

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

In The Matter Of)
Michael W. Mawdsley, M.D.)
Kansas License No. 4-16234) Docket No. 05-HA-07
_____)

CONSENT ORDER

COME NOW, the Kansas State Board of Healing Arts ("Board") by and through Kelli J. Benintendi, Associate Counsel ("Petitioner"), and Michael W. Mawdsley, M.D. ("Applicant") appearing *pro se*, and stipulate and agree to the following regarding Applicant's Application for Reinstatement of Licensure retroactive to August 1, 2003:

1. 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.*; K.S.A. 65-2869.
2. Applicant admits that this Consent Order and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Consent Order.
3. Applicant agrees that the Kansas Healing Arts Act is constitutional on its face and as applied in this case.
4. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
5. Applicant's last known mailing address as provided to the Board is 3701 East 13th Street, Wichita, Kansas, 67208.

6. Applicant previously held a license to practice Medicine and Surgery in the State of Kansas, having been issued license number 4-16234 on or about July 24, 1975.

7. On or about June 30, 2003, Applicant's license expired for failure to renew, and was subsequently canceled on or about August 1, 2003.

8. From approximately August 1, 2003 to December 19, 2003, Applicant engaged in the practice of the healing arts without having a valid license to do so.

9. Since approximately December 20, 2003, to present, Applicant has not engaged in the practice of the healing arts.

10. Licensee's unlicensed practice constitutes conduct likely to deceive, defraud or harm the public, and is unprofessional conduct which violates K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12).

11. On or about December 29, 2003, Applicant submitted an Application for Reinstatement to the Board, and further requested that it be granted retroactive to August 1, 2003.

12. According to K.S.A. 65-2838(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

13. Applicant voluntarily and knowingly waives his right to a hearing. Applicant voluntarily and knowingly waives 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 possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.

14. 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.

15. 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 to the following disciplinary measures as a condition to being granted retroactive reinstatement of his license:

- i. Applicant shall be publicly censured for engaging in the unlicensed practice of the healing arts after the cancellation of his license; and
- ii. Applicant shall pay a fine to the Board in the amount of \$1,000.00, payable in full within thirty (30) days of the filing of this Consent Order;

16. Applicant's failure to comply with the provisions of the Consent Order will result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas administrative procedure act.

17. 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.

18. Applicant hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, 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 forever 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 Consent Order or the content of this Consent Order.

19. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record, and shall be reported to the National Practitioner Databank, the Federation of State Medical Boards and any other reporting entities requiring disclosure of this Consent Order.

20. 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.

21. 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.

22. Applicant, by signature to this document, waives any objection to the participation of the Board members in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

23. Applicant acknowledges that he has read this Consent Order and fully understands the contents and acknowledges that this Consent Order has been entered into freely and voluntarily.

24. All correspondence or communication between Applicant and the Board relating to this Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Kelli J. Benintendi, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068

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

26. 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.

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board, and is the Order of the Board.

IT IS FURTHER ORDERED that Applicant is hereby publicly censured for engaging in the unlicensed practice of the healing arts after the cancellation of his license.

IT IS FURTHER ORDERED that Applicant shall pay a fine to the Board in the amount of \$1,000.00, payable in full within thirty (30) days of the filing of this Consent Order.

IT IS FURTHER ORDERED that Applicant's Application for Reinstatement is hereby granted retroactive to August 1, 2003.

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS

/s/
Lawrence T. Buening, Jr.
Executive Director

August 14, 2004
Date

/s/
Michael W. Mawdsley, M.D.
Applicant

8-9-4
Date

Prepared By:

/s/
Kelli J. Benintendi #16032
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

CERTIFICATE OF SERVICE

I, Kelli J. Benintendi, Associate Counsel, Kansas Board of Healing Arts, hereby certify that I served a true and correct copy of the above **CONSENT ORDER** by depositing the same in the U.S. mail, postage pre-paid, on this 16th day of August, 2004 to the following:

Michael W. Mawdsley, M.D.
3701 East 13th Street
Wichita, Kansas 67208

and a copy was hand-delivered to:

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

and the original was hand-delivered for filing to:

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

_____/s/_____
Kelli J. Benintendi
Associate Counsel

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