

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
)
STEVEN SIMON, M.D.)
)
Kansas License No. 04-20641)

KSBHA Docket No.: 22-14A00005

CONSENT ORDER FOR SURRENDER

COMES NOW, the Kansas State Board of Healing Arts (“Board”), by and through J. Todd Hiatt, Litigation Counsel, and Steven Simon, M.D. (“Licensee”), by and through his attorney Mark W. Stafford, and move the Board for approval of a Consent Order affecting Licensee’s license to practice medicine and surgery in Kansas. The Board and Licensee stipulate and agree to the following:

FACTS

1. Licensee’s last known mailing address to the Board is: CONFIDENTIAL
CONFIDENTIAL
2. Licensee is or has been entitled to practice medicine or surgery in the State of Kansas, having been issued License No. 04-20641 on or about August 10, 1984. Licensee last renewed such license on or about May 19, 2020. Licensee’s current license status is “Exempt.”
3. This Consent Order is based on the following facts, which the parties agree to and stipulate to be true and relevant to the requested relief:
 - a. On or about January 19, 2021, in case number 20-CR-40097 filed in the United States District Court of Kansas, Licensee pled guilty to violating 42 U.S.C. 1320A-7b(b), to-wit: soliciting or receiving healthcare kickbacks. By entering into the plea, Licensee

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admitted to knowingly committing the criminal conduct and to being guilty of the crime as charged. This conviction is a felony under federal law and comes with a recommended sentence of not more than ten (10) years of imprisonment and a maximum \$100,000.00 fine among other legal consequences.

b. In his plea agreement Licensee admitted to:

“On or before April 18, 2017, [Licensee] complained to a pharmaceutical company representative for AstraZeneca regarding the lack of speaker programs assigned to him on behalf of that particular pharmaceutical company. Licensee expressed, to this same pharmaceutical company representative, that his continued writing of prescriptions for Movantik, an AstraZeneca drug, was contingent upon the assignment of speaking programs or engagements which would result in payments to the [licensee].

“Licensee also told this same representative that if more speaking engagements were not assigned to him, he would start writing prescriptions for competitors' products. After this encounter was disclosed by the representative to his/her supervisor, the pharmaceutical company conducted an internal investigation and concluded no future speaker engagements would be offered to the [licensee].

“This particular pharmaceutical company's drug, and any resulting prescription, would have been paid for, in whole or in part, by the Medicare program for the [licensee's] patients. Medicare is a federal health care program.

“These events occurred in the District of Kansas.”

c. The United States District Court for the District of Kansas accepted Licensee's plea agreement in case number 20-CR-40097 and the matter is now set for sentencing on April 22, 2021

VIOLATIONS OF THE HEALING ARTS ACT

4. Based on the stipulated facts, the Board has grounds to revoke Licensee's license to practice medicine and surgery in Kansas under the following provisions of the Kansas Healing Arts Act:

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a. K.S.A. 65-2836(c), in that Licensee has been convicted of a felony;

5. Under K.S.A. 65-2836 *et seq.*, the Board has grounds to revoke, suspend, censure, placed on probation or otherwise limit Licensee's license for violations of the Kansas Healing Arts Act.

SURRENDER

6. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby surrenders his license to practice medicine and surgery in the State of Kansas. Such surrender shall be treated as a revocation for all purposes, including reporting. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the provisions of K.S.A. 65-2844 and all applicable statutes, law, rules, and regulations regarding qualifications for licensure and reinstatement. Further, Licensee's application will be governed by *Vakas v. the Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991).

7. Licensee shall place his patients' records in the custody of another licensed medical doctor or a records maintenance facility, in compliance with K.A.R. 100-24-2 and 100-24-3. Licensee shall notify the Board in writing on or before Jun 1 1, 2021, of the specific measure taken and the appropriate contact information of the designated record custodian so that the Board can respond to questions from patients about the location of their medical records, and how they can obtain them.

8. Licensee acknowledges that pursuant to K.S.A. 65-2867, it shall be unlawful for Licensee to open or maintain an office for the practice of the healing arts, or to announce or hold out to the public the intention, authority, or skill to practice the healing arts.

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MISCELLANEOUS PROVISIONS

10. The Board is the sole and exclusive administrative agency of the State of Kansas authorized to regulate the practice of the healing arts, specifically the practice of medicine and surgery.
11. 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 K.S.A. 65-2838. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.
12. The Kansas Healing Arts Act is constitutional on its face and as applied in this case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
13. 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.
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. A protective order is hereby entered to protect all confidential information under 42 CFR Part II, K.S.A. 65-2836(i), and K.S.A. 65-4925.

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16. According to K.S.A. 65-2838(b) and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

17. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice medicine and surgery in the State of Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq., and the Kansas Healing Arts Act, K.S.A. 65-2801 et seq.

18. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas 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 Consent Order, or to initiate formal proceedings based upon known or unknown allegations of violations of the Kansas Healing Arts Act.

19. 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 Judicial Review Act, K.S.A. 77-601 et seq.

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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.

20. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of this Consent Order.

21. 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.

22. 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.

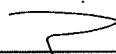
23. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel and General Counsel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member or General Counsel 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.

24. Licensee acknowledges he has read this Consent Order and fully understands the contents.
25. Licensee acknowledges this Consent Order has been entered into freely and voluntarily.
26. 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.
27. 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 Final Order when filed with the office of the Executive Director for the Board and no further Order is required.
28. This Consent Order constitutes **public disciplinary action**.
29. 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, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 16th day of July, 2021.

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

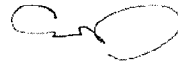


Tucker Poling
Executive Director

7/16/21

Date

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Steven Simon, M.D.
License No. 04-20641**



Steven Simon, M.D.
Licensee 7/8/2021

Date

PREPARED AND APPROVED BY:

/s J. Todd Hiatt

J. Todd Hiatt, #22150
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APPROVED BY:

/s/ Mark W. Stafford, #13233

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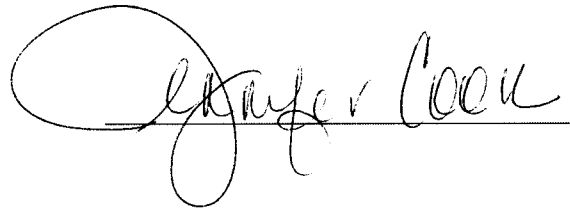
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the foregoing Consent Order was served this 16th day of July, 2021, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Mark Stafford, #
FORBES LAW GROUP
6900 College Blvd., Suite 840
Overland Park, KS 66211
mstafford@forbeslawgroup.com
913-341-8600
913-341-8606 (fax)

and the original was filed with the office of the Executive Director:

Tucker Poling
Executive Director
Kansas State Board of Healing Arts
800 SW Jackson Lower Level, Suite A
Topeka, KS 66612

A handwritten signature in black ink, appearing to read "Tucker Poling", is written over a horizontal line. The signature is cursive and somewhat stylized.