 65-2838(b). Licensee voluntarily and affirmatively waives his right to a hearing pertaining to any matter under the jurisdiction of the Board regarding his license to engage in the practice of medicine and surgery.

Licensee further understands and agrees that by entering into this Stipulation and Agreement, he is waiving 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, to conduct such cross-examination of witnesses as may be desired and to waive any and all substantive and procedural motions and defenses that could be raised if an administrative hearing would be held.

The terms and conditions of the Stipulation and Agreement are entered into between the undersigned parties and is submitted for the purpose of allowing these terms and conditions to become an Order of the Board.

This Stipulation and Agreement shall not be binding on the Board until an authorized signature is affixed at the end of this document. Upon signature by Licensee to this document, it shall be deemed a unilateral contract and agreement and shall bind Licensee to the terms and conditions set forth in the Stipulation and Agreement whether or not the Board's signature is affixed to the document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

6. In consideration of the conditions, terms, covenants, and promises contained herein, the parties agree as follows:

a) The Board is the duly authorized administrative agency of the State of Kansas with appropriate statutory authority to regulate the practice of the healing arts to include the practice of medicine and surgery in the State of Kansas.

b) Licensee admits that this Stipulation and Agreement and the filing of such a document are in accordance with the requirements of law; that the Board has jurisdiction to consider the Stipulation and Agreement and is lawfully constituted to consider this matter to include consideration of this Stipulation and Agreement. Licensee further notes that the Kansas Healing Arts Act is constitutional on its face and as applied in this case. Licensee further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provision of law.

c) In lieu of the initiation of formal proceedings and/or findings by the Board, Licensee, by signature attached to this Stipulation and Agreement, hereby voluntarily agrees to the conditions placed on his license to engage in the practice of medicine and surgery in the State of Kansas.

d) Applicant hereby agrees to disciplinary measures emplaced against his license to engage in the practice of medicine and surgery in the State of Kansas based on the following specific conditions:

i) Licensee agrees to unconditionally surrender his license to practice the healing arts in the State of Kansas immediately as approved by the Board.

ii) Licensee will not apply for reinstatement of his license to practice medicine and surgery in the state of Kansas for a period of eighteen (18) months from the date of Board acceptance of the Stipulation and Agreement and Enforcement Order. Licensee agrees that, if he applies

for reinstatement of his license, the burden of proof will be upon Licensee to prove that the underlying facts stated above are untrue. Licensee acknowledges that prior to any reinstatement action, Licensee must comply with all requirements of all applicable statutes, rules and regulations pertaining to reinstatement and renewal of licenses to practice the healing arts in the state of Kansas.

i) Licensee shall be refunded one-half of the annual renewal fees paid on July 29, 1993, amounting to a sum of eighty two dollars and fifty cents (\$82.50).

Licensee's agreement to the above terms pertaining to his license are evidenced by his signature affixed to this document.

e) Licensee's failure to comply with the provisions of the Stipulation and Agreement will result in the Board taking disciplinary action as the Board deems appropriate in compliance with the Kansas Administrative Procedure Act.

It is further understood that if Licensee fails to fulfill any of the obligations under the Stipulation and Agreement, the Board will be released from its Stipulation and Agreement and subsequent Enforcement Order and shall be free to take whatever steps it deems appropriate to include exercise of its right to issue a Summary Revocation Order as set forth below.

Licensee acknowledges that proof submitted to the Board by an Affidavit or other form that Licensee has failed to meet the conditions of the Stipulation and Agreement or any provision of Kansas law shall be deemed good and sufficient evidence to support the alleged violation to determine non-compliance with this Stipulation and Agreement and Enforcement Order.

Any breach of the Stipulation and Agreement and Enforcement Order shall result in the Board issuing a Summary Revocation Order of Licensee's license to engage in the practice of medicine and surgery in the State of

Kansas in which Licensee agrees not to contest, defend, or challenge in any civil or administrative proceeding.

f) 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 Risk Management Law, K.S.A. 65-4921 et seq, that are unknown and are not covered under the conditions of this Stipulation and Agreement or subsequent acts which are unknown to the Board or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

g) This Stipulation and Agreement constitutes the entire agreement between the parties and may only be modified and/or amended by a subsequent document executed in the same manner by the parties.

h) Licensee acknowledges that he has read this Stipulation and Agreement and fully understands the Contents.

i) Licensee hereby releases the Board, its employees and agents, from all claims to mean those damages, actions, liabilities and causes of actions, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions; K.S.A. 77-601 et seq. This release shall discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this Stipulation and Agreement or the contents of this Stipulation and Agreement.

j) Licensee acknowledges that this Stipulation and Agreement has been entered in freely and voluntarily given.

k) Licensee acknowledges that this document shall be deemed a public record upon Licensee's signing this document, whether or not an authorized Board signature appears on same, and shall be reportable to the National Databank, Federation of State Medical Boards, and other reporting agencies.

7. All correspondence or communication between Licensee and the Board shall be by certified mail addressed to Kansas State Board of Healing Arts, ATTENTION: Associate Counsel, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

8. 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 Stipulation and Agreement or may become effective subsequent to the execution of this document.

9. Licensee has an affirmative duty to notify the Board of changes in his personal professional status which would inhibit the compliance with the above conditions in the Stipulation and Agreement or subsequent Enforcement Order.

10. Upon execution of this Stipulation and Agreement by the affixing of a Board authorized signature below, the provisions of this Stipulation and Agreement shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order under K.S.A. 1991 Supp. 65-2838. This Stipulation and Agreement and Enforcement 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.

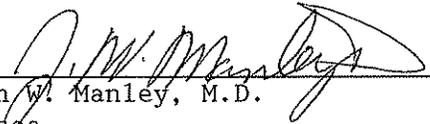
IN WITNESS WHEREOF, the parties have executed this agreement on the

10<sup>th</sup> day of December, 199~~2~~<sup>3</sup>.

KANSAS STATE BOARD OF HEALING ARTS

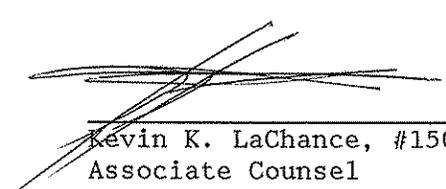
  
Lawrence T. Buening, Jr.  
Executive Director

December 10, 1993  
Date

  
Joseph W. Manley, M.D.  
Licensee

11-9-93  
Date

Prepared and Approved By:

  
Kevin K. LaChance, #15058  
Associate Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068  
(913) 296-7413

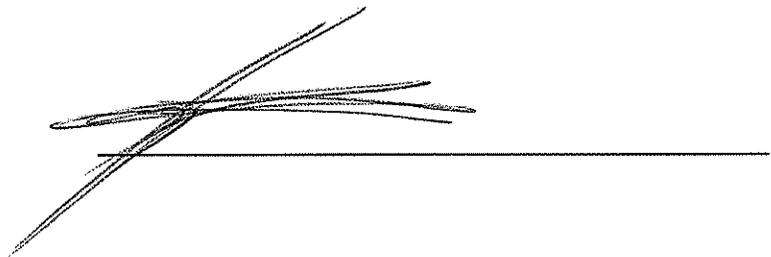
**CERTIFICATE OF SERVICE**

I, Kevin LaChance, Associate Counsel, Kansas State Board of Healing Arts, hereby certify that on the 27th day of December, a true and correct copy of the above and foregoing **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** wa placed in the United States mail, first class, postage prepaid, to the following:

Joseph W. Manley, M.D.  
6810 W. 52nd Place, Apt 2B  
Mission, Kansas 66202

and the original was hand-delivered to:

Mr. Lawrence T. Buening, Jr.  
Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603

A handwritten signature, consisting of several overlapping, sweeping strokes, is positioned above a solid horizontal line. The signature is written in dark ink and is somewhat stylized, making it difficult to read. The horizontal line is a simple, straight line extending across the width of the signature area.