

**FILED**

APR 26 2013

KS State Board of Healing Arts

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

In the Matter of	)	
	)	Docket No. 13-HA 000 75
William A. Pankey, M.D.	)	
Kansas License No. 04-36170	)	

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**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts, (“Board”), by and through Jessica A. Bryson, Associate Litigation Counsel (“Petitioner”), and William A. Pankey, M.D. (“Applicant”), *pro se*, and move the Board for approval of a Consent Order affecting Applicant’s license to practice medicine and surgery in the State of Kansas.

The Parties stipulate and agree to the following:

1. Applicant’s last known mailing address to the Board is: Confidential  
Olathe, Kansas 66061.
2. On or about September 13, 2012, Applicant submitted to the Board an application for licensure in medicine and surgery. Such application was deemed complete and filed with the Board on April 10, 2013.
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

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Consent Order  
William A. Pankey, M.D.

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. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. 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.
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. Applicant 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 Applicant's license under the Kansas Healing Arts Act, K.S.A.65-2801, *et seq.*
9. In his application for licensure, Applicant disclosed that he had not actively practiced clinical medicine since December 2009.

10. Based on Applicant's disclosure that he had not actively practiced medicine since December 2009, he was referred to the Center for Personalized Education for Physicians (CPEP).

11. After an evaluation and assessment of his clinical skills by CPEP in January 2013, CPEP recommended that Applicant needed education in the following areas:

Confidential

12. CPEP also recommended Confidential

Confidential

13. Applicant acknowledges that if formal hearing proceedings were conducted and Applicant presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Applicant has violated the Kansas Healing Arts Act with respect to the above allegations. Applicant further waives

his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

14. Applicant's acts, if proven, constitute unprofessional conduct or professional incompetency as set forth in K.S.A. 65-2836, as more specifically defined by K.S.A. 65-2837(a)(3), in that Applicant's lack of active clinical practice for two or more years constitutes a manifest incapacity to practice the healing arts.
15. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Applicant's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
16. According to K.S.A.65-2838(b) and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
17. All pending investigation materials in KSBHA Investigative Case Number 13-00197 regarding Applicant, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 27 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
18. Applicant further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Applicant 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 Applicant's license to practice medicine and surgery in the State of

Kansas. Applicant hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Applicant 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, Applicant 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.*

19. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas 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 Consent Order, or to initiate formal proceedings based upon known or unknown allegations of violations of the Kansas Healing Arts Act.

20. Applicant 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 Judicial Review Act, 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 Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and

Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

21. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.
22. 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.
23. 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.
24. Applicant, 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.
25. Applicant acknowledges that he has read this Consent Order and fully understands the contents.

26. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.
27. All correspondence or communication between Applicant 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.
28. 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 Consent Order or may become effective subsequent to the execution of this document.
29. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final 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.
30. This Consent Order does not constitute disciplinary action.
31. The Board may consider all aspects of this Consent Order in any future matter regarding Applicant.
32. Applicant understands that, upon Applicant's signing this Consent Order and returning it to the Board and abiding by the terms of this Consent Order, his Exempt license shall be changed to Active status. Applicant further understands that the Active Status is only effective until a conference hearing is held by the Board on ratification of this Consent Order and that if the Board fails to ratify this

Consent Order, the Active status of his license shall immediately return to Exempt status at the conclusion such hearing. If the Board ratifies this Consent Order, Applicant's license shall remain in Active status and be subject to renewal criteria as set forth under the Kansas Healing Arts Act, K.S.A. 65-2801, *et. seq.*

33. In lieu of conducting a formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following non-disciplinary action as a condition to being granted an active license to engage in the practice of medicine and surgery:

#### **EDUCATION**

34. Licensee shall attend and successfully complete continuing education courses that address the following topics:
- a. Fever in infants, indications for lab evaluation;
  - b. Causes of and evaluation of systolic murmurs in newborns;
  - c. Supraventricular tachycardia, management;
  - d. Evaluation of a child who is not walking;
  - e. Signs of formula intolerance;
  - f. Esotropia, age at which diagnosis may be made;
  - g. Wilms' tumor, presentation;
  - h. Use of Miralax for constipation;
  - i. Hip dysplasia: diagnosis, treatment, and prognosis; and
  - j. Management of nursemaid's elbow.

35. These courses shall be at Applicant's own expense. The courses must be pre-approved by the appointed member of Disciplinary Panel 27. Applicant shall provide proof of successful completion by August 30, 2013.
36. These hours shall be in addition to those hours required for renewal of licensure.
37. The Board designates the designated Disciplinary Panel #27 member to review and approve/disapprove of the proposed continuing education courses.

### **MONITORING**

38. Applicant agrees to allow 100% of his practice of medicine and surgery to be monitored by a practice monitor for a minimum of six (6) months.
39. Applicant agrees to have a Board-approved practice monitor, who is another Kansas-licensed physician, to review 100% of the practices and procedures of Applicant's office to ensure compliance with community and ethical standards. Applicant shall bear all expenses associated with the practice monitor.
40. On or before May 29, 2013, Applicant shall submit the curriculum vitae of a proposed practice monitor and a plan of supervised practice for approval to the appointed member of Disciplinary Panel 27.
41. The practice monitor shall submit monthly monitoring reports (July 15<sup>th</sup>, August 15<sup>th</sup>, September 15<sup>th</sup>, October 15<sup>th</sup>, November 15<sup>th</sup>, and December 15<sup>th</sup>) to the Board on a form provided by Board staff. Such monitoring reports shall include a summary of whether Applicant is seeing, examining, and treating patients, documenting appropriately in the medical record, and performing medical procedures within the standard of care. Applicant is responsible for ensuring that the practice monitor's reports are submitted by the monthly deadlines.

42. The Board designates the designated Disciplinary Panel #27 member to review and approve/disapprove of the proposed practice monitor and plan of supervised practice.
43. Applicant is responsible for ensuring the monitor's timely submission of the report each month. For any period(s) of time that Applicant 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 agreed timeframe for monitoring.
44. Applicant will furnish a copy of this Consent Order to each and every state in which he holds licensure or applies for licensure and to an appropriate work site supervisor or personnel.
45. Applicant shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Applicant shall provide the above information in writing to the Board within ten (10) days of any such change.

#### **TIMEFRAME**

46. The above monitoring provisions are not self-terminating. After a period of at least six (6) months, Applicant may request modification or termination of the provisions. For any period of time that Applicant is not actively practicing medicine and surgery in Kansas, the monitoring provisions will remain in effect but will be tolled and not counted towards reducing the one six (6) month timeframe.

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

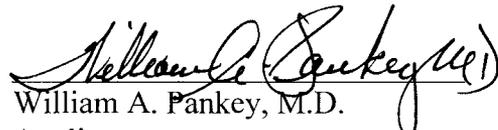
**IT IS FURTHER ORDERED** that upon meeting all technical requirements for licensure, Applicant shall be granted an active license, pursuant to the conditions above.

**IT IS SO ORDERED** on this 26<sup>th</sup> day of April, 2013.

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

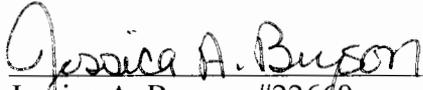
  
Kathleen Selzler Lippert  
Executive Director

4/26/13  
Date

  
William A. Pankey, M.D.  
Applicant

4 April 2013  
Date

PREPARED AND APPROVED BY:

  
\_\_\_\_\_

Jessica A. Bryson, #22669  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson Ave, Lower Level Ste A  
Topeka, Kansas 66612  
785-296-8022

**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 26<sup>th</sup> day of April, 2013, to the following:

William A. Pankey, M.D.  
Applicant  
Confidential  
Olathe, KS 66061.

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:

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

Compliance Coordinator  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

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

