

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED CAB

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In the Matter of)
)
David L. Short, P.A.,)
Kansas License No. 15-00692)
_____)

KS State Board of Healing Arts

KSBHA Docket No. 10-HA 00062

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts ("Board") by and through Kelli J. Stevens, Litigation Counsel ("Petitioner"), and David L. Short, P.A. ("Licensee"), and move the Board for approval of a Consent Order affecting Licensee's license to practice as a Physician Assistant in the State of Kansas. The parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is 412 West Cherokee Street, Sedan, Kansas 67361.
2. Licensee is or has been entitled to practice as a Physician Assistant in the state of Kansas, having been issued License No. 15-00692 on or about February 12, 2000. Licensee's current license status is active.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate physician assistants, K.S.A. 65-28a01, *et seq.*
4. This Consent Order and the filing of such document are in accordance with applicable law as provided by K.S.A. 77-505, and the Board has jurisdiction to enter into the Consent Order. 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 Physician Assistant Licensure Act is constitutional on its face and as applied in this case. Licensee agrees that, in considering this matter, the Board is not 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. At all relevant times hereto, Licensee has been actively practicing as a physician assistant.

9. Licensee was previously subject to a Board action on October 23, 2006, in KSBHA Docket No. 07-HA00027, in the form of a Consent Order to address his violation of K.S.A. 65-28a05(a), for unprofessional conduct as further defined by K.A.R., (confidential) practicing as a physician assistant without reasonable skill and safety to patients (confidential) (confidential)

10. (confidential)
(confidential)

11. On or about October 30, 2009, the Board received information that
(confidential)

12. On or about October 30, 2009, Licensee notified Board staff of his desire
to surrender his physician assistant license (confidential)
(confidential)

13. Licensee has violated the Consent Order in KSBHA Docket No. 07-
HA00027, (confidential)
(confidential)

14. Licensee admits that he is in violation of K.S.A. 65-28a05(a) for
unprofessional conduct (confidential) for violating a lawful
order of the Board.

15. Pursuant to K.S.A. 65-28a05(a), there are grounds to revoke Licensee's
license. Alternatively, Licensee may surrender his license.

16. Licensee waives his right to contest these allegations and consents to a
finding that there are grounds for discipline against his license.

17. According to K.S.A. 77-505 of the Kansas Administrative Procedure Act,
the Board has authority to enter into this Consent Order without necessity of proceeding
to a formal hearing.

18. In lieu of conducting formal proceedings and/or the making of findings by
the Board, Licensee, by signature affixed to this Consent Order, hereby voluntarily
agrees to the following disciplinary measures against his license as a physician
assistant in Kansas:

- a. Licensee hereby **SURRENDERS** his physician assistant license effective
upon filing of this Consent Order with the Board; and

b. Such surrender shall be treated as a revocation for all purposes, including reporting of such action.

19. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Physician Assistant Licensure 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 Physician Assistant Licensure Act.

20. Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, both administrative and civil, including the Kansas Act for judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* This release shall forever discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this Stipulation or the content of this Stipulation.

21. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and may be reported to any reporting entities authorized to receive 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 or 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 proceeding on the basis that they have received investigative information from any source which otherwise may not be admissible or admitted as evidence.

25. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

26. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order. 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.

27. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee, including any application for reinstatement of licensure.

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

IT IS FUTHER ORDERED that:

- a. Licensee hereby **SURRENDERS** his physician assistant license effective upon filing of this Consent Order with the Board; and

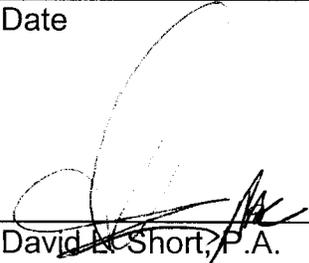
b. Such surrender shall be treated as a revocation for all purposes, including reporting of such action.

IT IS SO ORDERED.

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

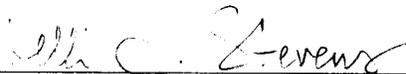

Kathleen Selzler Lippert
Interim Executive Director

11-4-09
Date


David L. Short, P.A.
Licensee

11-2-08
Date

PREPARED BY:


Kelli J. Stevens #16032
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing **CONSENT ORDER** was served this 4th day of November, 2009, by depositing the same in the United States mail, postage prepaid, and addressed to the following:

David L. Short, P.A.
412 West Cherokee Street
Sedan, Kansas 67361

and a copy was hand-delivered to:

Kelli J. Stevens
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

and a courtesy copy was hand-delivered to:

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

and the original was filed with:

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

