

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

KS State Board of Healing Arts

In the Matter of)	
)	
Dennis W. Miller, M.D.)	Docket No. 08-HA-00152
Kansas License No. 04-19490)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Kathleen Selzler Lippert, Associate Counsel (“Petitioner”), and Dennis W. Miller, M.D. (“Licensee”), by and through his counsel, Frankie Forbes, and move the Board for approval of a Consent Order affecting Licensee’s license to practice medicine and surgery in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: 21 North 12th Street, Suite #350, Kansas City, Kansas 66102.
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 No. 04-19490 on approximately February 3, 1982. Licensee’s license is active.
3. 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. and K.S.A. 65-2869.
4. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Consent Order as provided by K.S.A. 77-505 and 65-2838. Upon approval, these stipulations shall constitute the

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findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. The Kansas Healing Arts Act is constitutional on its face and as applied in the case.
6. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. Licensee voluntarily and knowingly waives 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, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
8. 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. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.
9. The Board has received information and investigated the same, and has reason to believe Licensee has violated the Healing Arts Act.
10. Licensee began supervising an ARNP midwife in June 2006, whose primary practice was in the Topeka and Manhattan area. Licensee's practice is in Kansas City, Kansas, approximately 70 or more miles away from the ARNP's practice area. Additionally, Licensee only had hospital privileges in facilities in Kansas City.

11. Licensee failed to have adequate protocols to supervise an ARNP whose practice was not in physical proximity to Licensee and / or where Licensee did not have privileges in the facilities where the ARNP practiced.
12. Licensee failed to have adequate protocols to supervise the ARNP for VBAC patients.
13. Licensee failed to have adequate protocols to supervise the ARNP for patients whose labor did not adequately progress.
14. Licensee provided care for Patient 3 during her delivery on April 6, 2006. The demise of a full-term infant resulted in a malpractice suit and a settlement payment. Licensee has had three other malpractice settlements that occurred over ten years ago.
15. Licensee agrees to not supervise any ARNP, midwife or other midlevel health care providers who are more than twenty (20) minutes away from Licensee's practice. Additionally, Licensee agrees to not supervise any ARNP, midwife or other midlevel health care providers who provide services unless they practice in a facility where Licensee maintains privileges. While not constituting a limitation on Licensee's scope of practice, Licensee agrees to adhere to the above midlevel supervision parameters unless they are modified by Board order.
16. The Kansas State Board of Healing Arts has taken action against Licensee in 1988 and 1996.
17. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Healing Arts Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest

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the allegations contained in the above paragraphs in any further proceeding before this Board. While no admitting wrongdoing, Licensee further waives his right to dispute or otherwise contest the facts contained in the above paragraphs in any future proceeding before this Board.

18. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836; including:

- a. K.S.A. 65-2836(w), in that Licensee has had adverse judgments, awards or settlements against the Licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action.
- b. K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(30) by failing to properly supervise, direct or delegate acts which constitute the healing arts to persons who perform professional services pursuant to such licensee's direction, supervision, order, referral, delegation or practice protocols.

19. Pursuant to K.S.A. 65-2836 the Board has grounds to deny, revoke, suspend, limit, or censure Licensee's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Healing Arts Act.

20. 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.

21. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against his license to engage in the practice of medicine and surgery:

CENSURE

- a. Licensee is publicly censured for violating the Healing Arts Act.

FINE

- b. Licensee is hereby fined \$5,000. Such fine is payable in full to the “Kansas Board of Healing Arts” on or before August 31, 2008.
22. Licensee’s failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.
23. 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. 64-4921 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.
24. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as “Releasees”, from any and all claims, 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 Consent Order. This release shall forever discharge the Releasees of 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.

25. Licensee further understands and agrees that upon signature by Licensee, 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 authorized to receive disclosure of the Consent Order.
26. 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.
27. Licensee 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 Licensee is not present. Licensee 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.
28. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel and General Counsel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member or General Counsel in any future proceedings on the basis that the Board member or General Counsel has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

29. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
30. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
31. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
32. 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 Consent Order or may become effective subsequent to the execution of this document.
33. 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.
34. This Consent Order constitutes disciplinary action.
35. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact and conclusions of law.

IT IS FURTHER ORDERED that:

CENSURE

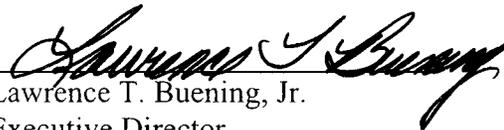
a. Licensee is publicly censured for violating the Healing Arts Act.

FINE

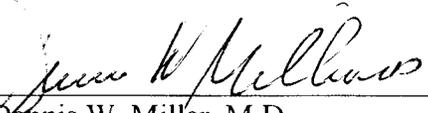
b. Licensee is hereby fined \$5,000. Such fine is payable in full to the "Kansas Board of Healing Arts" on or before August 31, 2008.

IT IS SO ORDERED on this 25th day of February, 2008.

**FOR THE KANSAS STATE BOARD
OF HEALING ARTS:**

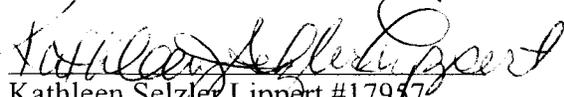

Lawrence T. Buening, Jr.
Executive Director

2/25/08
Date


Dennis W. Miller, M.D.
Licensee

01-14-08
Date

PREPARED AND APPROVED BY:


Kathleen Selzler Lippert #17987
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961

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AGREED TO BY:



Frankie J. Forbes
Attorney for Licensee
Holbrook & Osborn, P.A.
Commerce Plaza II
7400 West 110th Street, Suite 600
Overland Park, Kansas 66210-2362

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 26th day of February, 2008, to the following:

Dennis W. Miller, M.D.
Licensee
21 North 12th Street, Suite #350
Kansas City, Kansas 66102

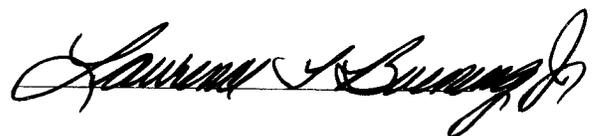
Frankie J. Forbes
Holbrook & Osborn, P.A.
Commerce Plaza II
7400 West 110th Street, Suite 600
Overland Park, Kansas 66210-2362

And the original was hand-filed with:

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

And a copy was hand-delivered to:

Kathleen Selzler Lippert #17957
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068



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