

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

FILED 

OCT 10 2005

KS State Board of Healing Arts

In the Matter of)
)
PAUL L. RODRIGUEZ, M.D.,)
License No. 04-14664)
)
Application for Status Change)
_____)

Docket No. 06-HA- 00027

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (“Board”) by and through Kelli J. Stevens, Litigation Counsel (“Petitioner”), and Paul L. Rodriguez, M.D. (“Licensee”) appearing *pro se*, and move the Board for approval of a Consent Order granting Licensee’s request for status a status change from inactive to active status regarding his license to practice the healing arts in the State of Kansas. The parties stipulate and agree to the following:

1. 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.*; K.S.A. 65-2869

2. Licensee admits that this Consent Order (“Consent Order”) and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Consent Order.

3. Licensee agrees that the Healing Arts Act is constitutional on its face and as applied in this case, and that in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

4. Licensee’s mailing address as provided to the Board is 1221 West Country Club, Elk City, Oklahoma, 73644.

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

RECD SEP 27 2005

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1. 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.*; K.S.A. 65-2869
2. Licensee admits that this Consent Order (“Consent Order”) and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Consent Order.
3. Licensee agrees that the Healing Arts Act is constitutional on its face and as applied in this case, and that in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
4. Licensee’s mailing address as provided to the Board is 1221 West Country Club, Elk City, Oklahoma, 73644.

5. Licensee was originally granted licensure on or about January 9, 1971, and presently holds an inactive license.

6. On or about November 4, 2004, the Oklahoma State Board of Medical Licensure and Supervision (“Oklahoma Board”) took disciplinary action against Licensee’s license in that state. Specifically, the Oklahoma Board suspended Licensee’s Oklahoma license for a period of six (6) months; restricted his license such that Licensee not be allowed to supervise physician assistants; and fined Licensee in the amount of \$15,000.00.

7. The Oklahoma Board’s disciplinary action was based upon their finding that Licensee allowed an unlicensed individual to operate a laser owned by Licensee to treat patients and wrote or authorized prescriptions for both controlled and non-controlled substances for patients treated by the unlicensed individual.

8. Licensee’s controlled substance registration with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control (“OBND”) is presently limited to Schedule 4 and 5 controlled substances.

9. On or about March 21, 2005, the Medical Board of California (“California Board”) suspended Licensee’s license in that state due to the action taken by the Oklahoma Board. Licensee is in the process of entering into a settlement with the California Board which would place Licensee’s California license on probation for five (5) years and require Licensee to have a practice monitor and complete a prescribing continuing education course and an ethics continuing education course.

10. On or about August 18, 2005, the Colorado State Board of Medical Examiners entered into a Stipulation and Final Agency Order with Licensee which limits Licensee’s practice in that state to hospital-based teleradiology.

11. 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.

12. This Consent Order and the filing of such document are in accordance with applicable law and the Board may enter into an informal settlement of this matter as provided in K.S.A. 77-505, without the necessity of proceeding to a formal hearing.

13. Licensee voluntarily and knowingly waives his right to a hearing under the Kansas administrative procedure act, K.S.A. 77-501 *et seq.* 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.

14. 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.

15. In lieu of conducting formal proceedings and/or the making of findings by the Board, Licensee, by his signature affixed to this Consent Order, hereby voluntarily agrees to the following limitation as a condition to being granted active status of his license to engage in the practice of medicine and surgery in the State of Kansas:

- a. Licensee's license in Kansas is **LIMITED** to the practice of non-invasive radiology. Licensee shall not prescribe medications or engage in any other area

of the clinical practice of medicine and surgery without further approval by the Board.

16. Upon approval of the same, the provisions in this Consent Order shall constitute the findings of the Board, and this Consent Order shall be the Board's Final Order.

17. Licensee shall be required to petition the Board for termination of the limitation. If Licensee petitions the Board for termination, the Board may require Licensee to complete such additional testing, training or education necessary to establish the Licensee's present ability to engage other areas of the clinical practice of medicine and surgery with reasonable skill and safety.

18. Licensee's failure to comply with the provisions of this Consent Order will result in the Board taking immediate disciplinary action, as the Board deems appropriate, according to the Kansas Administrative Procedure Act.

19. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Healing Arts Act, K.S.A. 65-2801, *et seq.*, 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 Healing Arts Act, K.S.A. 65-2801, *et seq.*

20. Licensee hereby releases the Board, its individual members (in their official and personal capacities), 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

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time of this release or might have had, either known or unknown, suspected or unsuspected, in

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

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21. Licensee further understands and agrees that upon his signing the Consent Order, this document shall be deemed a public record, and shall be reported to the National Practitioner Databank, the Federation of State Medical Boards and all other reporting entities requiring disclosure of this 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. 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.

24. Licensee, by signature to this document, waives any objection to the participation of the Board members in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

25. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

26. Licensee acknowledges that he has read this Consent Order and fully understands the contents, and that this Consent Order has been entered into freely and voluntarily.

27. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be by certified mail addressed the Kansas State Board of Healing Arts, Attn: Kelli J. Stevens, 235 S. Topeka Blvd., Topeka, KS 66603-3068.

28. Licensee shall obey all federal, state and local laws and rules governing the practice of the healing arts in the State of Kansas that may be in place at the time of execution of this 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 and Order under K.S.A. 65-2838. This Consent Order shall constitute that Board's Order when filed with the Office of the Executive Director for the Board and no further Order is required.

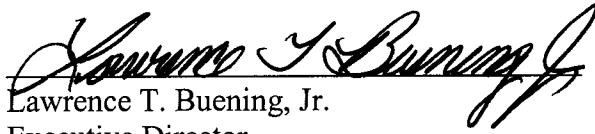
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law and is the Order of the Board.

IT IS FURTHER ORDERED that upon meeting all technical requirements for a status change, Licensee is hereby granted a status change from inactive to active status.

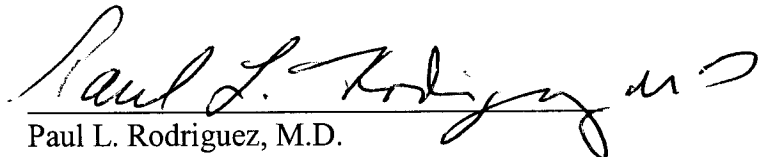
IT IS FURTHER ORDERED that Licensee's license in Kansas is **LIMITED** to the practice of non-invasive radiology. Licensee shall not prescribe medications or engage in any other area of the clinical practice of medicine and surgery without further approval by the Board.

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS



Lawrence T. Buening, Jr.
Executive Director

October 10, 2005
Date


Paul L. Rodriguez, M.D.
Licensee

9-23-05
Date

Prepared by:


Kelli J. Stevens, #16032
Litigation Counsel
Kansas State Board of Healing Arts
235 South Topeka Boulevard
Topeka, Kansas 66603-3068
(785) 296-7413
Attorney for the Board

CERTIFICATE OF SERVICE

I, the undersigned, Kansas State Board of Healing Arts, hereby certify that I served a copy of the above **CONSENT ORDER** by depositing the same in the U.S. mail, postage prepaid, on this the 11th day of October, 2005, addressed to:

Paul L. Rodriguez, M.D.
1221 West Country Club
Elk City, Oklahoma 73644

And a copy was hand-delivered to:

Kelli J. Stevens
Litigation Counsel
Kansas Board of Healing Arts
235 South Topeka Boulevard
Topeka, Kansas 66603-3068

And the original was filed with the office of:

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

