

APR 30 2001

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

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
the Application of)
ROBERT F. MCINTYRE, M.D.)
_____)

Docket No. 01-HA-24

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COME NOW, the Kansas State Board of Healing Arts ("Board") by and through Kelli J. Benintendi, Associate Counsel, and Robert F. McIntyre, M.D. ("Applicant") appearing *pro se*, and stipulate and agree to the following:

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 Stipulation and Agreement and Enforcement Order ("Stipulation") and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Stipulation.
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 filed an application for a license to practice medicine and surgery in the

State of Kansas on or about December 13, 2000. Applicant currently holds a postgraduate permit which was issued December 6, 1999.

6. (Confidential)

(Confidential)

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

8. Applicant voluntarily and knowingly waives his right to a hearing. Applicant 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. 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.

9. The terms and conditions of the Stipulation 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 Stipulation 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 Stipulation on behalf of the Board.

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

(a) In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Applicant, by signature affixed to this Stipulation, hereby voluntarily agrees to the following limitations to be placed on his license to engage in the practice of medicine and surgery in the State of Kansas:

- (i) Applicant shall be limited in his scope of practice to the field of psychiatry. This Order does not limit Applicant's ability to prescribe medications, or provide other treatment to patients within the field of psychiatry.
- (ii) Applicant shall not engage in the solo practice of psychiatry and shall only practice in a group setting with ongoing monitoring by a licensed physician approved by the Board, or its designee. Applicant is responsible for proposing to the Board a monitoring physician to serve in that capacity.
- (iii) The monitoring physician must submit quarterly reports regarding whether Applicant is practicing psychiatry competently and with reasonable skill and safety to patients. Such reports shall be submitted to the Board, to the attention of Kelli J. Benintendi, by the 15th of the month at the end of each quarter. Failure of the monitoring physician to submit the monitoring reports shall constitute a violation of the terms of this Stipulation and shall be grounds for disciplinary action. The monitoring physician shall immediately notify the Board in writing if applicant is unable to practice psychiatry competently and with reasonable skill and safety.
- (iv) Applicant shall immediately notify the Board of all changes in employment.

(v) Applicant shall notify the Board of any changes or circumstances surrounding **(Confidential)** or professional practice status which may inhibit compliance with the requirements of this Stipulation.

(vi) Applicant must obtain prior Board approval before modifying or discontinuing any of the requirements of this Stipulation.

(b) This Order constitutes limitations on Applicant's license to practice medicine and surgery in the State of Kansas. These limitations shall remain in effect at least until Applicant completes his residency program at the University of Kansas School of Medicine. Once Applicant has completed his residency, Applicant may request the termination of the limitations.

(c) Applicant's failure to comply with the provisions of the Stipulation will result in the Board taking disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

(d) Nothing in this Stipulation 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 Stipulation, or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

(e) Licensee hereby releases the Board, its individual members (in their official and personal capacities), its attorneys, employees and agents (hereinafter individually or jointly referred to as "Releasees"), from any and all claims and causes of action, 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 Stipulation. This release shall forever discharge the Releasees from 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.

(f) 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, Federation of State Medical Boards, and any other reporting entities requiring disclosure of this Stipulation.

(g) This Stipulation, 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.

(h) 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.

(i) 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.

(j) Applicant acknowledges that she has read this Stipulation and fully understands the contents.

(k) Applicant acknowledges that this Stipulation has been entered into freely and voluntarily.

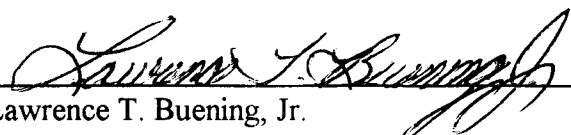
(l) All correspondence or communication between Applicant and the Board relating to this Stipulation shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Kelli J. Benintendi, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

(m) 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 Stipulation or may become effective subsequent to the execution of this document.

(n) Upon execution of this Stipulation by affixing a Board authorized signature below, the provisions of this Stipulation shall become an Order under K.S.A. 65-2838. This Stipulation 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 this 30th day of April, 2001.

KANSAS STATE BOARD OF HEALING ARTS



Lawrence T. Buening, Jr.
Executive Director

April 30, 2001

Date

Robert F. McIntyre

Robert F. McIntyre
Applicant

4-9-01

Date

Prepared By:

Kelli J. Benintendi

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 **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** by United States mail, postage prepaid, on this 30th day of April, 2001, to the following:

Robert F. McIntyre
202 North Rock Road, #216
Wichita, Kansas 67206

and the original was hand-delivered to:

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

Kelli J. Benintendi
Kelli J. Benintendi
Associate Counsel