

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

OCT 17 1995

KANSAS STATE BOARD OF
HEALING ARTS

In the Matter of)
)
MARK SAYLOR, M.D.)
Kansas License No. 4-13798)
_____)

Case No. 94-00085

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COME NOW the Kansas State Board of Healing Arts ("Board"), by and through its Disciplinary Counsel, Kevin K. LaChance, and Mark Saylor, M.D. ("Licensee"), by and through his attorney, Thomas E. Wright, and stipulate and agree as follows:

1. The Board is the sole and exclusive administrative agency in the State of Kansas statutorily authorized to regulate the practice of the healing arts to include the practice of medicine and surgery pursuant to K.S.A. 65-2801 *et seq.*; K.S.A. 65-2869. Licensee admits that this Stipulation and Agreement and Enforcement Order ("Stipulation") and the filing of such 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.

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 4-13798 on July 1, 1967, having last renewed on July 27, 1995.

3. On August 31, 1994, the board filed a Petition to Revoke, Suspend or Otherwise Limit the Licensee's license to practice medicine and surgery.

4. Information provided to the Board indicates Licensee may have committed acts which, if proven to be true, would constitute violations of the Healing Arts Act, K.S.A. 65-2801 *et seq.*, and may establish grounds for possible disciplinary action. The relevant alleged acts and provisions of the Healing Arts act are specifically delineated as follows:

a) Licensee has had sanctions or disciplinary action taken against him by a peer review committee or health care facility as set forth in K.S.A. 65-2836(s).

b) Licensee has surrendered his membership on the professional staff at a medical care facility while under investigation for acts and conduct which would constitute grounds for disciplinary action under K.S.A. 65-2836, as set forth in K.S.A. 65-2836(u).

c) A settlement was paid on a medical liability claim on behalf of Licensee to the estate and heirs at law of a patient who received medical care from Licensee which constitutes a violation of K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(a).

d) As specifically set forth in the Board's Petition, Licensee may have failed to comply with the applicable standard of care in fourteen cited instances by demonstrating "professional incompetency" in violation of K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(a)(1), (2) and/or (3).

e) As specifically set forth in the Board's Petition, Licensee may have demonstrated "unprofessional conduct" by repeatedly failing to practice the healing arts with that level of care, skill and treatment recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances in violation of K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(b)(24).

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5. Under the provisions of K.S.A. 65-2838(a), the Board has jurisdiction to impose appropriate discipline if a licensee has engaged in any acts bringing the licensee within the purview of K.S.A. 65-2836. Under the provisions of K.S.A. 65-2838(b), the Board has the authority to enter into this Stipulation and Agreement and Enforcement Order ("Stipulation") in lieu of proceeding with formal disciplinary action.

6. It is the intent and purpose of this Stipulation to provide for settlement of all issues without the necessity of proceeding to a formal disciplinary hearing. By executing this Stipulation, Licensee waives all procedural and due process requirements afforded to him by the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*

7. The terms and conditions of this Stipulation are entered into between the parties to become an Order of the Board which shall not become binding on the Board until a Board-authorized signature is affixed on the last page of this document.

8. In lieu of formal proceedings and/or findings by the Board, Licensee, by signature attached to this Stipulation, agrees that the following conditions, restrictions and limitations be placed upon his license:

a) Licensee shall not hold himself out as a surgeon or perform or assist with surgery, except Licensee may perform minor outpatient surgical procedures on superficial structures, specifically, cutaneous incisions. Licensee further agrees he is permitted to take medical histories and perform physical examinations, order outpatient diagnostic laboratory tests and medical imaging studies, and may prescribe medications.

b) Licensee agrees he may practice only in a group setting with ongoing supervision by a licensed physician approved by the Board. Licensee's proposed

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supervising physician and practice setting will be considered at a regularly-scheduled Board meeting. Licensee agrees he will abide by any proctoring and/or peer review required by any facility in which he practices. Licensee must apply to the Board for prior approval of any new scope of practice or procedure, and must submit for approval any change of supervising physician. Licensee agrees that he bears the burden of proof to the Board that such requested expansion is warranted.

c) Confidential

Confidential

d) Confidential

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Such reports

shall be submitted to the Board by March 10, June 10, September 10, and December 10 of each year this Stipulation is in effect.

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e) Licensee agrees he shall obey all federal, state and local government laws and regulations governing the practice of medicine and surgery in the State of Kansas that may be in place at the time of execution of this Stipulation or which may become effective subsequent to the execution of this Stipulation.

f) Licensee agrees he has an affirmative duty to notify the Board of changes in his professional status which would inhibit compliance with the above conditions in this Stipulation.

9. This Stipulation shall remain in effect indefinitely. On the effective date of this Order, Licensee's status shall be converted from inactive to active and Licensee may practice medicine in the State of Kansas pursuant to the terms of this Stipulation.

10. Licensee agrees he must obtain Board approval prior to changing or discontinuing any of the requirements of this Stipulation.

11. This Stipulation 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, except upon violation of the Stipulation by Licensee.

12. Licensee agrees that a violation of any of the terms of paragraph 8 of this Stipulation will require surrender of his license. Within 10 days of service upon Licensee or his attorney of a verified petition or affidavit filed with the Board alleging a violation, Licensee must show cause to the presiding officer why he is in compliance with the Stipulation. If good cause is not shown, Licensee shall surrender his license immediately. Evidence of good cause must be in the form of an affidavit and copies of other supporting documents.

13. Licensee agrees he has read and understands this Stipulation, and has entered into it freely and voluntarily.

14. Licensee releases the Board, its employees and agents, from all claims and demands of every kind and nature Licensee claims to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected. 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 or the contents of this Stipulation.

15. Licensee understands and agrees this Stipulation shall be deemed a public record when fully executed by both Licensee and the Board, and shall at such time be reportable as a disciplinary action to the National Practitioner Data Bank, Federation of State Medical Boards, and any other reporting entities requiring disclosure of this Stipulation.

16. 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 Kansas Risk Management Law, K.S.A. 65-4921 *et seq.*, whether known or not covered under the conditions of this Stipulation or past acts unknown to the Board or subsequent acts.

17. All correspondence or communication by Licensee to the Board shall by United States mail, first-class postage prepaid, addressed to the Kansas State Board of Healing Arts, Attention: Office of the Disciplinary Counsel, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

18. Upon execution of this Stipulation by the Board with a Board-authorized signature below, the provisions of this Stipulation shall become an Order of the Board and shall be deemed

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a proper and lawful Enforcement Order pursuant to K.S.A. 65-2838(b) without further order.
This Stipulation shall constitute the Order of the Board when filed with the Office of the
Executive Director for the Board.

IN WITNESS WHEREOF the parties have executed this agreement on this 17th day
of October, 1995.

KANSAS STATE BOARD OF HEALING ARTS

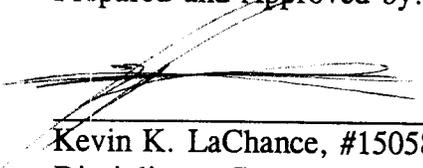
Date October 17, 1995

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

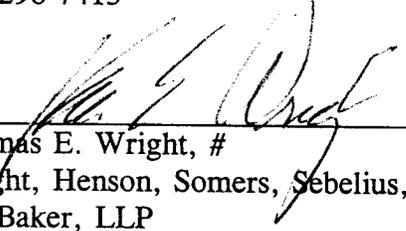
Date October 14, 1995

Mark Saylor, M.D.
Mark Saylor, M.D.
Licensee

Prepared and Approved by:



Kevin K. LaChance, #15058
Disciplinary Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068
913/296-7413



Thomas E. Wright, #
Wright, Henson, Somers, Sebelius, Clark
& Baker, LLP
100 SE 9th Street, 2nd Floor
PO Box 3555
Topeka, Kansas 66601-3555
913/232-2200

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CERTIFICATE OF SERVICE

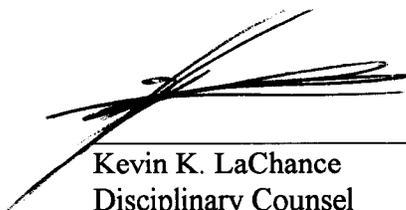
I, Kevin K. LaChance, do hereby certify that on this 17th day of October, 1995, a copy of the above and foregoing STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER was deposited in the United States mail, postage prepaid, first class to the following:

Mark Saylor, M.D.
1710 S.W. 10th Street, #208
Topeka, Kansas 66604

Thomas E. Wright
Counsel for Licensee
Wright, Henson, Somers, Sebelius, Clark & Baker, LLP
100 SE 9th Street, 2nd Floor
P.O. Box 3555
Topeka, Kansas 66601-3555

and the original was hand-delivered to:

Lawrence T. Buening, Jr.
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka
Topeka, Kansas 66603



Kevin K. LaChance
Disciplinary Counsel
Kansas State Board of Healing Arts