

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
LAWRENCE MARTIN SIMONS, M.D.)
Kansas License No. 04-30198)

Docket No. 09-HA00166

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Lori D. Dougherty, Associate Litigation Counsel ("Petitioner"), and Lawrence Martin Simons, M.D. ("Licensee"), by and through counsel, G. Craig Robinson of Robinson Law Office, 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: PO Box 75189, Wichita, Kansas 67275.
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. 04-30198 on approximately June 7, 2003. Licensee's license is currently expired.
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.
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.
6. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. 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.
8. 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.
9. The Board has received information and investigated the same, and has reason to believe there are grounds pursuant to K.S.A. 65-2836, 65-2837 and 65-2801 *et seq.* to take action with respect to Licensee's license under the Healing Arts Act.
10. A Petition was filed with the Board in this matter on April 1, 2009, alleging grounds for disciplinary action under the Healing Arts Act. The specific allegations are set forth therein and incorporated into this Consent Order.
11. On August 7, 2008, the Licensee surrendered his DEA registration number. K.S.A. 65-2836(u) provides: A licensee's license may be revoked, suspended or limited, or the

licensee may be publicly or privately censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence [that] Licensee has surrendered the authority to utilize controlled substances issued by any state or federal agency.

12. (confidential)

13. Licensee waives his right to contest the allegations contained in the Petition and consents to a finding that there are grounds for discipline against his license.
14. Licensee has not been the subject of previous Board action.
15. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Healing Arts Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.
16. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836. Specifically, grounds to discipline include:
 - a. Licensee violated K.S.A. 65-2836(a): Licensee has committed fraud or misrepresentation in applying for or securing an original, renewal, or reinstated license;

- b. Licensee violated K.S.A 65-2836(b): unprofessional and dishonorable conduct, to wit: practicing a profession without proper licensure, to wit: veterinary medicine.
 - c. Licensee violated K.S.A. 65-2836(c): Licensee has been convicted of a class A misdemeanor, whether or not related to the practice of healing arts;
 - d. Licensee violated K.S.A. 65-2836(p): Licensee has prescribed, sold, administered, distributed, or given a controlled substance to any person other than a medically accepted or lawful purpose, as alleged in Count Three of the Petition.
 - e. Licensee violated K.S.A. 65-2836(u): Licensee has surrendered the authority to utilize controlled substances issued by any state or federal agency
17. Licensee's acts constitute professional incompetency as set forth in K.S.A. 65-2837. Specifically, grounds to discipline include:
- a. Licensee violated K.S.A. 65-2836(b), as set forth in:
 - i. K.S.A. 65-2837(b)(23) by prescribing, dispensing, administering, or distributing a prescription drug or substance, including a controlled substance, in an excessive, improper, or inappropriate manner, or for other than a valid medical purpose, or not in the course of the licensee's professional practice;
 - b. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(25) by failing to keep written medical records which accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results, and test results.
18. Pursuant to K.S.A. 65-2836, the Board may revoke Licensee's license; alternatively, Licensee may surrender his license while under investigation. Pursuant to K.S.A. 65-

2863a the Board has the authority to impose administrative fines for violations of the Healing Arts Act.

19. 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.
20. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 23 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
21. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action on his license to engage in the practice of medicine and surgery:

SURRENDER

- a. Licensee hereby surrenders his license to practice medicine and surgery, effective upon filing of this Consent Order with the Board. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the provisions of K.S.A. 65-2844. Further, Licensee's application will be governed by *Vakas v. The Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991), and all applicable statutes, law, rules and regulations regarding qualifications for licensure and reinstatement.
- b. Licensee agrees that in the event he applies for reinstatement of his license, the allegation contained in this Consent Order will be considered as findings of fact and conclusions of law.

- c. Licensee may reapply at any time for licensure when he feels he would be able to demonstrate to the Board that he is fit to practice. The burden of proof by clear and convincing evidence shall be on the Licensee to show sufficient rehabilitation to justify reinstatement of the license. All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas Administrative Procedure Act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.
 - d. Licensee shall place his patients' records in the custody of another licensed physician or records maintenance facility in compliance with K.A.R. 100-24-2 and 100-24-3. Licensee shall notify the Board on or before September 30, 2009, of the specific measure taken and the appropriate contact information so that the Board can respond to questions from patients about the location of their medical records and how they can obtain them.
 - e. Licensee shall ensure that all patients and any other person or entity authorized by law to obtain patient records have access to medical records. Specifically, Licensee will comply with K.S.A. 65-4970, 65-4971, 65-4972, 65-4973 and K.A.R. 100-22-1, 100-24-2 and 100-24-3 and all other applicable statutes, rules, or regulations.
22. 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.
23. 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.

24. 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.
25. 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 authorized to receive disclosure of the Consent Order.
26. 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.
27. 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.

28. 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.
29. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
30. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
31. 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.
32. 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.
33. 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.

34. This Consent Order constitutes disciplinary action.
35. 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:

SURRENDER

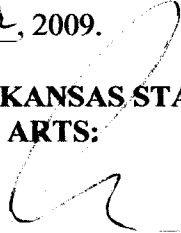
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- b. Licensee agrees that in the event he applies for reinstatement of his license, the allegation contained in this Consent Order will be considered as findings of fact and conclusions of law.
- c. Licensee may reapply at any time for licensure when he feels he would be able to demonstrate to the Board that he is fit to practice. The burden of proof by clear and convincing evidence shall be on the Licensee to show sufficient rehabilitation

to justify reinstatement of the license. All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas Administrative Procedure Act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.

- d. Licensee shall place his patients' records in the custody of another licensed physician or records maintenance facility in compliance with K.A.R. 100-24-2 and 100-24-3. Licensee shall notify the Board on or before September 30, 2009, of the specific measure taken and the appropriate contact information so that the Board can respond to questions from patients about the location of their medical records and how they can obtain them.
- e. Licensee shall ensure that all patients and any other person or entity authorized by law to obtain patient records have access to medical records. Specifically, Licensee will comply with K.S.A. 65-4970, 65-4971, 65-4972, 65-4973 and K.A.R. 100-22-1, 100-24-2 and 100-24-3 and all other applicable statutes, rules, or regulations.


IT IS SO ORDERED on this 9th day of September, 2009.

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



Jack Confer
Executive Director

09-9-09
Date

 *Lawrence Martin Simons, M.D.*

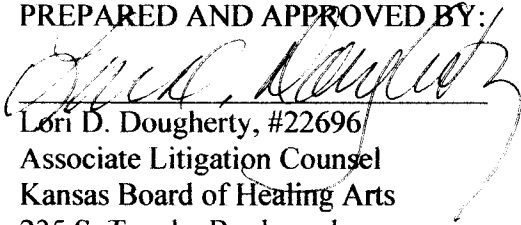
Lawrence Martin Simons, M.D.

Licensee

9/2/09

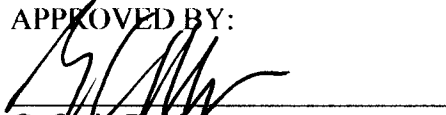
Date

PREPARED AND APPROVED BY:



Lori D. Dougherty, #22696
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

APPROVED BY:



G. Craig Robinson
Attorney for Licensee
330 N. Main St.
Wichita, KS 67202

CERTIFICATE OF SERVICE

I, Cathy Brown, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 9th day of Sept., 2009, to the following:

Lawrence M. Simons, M.D.
Licensee
PO Box 75189
Wichita, KS 67275

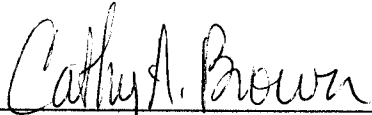
G. Craig Robinson
Attorney for Licensee
330 N. Main St.
Wichita, KS 67202

And the original was hand-filed with:

Jack Confer
Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Lori D. Dougherty, #22696
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068



Cathy Brown
Executive Assistant