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CAB

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

KS State Board of Healing Arts

In the Matter of)	
)	Docket No. 11-HA 00082
Daniel L. Myers, M.D.)	
Application for Status Change)	
From Inactive to Active)	
Kansas License No. 04-22246)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Stacy R. Bond, Associate Litigation Counsel (“Petitioner”), and Daniel L. Myers, M.D. (“Licensee”), *pro se*, 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: Box 804, Iola, Kansas 66749.
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. 04-22246 on approximately June 17, 1988. Licensee’s license is inactive. On or about October 15, 2010, Licensee submitted to the Board an application for status change from inactive to active in medicine and surgery. Such application was deemed complete on December 29, 2010.
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.

Consent Order
Daniel L. Myers, M.D.

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 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. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. 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.
7. 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.
8. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-2836, to take action with respect to Licensee's license under the Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. On or about April 1, 2010, the Board received a complaint regarding Licensee's behavior towards a nurse confidential with whom Licensee has a previous personal relationship.
10. On or about April 25, 2010, Licensee requested a status change of his license from active to inactive for a leave of absence.
11. confidential
- 12.
13. On September 27, 2010, a Protection from Stalking Order was entered against Licensee for the protection of the nurse. Licensee was ordered by the court to refrain from harassing, telephoning, contacting or otherwise communicating with the nurse and/or her children either directly or indirectly. By court order Licensee is not to enter the OB unit at the hospital except in life threatening situations, which would require a medically necessary procedure to be conducted by Licensee.
14. 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 the allegations contained in the above paragraphs in any further proceeding before this Board.

15. A protective order is hereby entered to protect all confidential information under
confidential
16. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836.
17. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(12) by engaging in conduct likely to deceive, defraud or harm the public.
18. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions 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.
19. 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.
20. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 25 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
21. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action as a condition to being granted change of status from inactive to active licensure to engage in the practice of medicine and surgery:

MONITORING

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confidential

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confidential

For any period(s)

of time that Licensee is not actively practicing the healing arts in Kansas, the monitoring provisions of this Consent Order shall be tolled and not be counted in reducing the required timeframe for monitoring.

h. Licensee shall within 48 hours notify the Board or its designee of any citation, arrest or charge filed against him, in municipal, district or federal

court, or of any conviction for traffic or criminal offenses or finding of adjudication and/or judgment in any civil matter.

- i. Licensee shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.
- j. Licensee shall not practice medicine and surgery unless he has a female chaperone in the room at all times he is present with any female patient. The chaperone shall be an adult and must be identified to Board staff by Licensee. The chaperone must be approved by the Board and/or its designee and such approval will not be unreasonable withheld.
- k. For a period of at least one (1) year, the chaperone shall be required to create and maintain a daily log identifying all female patients seen in the office that day, and certifying their presence for all female patients seen in the office that day. Such daily logs must be submitted to the Board on a monthly basis and must be received on or before the 15th day of the following month. Licensee is responsible for ensuring that the daily logs are submitted to the Board.
- l. Licensee shall follow all court orders.
- m. All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Complaint Coordinator, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

LIMITATION TIMEFRAME

n. The above monitoring provisions and limitations are not self-terminating. After a period of five (5) years, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing medicine and surgery in Kansas, the monitoring provisions and limitations will remain in effect but will be tolled and not counted towards reducing the five (5) year timeframe.

22. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice medicine and surgery in the State of Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

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 any 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, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.
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. 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 upon meeting all technical requirements for licensure, Applicant shall be granted a change of status from inactive to active license.

IT IS FURTHER ORDERED that:

MONITORING

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confidential

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of time that Licensee is not actively practicing the healing arts in Kansas, the monitoring provisions of this Consent Order shall be tolled and not be counted in reducing the required timeframe for monitoring.

- h. Licensee shall within 48 hours notify the Board or its designee of any citation, arrest or charge filed against him, in municipal, district or federal court, or of any conviction for traffic or criminal offenses or finding of adjudication and/or judgment in any civil matter.
- i. Licensee shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.
- j. Licensee shall not practice medicine and surgery unless he has a female chaperone in the room at all times he is present with any female patient. The chaperone shall be an adult and must be identified to Board staff by Licensee. The chaperone must be approved by the Board and/or its designee and such approval will not be unreasonable withheld.

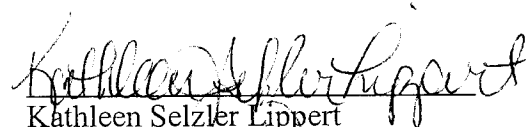
- k. For a period of at least one (1) year, the chaperone shall be required to create and maintain a daily log identifying all female patients seen in the office that day, and certifying their presence for all female patients seen in the office that day. Such daily logs must be submitted to the Board on a monthly basis and must be received on or before the 15th day of the following month. Licensee is responsible for ensuring that the daily logs are submitted to the Board.
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IT IS SO ORDERED on this 11 day of April, 2011.

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


Kathleen Selzler Lippert
Executive Director

4/19/11
Date

Daniel L. Myers
Daniel L. Myers, M.D.
Licensee

2/23/11
Date

PREPARED AND APPROVED BY:

Stacy R. Bond

Stacy R. Bond #17673
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
785-296-3268

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 30th day of April, 2011, to the following:

Daniel L. Myers, M.D.
Licensee
Box 804
Iola, Kansas 66749

And the original was hand-filed with:

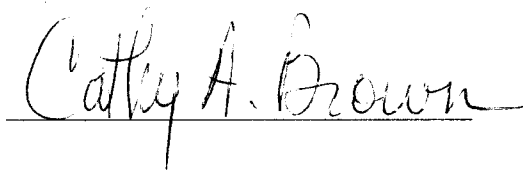
Kathleen Selzler Lippert
Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

Stacy R. Bond
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Melissa Massey
Compliance Coordinator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
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Katy Lenahan
Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612



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