

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

DEC 13 1999

KANSAS STATE BOARD OF  
HEALING ARTS

In the Matter of )  
Michael David Simanovsky, M.D. )  
Kansas License No. 4-26313 )  
\_\_\_\_\_ )

Case No. 00 HA - 29

**STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**

COME NOW, the Kansas State Board of Healing Arts ("Board") by and through Stacy L. Cook, Litigation Counsel ("Petitioner"), and Michael David Simanovsky, M.D. ("Licensee"), by and through legal counsel Reid F. Holbrook, and 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 Stipulation and Agreement and Enforcement Order ("Stipulation") and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Stipulation.
3. Licensee agrees that the Kansas Healing Arts Act is constitutional on its face and as applied in this case.
4. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
5. 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 4-26313 on June 22, 1996. At all times relevant to the allegations set forth below, Licensee has held a current and unrestricted license to engage in the practice of medicine and surgery in the State of Kansas, having last renewed his license on May 14, 1999.

6. Licensee failed to adhere to the applicable standard of care to a degree constituting ordinary negligence in his treatment of two patients. Licensee failed to diagnose and properly treat patients L.W. and F.J., two females who presented to the emergency room at Mercy Health System of Kansas, Inc., complaining of chest pain. Licensee discharged both patients without a proper diagnosis and treatment of the chest pain.

7. Violation of the provisions set forth in the Petition to Revoke, Suspend or Otherwise Limit License constitutes grounds for disciplinary action by the Board. K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(a)(2). According to K.S.A. 65-2838(b), the Board has authority to enter into this Stipulation without the necessity of proceeding to a formal hearing.

8. 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.

9. The terms and conditions of the Stipulation 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 Stipulation 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 Stipulation on behalf of the Board.

10. In consideration of the conditions, terms, covenants, and promises contained herein, the parties agree as follows:

(a) In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Stipulation, hereby voluntarily agrees to the following disciplinary measures:

(i) Licensee shall undergo a program of additional education and training in the field of cardiology. Such program shall include both clinical and didactic instruction and experience under the supervision of Steven B. Gollub, M.D. The program will consist of the following:

- (A) Licensee shall attend at least six (6) hours of education and training with respect to reading and interpreting EKGs.
- (B) Licensee will attend rounds with other fellows and residents supervised by Dr. Gollub at the University of Kansas Medical Center ("KUMC"). Dr. Gollub shall supervise Licensee's evaluation of patients. Dr. Gollub shall supervise Licensee performing physical

examinations as well as cardiology evaluations.

(C) Licensee will accompany Dr. Gollub as he provides consulting opinions on cardiac issues for CCU patients at KUMC.

(D) Licensee agrees to attend a course on the topic of diabetes. Such course must be approved by the Board or its designee.

(ii) Licensee shall ensure that Dr. Gollub provides a letter to the Board stating that he has read the proposed Stipulation and that he agrees to follow through with all requirements.

(iii) After Licensee has completed at least forty (40) hours of the above-described program with Dr. Gollub, Licensee and Dr. Gollub shall appear before the Board. Licensee shall ensure that Dr. Gollub provides a report to the Board detailing (1) the education or training provided; (2) an evaluation of Licensee's knowledge regarding cardiology; and (3) any recommendations for further training. Dr. Gollub shall also appear before the Board to discuss his report and answer any questions. Licensee agrees to follow Dr. Gollub's recommendations.

(b) This Order constitutes disciplinary action on Licensee's license to practice medicine and surgery in the State of Kansas. The disciplinary action is not a revocation, suspension or limitation of license.

(c) Licensee's failure to comply with the provisions of the Stipulation is considered a violation of a Board order and may result in the Board taking disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure

Act.

(d) Nothing in this Stipulation 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. 65-4921 *et seq.*, that are known or unknown and are not covered under this Stipulation, or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

(e) 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.

(f) Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to the National Practitioner Databank, Federation of State Medical Boards, and any other reporting entities requiring disclosure of this Stipulation.

(g) This Stipulation, 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.

(h) 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.

(i) 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.

(j) Licensee acknowledges that he has read this Stipulation and fully understands the contents.

(k) Licensee acknowledges that this Stipulation has been entered into freely and voluntarily.

(l) All correspondence or communication between Licensee and the Board relating to this Stipulation shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Stacy L. Cook, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

(m) 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 Stipulation or may become effective subsequent to the execution of this document.

(n) Upon execution of this Stipulation by affixing a Board authorized signature below, the provisions of this Stipulation shall become an Order under K.S.A. 65-2838. This Stipulation shall constitute the Board's Order when filed with the Office of the Executive Director for the Board and no further Order is required.

IN WITNESS WHEREOF, the parties have executed this agreement on this 13<sup>th</sup> day of December, 1999.

KANSAS STATE BOARD OF HEALING ARTS

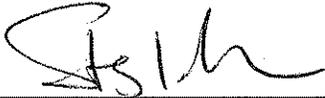
  
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Lawrence T. Buening, Jr.  
Executive Director

December 13, 1999  
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Date

  
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Michael D. Simanovsky, M.D.

12/11/99  
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Date

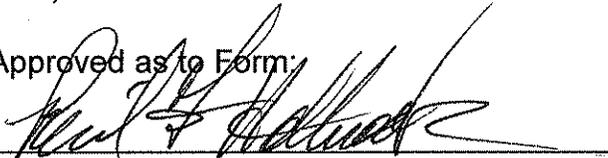
Prepared By:



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Stacy L. Cook, #16385  
Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, KS 66603-3065  
(913) 296-7413

Approved as to Form:



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Reid F. Holbrook, Esq.  
Holbrook, Heaven & Osborn, P.A.  
757 Armstrong  
P.O. Box 171927  
Kansas City, KS 66117-1927  
(913) 342-2500

**CERTIFICATE OF SERVICE**

I, Stacy L. Cook, Litigation Counsel, Kansas Board of Healing Arts, hereby certify that I served a true and correct copy of the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** by United States mail, postage prepaid, on this 13<sup>th</sup> day of December, 1999, to the following:

Michael D. Simanovsky, M.D.  
12707 Woodson Street  
Overland Park, Kansas 66209

Reid F. Holbrook, Esq.  
Holbrook, Heaven & Osborn, P.A.  
757 Armstrong  
P.O. Box 171927  
Kansas City, KS 66117-1927

and the original was hand-delivered to:

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

  
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Stacy L. Cook