

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FEB 15 1994

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
)
WILLIAM J. McDOWELL, M.D.)
Applicant for Reinstatement)
_____)

Case No. 94-00139

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COMES NOW the Kansas State Board of Healing Arts ("Board") and William J. McDowell, M.D. ("Applicant") 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, pursuant to K.S.A. 65-2801 *et seq.*; K.S.A. 65-2869.

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

3. The Board has authority to reinstate a license which has been cancelled for failure to renew to Applicant pursuant to K.S.A. 65-2809.

4. On July 5, 1990, voluntary restrictions were placed upon Applicant's certificate to practice medicine in the State of Alabama Confidential

5. On September 13, 1992, the Alabama State Board of Medical Examiners ordered the removal of the voluntary restrictions placed

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upon Applicant's certificate to practice medicine in the State of Alabama. Applicant's Alabama certificate of qualification was reinstated to full, unrestricted status. At such time, Applicant entered into a voluntary, non-disciplinary agreement, providing for the voluntary production of specified information by Applicant to the Alabama State Board of Medical Examiners.

6. Based on the above information, there is probable cause to believe grounds may exist for denial of licensure by the Board. Specifically, Applicant may have the inability to practice medicine and surgery with reasonable skill and safety to patients **Confidential** **Confidential** pursuant to K.S.A. 65-2836(i). Applicant further has had a license to practice the healing arts limited by the proper licensing authority of the State of Alabama for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action in the State of Kansas, pursuant to K.S.A. 65-2836(j). An application for reinstatement of a license may be denied for any reason which would constitute grounds for disciplinary action against a licensee under 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** ("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 settlement of all issues without the necessity of proceeding to a formal disciplinary hearing. Applicant understands and agrees that by entering into this Stipulation he is voluntarily

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and knowingly waiving his right to a hearing, 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 present any substantive and procedural motions and defenses that could be raised if an administrative hearing were held.

8. The terms and conditions of this Stipulation are entered into between the parties to become an Order of the Board which shall not become binding on the Board until a Board-authorized signature is affixed on the last page of this document. Applicant's signature on this document creates a unilateral contract binding Applicant to all the terms and conditions set forth in this Stipulation, whether or not a Board-authorized signature is affixed to this document. Applicant acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

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

10. Applicant agrees this Stipulation and the filing of this document 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. Applicant further agrees the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*,

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as set forth by statute and as recited in this Stipulation, is constitutional on its face and as applied in this case.

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

a. Confidential

Confidential

b. Applicant agrees to obtain prior Board approval before changing his employment status, specifically before practicing medicine and surgery outside the scope of his employment as Regional Medical Director of the Boeing Company. Applicant further agrees he has an affirmative duty to immediately notify the Board of any changes in his licensure in other states and/or DEA registration.

12. Applicant may petition the Board for rescission and/or modification of this Stipulation after one year has elapsed from the date Applicant's signature appears on this Stipulation.

13. 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

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acknowledges that proof submitted to the Board by an affidavit or other form indicating Applicant has failed to meet the conditions of this Stipulation or any provision of the Healing Arts Act shall be deemed good and sufficient evidence to support an alleged violation of noncompliance with this Stipulation. Any breach of this Stipulation may result in the Board issuing a Summary Revocation Order of Applicant's license to engage in the practice of medicine and surgery in the State of Kansas, which Applicant agrees not to contest, defend or challenge in any civil or administrative proceeding.

14. 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.

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

16. Applicant releases the Board, its employees and agents, from all claims, to mean 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 claims or demands of every kind and nature that Applicant claims to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected. Applicant shall not commence to prosecute, cause or

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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 the content of this Stipulation.

17. Applicant acknowledges this document shall be deemed a public record upon Applicant signing this Stipulation, whether or not an authorized Board signature appears on same. Applicant further acknowledges this voluntary agreement shall not constitute a disciplinary action and shall not be reportable as such to any reporting entity.

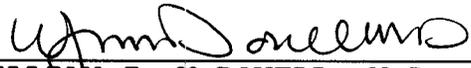
18. All correspondence or communication by Applicant to the Board shall be by United States mail, first class, postage prepaid, addressed to the Kansas State Board of Healing Arts, Attention: Office of the Disciplinary Counsel, 235 S. Topeka Blvd., Topeka, Kansas, 66603-3068.

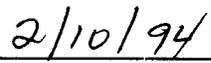
19. Upon execution of this Stipulation by the affixing of a Board-authorized signature below, the provisions of this Stipulation shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order pursuant to K.S.A. 65-2838(b). This Stipulation shall constitute the Order of the Board when filed with the Office of the Executive Director for the Board.

KANSAS STATE BOARD OF HEALING ARTS


LAWRENCE T. BUENING, JR.
Executive Director


Date


WILLIAM J. McDOWELL, M.D.
Applicant for Licensure


Date

Prepared and Approved by:


GRETCHEN E. SCHMIDT, #16250
Staff Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068
(913) 296-7413

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CERTIFICATE OF SERVICE

I, Gretchen E. Schmidt, Staff Counsel of the Kansas State Board of Healing Arts, certify that on this 15th day of February, 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:

William J. McDowell, M.D.
9005 East Harry, Apartment 1304
Wichita, Kansas 67207

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

b:mcdowell.stp (ges)