

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

KS State Board of Healing Arts

In the Matter of)
)
K. Dean Reeves, M.D.)
Kansas License No. 04-19247)
)

Docket No.: 12-HA00072

CONSENT ORDER

COMES NOW the Kansas State Board of Healing Arts (“Board”), by and through Joshana L. Offenbach, Associate Disciplinary Counsel (“Petitioner”) and K. Dean Reeves, M.D., (“Licensee”), by and through his counsel, Thomas W. Harris, and move the Board for approval of 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: CONFIDENTIAL
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. 04-19247 on approximately July 1, 1981, and having last renewed such license on approximately May 29, 2011.
3. At all times relevant to the facts set forth in this Consent Order Licensee has held a current and active license to engage in the practice of medicine and surgery in the State of Kansas.
4. 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.*
5. 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.
6. The Kansas Healing Arts Act is constitutional on its face and as applied in this case. 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 there are grounds pursuant to K.S.A. 65-2836, 65-2837, 65-2865, and K.A.R. 100-21-2, 100-21-5, 100-24-1, 100-25-2, 100-25-3 and 100-25-5 to take disciplinary action with respect to Licensee's license under the Kansas Healing Arts Act.
10. Specifically, Petitioner alleges that in the course of evaluating and treating patients licensee failed to meet the applicable standard of care in that:
 - a. Licensee failed to properly use and/or document image guidance when performing prolotherapy.
 - b. Licensee failed to properly pair prolotherapy with physical therapy, spinal manipulation, or other procedures when treating back pain.
 - c. Licensee failed to properly maintain adequate medical records including, but not limited to, documenting what injectate was used and the volume given.
 - d. Licensee failed to adequately document the patient's pain level in the medical records.
 - e. Licensee failed to document the technique used when he performed selective injection therapy without image guidance.
 - f. Licensee failed to clearly and accurately document the type and amount of sedation given.

- g. Licensee failed to clearly and accurately document the time the sedation was given.
- h. Licensee failed to properly document which individual administered the conscious sedation.
- i. Licensee failed to properly document the procedure start times.
- j. Licensee failed to properly document the sedation start times.
- k. Licensee failed to properly maintain a signed vital sheet which confirmed the adequacy of the safety equipment available during the sedation procedure.
- l. Licensee inappropriately performed conscious sedation on patients that had eaten at least six (6) to eight (8) hours prior to the procedure.
- m. Licensee failed to properly ensure that all controlled drugs were securely stored to prevent theft or tampering.
- n. Licensee failed to properly ensure all “non-controlled” drugs were stored in a manner which deterred theft or tampering.
- o. Licensee failed to properly notify the Board in writing within fifteen (15) calendar days following the discovery of an unscheduled admission of a patient to a hospital within seventy-two (72) hours after Licensee performed prolotherapy.
- p. Licensee failed to properly label pre-filled bottles containing various medications.
- q. Licensee failed to properly perform and document a preoperative anesthetic risk evaluation and risk rating in patient medical records.
- r. Licensee failed to properly perform and document the post-anesthesia recovery rating in patient medical records.
- s. Licensee failed to properly document that continuous electrocardiography monitoring was used for each patient receiving intravenous anesthesia.
- t. Licensee failed to properly document that there was monitoring for ventilation which would have included palpation or observation of the reservoir breathing bag and auscultation of breath sounds.
- u. Licensee failed to document what type of blood circulation monitoring was used.
- v. Licensee failed to obtain proper informed patient consent.
- w. Licensee failed to document legibly in the patient medical records and those records were not sufficiently detailed.

- i. Licensee failed to document a detailed assessment and problem list.
 - ii. Licensee failed to document a detailed record of the patient's history of pain and prior treatments sought for the pain.
 - iii. Licensee failed to document referrals in the medical records.
 - iv. Licensee failed to document discussions with parents or legal guardians when treating a minor.
 - v. Licensee failed to list diabetes on his Health History Questionnaire even though he uses substances that may impact blood sugar levels.
11. Licensee consents to a finding that there are grounds for disciplinary action against his license pursuant to K.S.A. 65-2836(b) as further defined by K.S.A., 65-2837(a)(2), 65-2837(b)(12), 65-2837(b)(24), 65-2837(b)(27), 65-2836(k) for violations of K.A.R. 100-21-2, 100-21-5, 100-24-1(b)(1), 100-24-1(b)(2), 100-24-1(b)(5), 100-24-1(b)(6), 100-24-1(b)(8), 100-24-1(b)(9), 100-24-1(b)(10), 100-24-1(c), 100-25-2(b)(3)(A), 100-25-3(c)(4), 100-25-3(d)(1), 100-25-3(d)(2), 100-25-3(d)(3), 100-25-3(d)(5), 100-25-3(d)(6)(A)-(E), 100-25-3(e)(2)(C), and 100-25-5.
12. 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 Kansas Healing Arts Act with respect to the one or more of the above allegations and findings. Licensee further waives his right to dispute or otherwise contest the allegations contained in this Consent Order in any future proceeding before this Board.
13. Licensee's acts as alleged above constitute violations of the Kansas Healing Arts Act as set forth in K.S.A. 65-2836, as further defined by K.S.A. 65-2837.
14. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place Licensee's license under probationary conditions. Pursuant to K.S.A. 65-2863a, the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
15. 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.
16. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members 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.

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

PROBATION

18. Licensee's license is hereby placed on PROBATION, commencing upon the filing of this Consent Order with the Board. The terms of such PROBATION are as follows:

I. Education

- (a) Licensee has successfully completed The Center for Personalized Education (CPEP) course entitled, "Patient Care Documentation Seminar and Personalized Implementation Program (PIP)" at his own expense. The Board shall bear no responsibility or liability for the associated costs.
- (b) Licensee has provided proof which shows he has contacted CPEP and enrolled in the Patient Care Documentation Seminar. Licensee executed all necessary releases to ensure that all CPEP reports regarding Licensee's participation in and completion of the PIP are sent directly to the Board from CPEP.
- (c) Licensee has provided proof of successful completion of the Patient Care Documentation Seminar to the Board's Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level Suite A, Topeka, Kansas 66612.
- (d) Licensee has provided documentary proof of successful and timely completion of the (PIP) to the Board. Such documentary proof was submitted to the Board's Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level Suite A, Topeka, Kansas 66612.
- (e) Within 10 (ten) days of the signing of this Consent Order, Licensee shall make contact with the University of Kansas Medical Center Office of Compliance in order to sign up for proper **human subjects training** through CITI Collaborative Institutional Training Initiative (www.citiprogram.org). Licensee shall provide documentary proof of successful and timely completion of the class to the Board.

Such documentary proof shall be submitted to the Board's Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level Suite A, Topeka, Kansas 66612.

II. Practice Inspections and Monitoring

- (f) Licensee shall develop and implement a practice plan which addresses documented deficiencies in order to achieve compliance with all applicable provisions of the Healing Arts Act, as well as specific office-based surgery regulations. Licensee shall be responsible for all costs and expenses associated with any changes to his practice due to development and implementation of the plan.
- (g) No later than thirty (30) days after this Consent Order is filed with the Board, Board investigative staff will perform an inspection of Licensee's office-based surgery practice to determine if Licensee is complying with all applicable provisions of the Healing Arts Act, as well as specific office-based surgery regulations.
- (h) If the inspection reveals that Licensee is not in substantial compliance with the applicable provisions of the Healing Arts Act, as well as specific office-based surgery regulations, Licensee shall immediately cease office-based surgery practice. If Licensee does not voluntarily cease practice, the Board may seek an emergency suspension of licensure or limitation on Licensee's scope of practice.
- (i) Subsequent to the signing of this Consent Order, Licensee shall be subject to random office-based surgery inspections by Board investigative staff and annual compliance inspections until compliance is demonstrated by at least two (2) consecutive inspections without significant issues of non-compliance.
- (j) For each office-based surgery patient, Licensee shall perform office-based surgery in a manner which meets the applicable standard of care, including but not limited to the following:

Prolotherapy

- a. Licensee shall frequently use and document image guidance when performing selective injection therapy, such as prolotherapy.
- b. Licensee shall whenever possible pair prolotherapy with physical therapy, spinal manipulation, or other appropriate treatments when treating back pain

and give reasonable consideration to the merit of other current treatment choices along with prolotherapy.

- c. Licensee shall document what other treatments have been received by the patient.
- d. Licensee shall maintain adequate medical records including, but not limited to, documenting the particular injectate used and the volume given at each therapy session, and adequately documenting the patient's pain level.
- e. Licensee shall document the technique used when performing selective injection therapy without image guidance.

Sedation

- f. Licensee shall clearly and accurately document the type and amount of sedation given and the time given.
- g. Licensee shall clearly and accurately document the name and credentials of the individual administering the conscious sedation.
- h. Licensee shall clearly and accurately document procedure start times.
- i. Licensee shall clearly and accurately document sedation start times.
- j. Licensee shall maintain a signed vitals sheet which clearly and accurately confirms the adequacy of the safety equipment available during the sedation procedure.
- k. Licensee shall perform and document a preoperative anesthetic risk evaluation and risk rating, as well as a post-anesthesia recovery rating, in each applicable patient record.
- l. Licensee shall ensure continuous electrocardiography monitoring is used for each patient receiving intravenous anesthesia and have appropriate electronic documentation of the same.
- m. Licensee shall ensure and document for each patient receiving intravenous anesthesia the patient is monitored for proper ventilation to include palpation or observation of the reservoir breathing bag and auscultation of breath sounds.
- n. Licensee shall document what type of blood circulation monitoring is used for each patient.

- o. Licensee shall ensure and document confirmation that each patient has not consumed any food at least six (6) to eight (8) hours prior to any procedure in which conscious sedation is administered.

Medications

- p. Licensee shall ensure and provide proof that all controlled drugs are securely stored to prevent theft or tampering.
- q. Licensee shall ensure and provide proof that all “non-controlled” drugs are stored in a manner which deters theft or tampering.
- r. Licensee shall ensure pre-filled bottles containing medications have proper labels to include type of medication, lot number, and expiration dates, as well as other relevant information.

Notification to Board

- (k) Following the discovery of any of the following events, Licensee shall notify the Board in writing within fifteen (15) calendar days of:
 - a. The death of a patient during any office-based surgery or special procedure, or within seventy-two (72) hours thereafter.
 - b. The transport of a patient to a hospital emergency department.
 - c. An unscheduled admission of a patient to a hospital within 72 hours of discharge; if the admission is related to the office-based surgery or special procedure.
 - d. An unplanned extension of the office-based surgery or special procedure more than four (4) hours beyond the planned duration of the surgery or procedure being performed.
 - e. Discovery of a foreign object erroneously remaining in a patient from an office-based surgery or special procedure performed at Licensee’s office.
 - f. The performance of the wrong surgical procedure, surgery on the wrong site, or surgery on the wrong patient.

Experimental Treatment

- (l) When using experimental forms of therapy that do not conform to the generally accepted criteria or standard protocols, Licensee shall obtain proper informed patient consent, keep detailed legible records, and have periodic analysis of the study and

results reviewed by a committee or peers to ensure he is not in violation of K.S.A. 65-2837(b)(27).

(m) Licensee shall strictly follow the guidelines for Protection of Human Subjects as clearly listed in the Code of Federal Regulations. 21 C.F.R. § 50 (2011).

- a. The consent form shall follow all the requirements as listed in the Code of Federal Regulations and detail the patient's role in the study.
- b. The consent form for a study shall be separate and distinct any other consent form.
- c. Institutional review board (IRB) approval shall be from the United States, not other countries, for any and all patients located in the United States.

19. Licensee understands and acknowledges the period of probation imposed by this Consent Order is not self-terminating. Licensee may petition the Board for termination of his probation after successful completion of all education requirements and at least two (2) consecutive annual office-based surgery inspections which demonstrate substantial compliance with the applicable provisions of the Healing Arts Act, as well as specific office-based surgery regulations. Licensee further understands and acknowledges the Board may investigate any complaints regarding his office-based surgery practice and the Board will continue to inspect his office-based surgery practice in a manner consistent with the Board's customary office-based surgery inspection program.

20. Licensee further understands and agrees that if the Board finds, after due written notice and a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may 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.*

21. 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. 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 Kansas Healing Arts Act.
22. 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 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 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.
23. 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.
24. 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.
25. 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.
26. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the 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.


27. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
28. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
29. All reports, proof of completed continuing education courses, or other written documentation required by the Consent Order including immediately reporting any compliance problems the Licensee is aware of, and all correspondence or communication from Licensee to the Board relating to the Consent Order shall be sent by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 800 SW Jackson Street, Lower Level Suite A, Topeka, Kansas 66612.
30. 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.
31. 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.
32. This Consent Order constitutes disciplinary action.
33. 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.

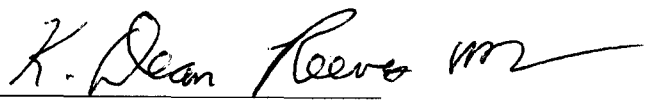
IT IS FURTHER ORDERED that the Board will retain jurisdiction over this matter and this Licensee.

IT IS SO ORDERED on this 13th day of April, 2012.

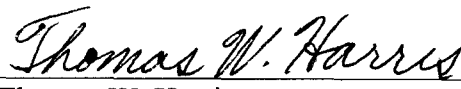
**FOR THE KANSAS STATE BOARD OF
HEALING ARTS:**


Kathleen Selzler Lippert
Executive Director

4/13/12
Date



K. Dean Reeves, M.D.
Licensee

2/07/12
Date


Thomas W. Harris
Attorney for Licensee

2/7/2012
Date

PREPARED AND APPROVED BY:


Joshana L. Offenbach, #23438
Associate Disciplinary Counsel
Kansas Board of Healing Arts
800 SW Jackson Street, Lower Level Suite A
Topeka, Kansas 66612
785-296-5940

CERTIFICATE OF SERVICE

I, Cathy A. Brown, hereby certify that I served a true and correct copy of the **Consent Order** by United States mail, postage prepaid, on this 16th day of April, 2012, to the following:

Thomas W. Harris
Attorney for Licensee
4900 Johnson Dr.
Roeland Park, KS 66205

K. Dean Reeves, M.D.
CONFIDENTIAL

And the original filed with the office of:

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

And a copy was hand-delivered to:

Joshana L. Offenbach
Associate Disciplinary Counsel
Kansas State Board of Healing Arts
800 SW Jackson Street, Lower Level Suite A
Topeka, Kansas 66612

Melissa Massey
Compliance Coordinator
Kansas State Board of Healing Arts
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Cathy A. Brown