

FILED CAB

AUG 24 2010

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of)
Timothy Sawyer, M.D.)
Kansas License No. 04-23809)

Docket No. 10-HA 00022

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Stacy R. Bond, Associate Litigation Counsel ("Petitioner"), and Timothy Sawyer, 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: (confidential) Topeka, Kansas 66610.
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. 04-23809 on approximately October 19, 1991. Licensee's license is exempt. On or about March 15, 2010, Applicant submitted to the Board an application for change of designation from exempt to active in medicine and surgery. Such application was reviewed and deemed complete by Disciplinary Panel #25 on June 4, 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
Timothy Sawyer, 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. On July 1, 2008, Licensee changed the status of his license from active to inactive.

9. On July 1, 2009, Licensee changed the status of his license from inactive to exempt.
10. For calendar year 2007, Licensee obtained 64.25 hours of continuing medical education, 57.25 of those were Category I hours.
11. For calendar year 2008, Licensee obtained 54.0 hours of continuing medical education, 41.25 of those were Category I hours.
12. For calendar year 2009, Licensee obtained 59.25 hours of continuing medical education, 58.0 of those were Category I hours.
13. It is Licensee's intention to resume active practice of medicine and surgery with the Cotton-O'Neil Clinic in Topeka, Kansas where he previously worked for 17 years. Licensee would be practicing general dermatology along with Dr. Michael Giessel and Dr. Matthew Ricks.
14. Pursuant to K.S.A. 65-2809(f), "For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of the healing arts or engaged in a formal educational program since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety."
15. K.A.R. 100-15-5(b) states, "Each person who applies for conversion of an inactive or exempt license to a regular license or for reinstatement of a cancelled

license and whose license has been inactive, exempt, or cancelled for a period of less than the two-year period immediately preceding the application for conversion shall certify, on a form provided with the conversion or reinstatement application, that the person completed at least 50 credits of continuing education, of which at least 20 credits shall be in category I and the remaining credits in category II.”

16. 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.
17. 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.
18. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following as a condition on his license to engage in the practice of medicine and surgery:

PRACTICE MONITORING

- a. Licensee agrees to Dr. Michael D. Giessel, who is another Kansas-licensed physician, to review the practices and procedures of Licensee’s office to ensure compliance with community and ethical standards. Licensee shall bear all expenses associated with the practice monitor.
- b. The practice supervisor shall submit quarterly reports (July 15th, October 15th, January 15th and April 15th) to the Board on a form provided by Board staff. Such reports shall include a summary of whether Licensee is

Consent Order
Timothy Sawyer, M.D.

seeing patients, documenting in the medical record, and prescribing medications in an appropriate and timely manner. Licensee is responsible for ensuring that the practice supervisor's reports are submitted by the quarterly deadlines.

- c. 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.

TIMEFRAME

- d. The above monitoring provisions and limitations are not self-terminating. After a period of six (6) months, 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 will remain in effect but will be tolled and not counted towards reducing the six (6) month timeframe.

19. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.

20. 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.

21. 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.
22. 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.
23. 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.
24. 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.

25. 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.
26. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
27. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
28. 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, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
29. 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.

30. 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.

31. This Consent Order does not constitute disciplinary action.

32. 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 license designation shall be changed from exempt to active.

IT IS FURTHER ORDERED that:

PRACTICE MONITORING

- a. Licensee agrees to Dr. Michael D. Giessel, who is another Kansas-licensed physician, to review the practices and procedures of Licensee's office to ensure compliance with community and ethical standards. Licensee shall bear all expenses associated with the practice monitor.
- b. The practice supervisor shall submit quarterly reports (July 15th, October 15th, January 15th and April 15th) to the Board on a form provided by Board staff. Such reports shall include a summary of whether Licensee is seeing patients, documenting in the medical record, and prescribing

medications in an appropriate and timely manner. Licensee is responsible for ensuring that the practice supervisor's reports are submitted by the quarterly deadlines.

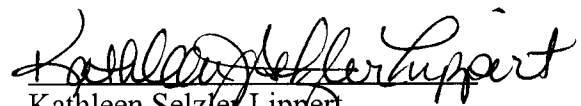
- c. Licensee shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.

TIMEFRAME

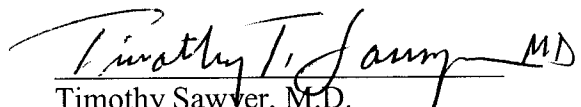
- d. The above monitoring provisions and limitations are not self-terminating. After a period of six (6) months, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing medicine and surgery in Kansas, the monitoring provisions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

IT IS SO ORDERED on this 23rd day of August, 2010.

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


Kathleen Selzer Lippert
Executive Director

8/23/10
Date


Timothy Sawyer, M.D.
Licensee

June 11, 2010
Date

PREPARED AND APPROVED BY:



Stacy R. Bond #17673
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961

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 24th day of August, 2010, to the following:

Timothy Sawyer, M.D.
Licensee
(confidential)
Topeka, Kansas 66610

And the original was hand-filed with:

Kathleen Selzler Lippert
Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Stacy R. Bond
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Melissa Massey
Compliance Coordinator
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Katy Lenahan
Licensing Administrator
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068