

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

OCT 17 1994

**KANSAS STATE BOARD OF
HEALING ARTS**

IN THE MATTER OF)
)
ROBERT A. NASH, M.D.)
Kansas License No. 04-10914)
_____)

STIPULATION AND AGREEMENT
AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts ("Board") by and through Kevin K. LaChance, Disciplinary Counsel, and Robert A. Nash, M.D. ("Licensee") 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. K.S.A. 65-2801, et seq; K.S.A. 65-2869.

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 number 04-10914 on June 15, 1955. At all times relevant to the allegations set forth below, Licensee has held a current license to engage in the practice of medicine and surgery in the state of Kansas, having last renewed his license on June 23, 1994.

3. It is alleged that Licensee has committed acts or conduct which violate the provisions of the Healing Arts Act, K.S.A. 65-2801 et seq.; K.S.A. 65-2836. Specifically, it is alleged that Licensee entered into a Consent Decree with the Wyoming Board of Medicine memorialized in a document effective January 4, 1994. Licensee agreed to certain limitations on his license to practice medicine and surgery in the state of Wyoming. A certified copy of said action is in possession of the Board disciplinary staff. Such limitation constitutes a violation of K.S.A. 65-2836(j), in that Licensee's license to practice medicine and surgery has been limited by

the proper licensing authority of another state. Licensee disputes the validity of the complaints made against him.

4. Such acts or conduct as set forth above could constitute grounds for disciplinary action by the Board pursuant to the abovestated provisions of the Healing Arts Act. Under the provisions of K.S.A. 65-2838(a), the Board has jurisdiction to impose appropriate discipline if a licensee to the Board has engaged in any commissions or omissions to bring licensee within the purview of 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 and Enforcement Order ("Stipulation") without the necessity of proceeding to a formal hearing. Licensee voluntarily and affirmatively waives his right to a hearing pertaining to any matter under the jurisdiction of the Board regarding his license to engage in the practice of medicine and surgery. Licensee voluntarily and knowingly waives his right 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 waive any and all substantive and procedural motions and defenses that could be raised if an administrative hearing would be held.

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. Upon signature by Licensee to this document, it shall be deemed a unilateral contract and agreement and shall bind Licensee to the terms and conditions set forth in the Stipulation whether or not the Board's signature is affixed to the document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

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

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

b) Licensee admits that this Stipulation and the filing of such a document are in accordance with the requirements of law; that the Board has jurisdiction to consider the Stipulation and is lawfully constituted to consider this matter to include consideration of this Stipulation. Licensee further notes that the Kansas Healing Arts Act is constitutional on its face and as applied in this case. Licensee further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provision of law.

c) In lieu of the initiation of formal proceedings and/or findings by the Board, Licensee, by signature attached to this Stipulation and Agreement, hereby voluntarily agrees to the following disciplinary measures placed on his license to engage in the practice of medicine and surgery in the State of Kansas:

i) Licensee's license is hereby permanently limited from providing or performing any counselling or treatment to any female patient unless a female attendant is physically present in the examining or counselling room or area at all times. Such attendant shall be another physician, a nurse or a social worker.

ii) Licensee shall provide to the Board not later than November 1, 1994, written certification of his attendance and successful completion of the "Patient-Therapist Relationships: Critical Issues of the 90s" seminar presented by the Menninger Clinic of Topeka, Kansas.

iii) Licensee shall notify the Disciplinary Counsel in writing ninety (90) days in advance of his request to change the status of his license in the State of Kansas. Licensee agrees that he bears the burden of proof in showing that he is fit and able to practice medicine and surgery in the State of Kansas beyond the terms of the exempt status for which he last renewed his license.

Licensee's agreement to the above terms pertaining to his license are evidenced by his signature affixed to this document.

d) Licensee's failure to comply with the provisions of the Stipulation will result in the Board taking disciplinary action as the Board deems appropriate in compliance with the Kansas Administrative Procedure Act and/or the terms of this Stipulation.

It is further understood that if Licensee fails to fulfill any of the obligations under the Stipulation, the Board will be released from the Stipulation and shall be free to take whatever steps it deems appropriate to include exercise of its right to issue a Summary Revocation Order as set forth below.

Licensee acknowledges that proof submitted to the Board by an Affidavit or other form that Licensee has failed to meet the conditions of the Stipulation or any provision of Kansas law shall be deemed good and sufficient evidence to support the alleged violation to determine non-compliance with this Stipulation.

Any breach of the Stipulation may result in the Board issuing a Summary Revocation Order of Licensee's license to engage in the practice of medicine and surgery in the State of Kansas in which Licensee agrees not to contest, defend, or challenge in any civil or administrative proceeding.

e) Nothing in this agreement 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 unknown and are not covered under the conditions of this Stipulation and Agreement or subsequent acts which are unknown to the Board or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act, including the information which provides the basis for this Stipulation.

f) This Stipulation constitutes the entire agreement between the parties and may only be modified and/or amended by a subsequent document executed in the same manner by the parties.

g) Licensee acknowledges that he has read this Stipulation and fully understands the Contents. Licensee acknowledges that this Stipulation and Agreement has been entered in freely and voluntarily given.

h) Licensee hereby releases the Board, its employees and agents, from all claims to mean those damages, actions, liabilities and causes of actions, 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 discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this Stipulation and Agreement or the contents of this Stipulation and Agreement.

i) Licensee acknowledges that this document shall be deemed a public disciplinary record upon Licensee's signing this document, whether or not an authorized Board signature appears on same, and shall be reportable to the National Databank, Federation of State Medical Boards, and other reporting agencies.

6. All correspondence or communication between Licensee and the Board shall be by certified mail addressed to Kansas State Board of Healing

Arts, ATTENTION: Disciplinary Counsel, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

7. 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 Stipulation and Agreement or may become effective subsequent to the execution of this document.

8. Licensee has an affirmative duty to notify the Board of changes in his personal professional status which would inhibit the compliance with the above conditions in the Stipulation.

9. 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 under K.S.A. 65-2838. This Stipulation and Agreement and Enforcement 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.

IN WITNESS WHEREOF, the parties have executed this agreement on the 17th day of October, 1994.

KANSAS STATE BOARD OF HEALING ARTS

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

October 17, 1994.
Date

Robert A. Nash, M.D.
Robert A. Nash, M.D.
Licensee

Sept 19, '94
Date

Prepared and Approved As To Form By:

~~_____~~
Kevin K. LaChance, #15058
Disciplinary Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
(913) 296-7413

CERTIFICATE OF SERVICE

I, Kevin K. LaChance, Disciplinary Counsel, certify that on this 18th day of October, 1994, a true and correct copy of the above **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** was deposited in the United States mail, first class, postage prepaid, addressed to the following:

Robert A. Nash, M.D.
P.O. Box 177
Evanston, Wyoming 82931-0177

and the original was hand-delivered to:

Office of the Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068



Kevin K. LaChance