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BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of	}	
	}	
Everette T. Sitzman, Jr., M.D.	}	KSBHA Docket No. 10-HA00020
Application for Change of Status	}	OAH No. 10HA0003
Of License to Practice Medicine and Surgery	}	
From Inactive to Active	}	
Kansas License No. 04-22079	}	
_____	}	

JOURNAL ENTRY

NOW this February 19, 2010 the above captioned matter comes before the Board on the Motion of the parties to accept a Consent Order. The petitioner appears in person and by and through Charles R. Hay of Foulston, Siefkin, LLP. The respondent appears by and through Janith A. Lewis. There are no other appearances. The Board, having heard the statements of counsel, reviewed the file and being duly apprised of the premises makes the following findings of fact and conclusions of law:

WHEREUPON, The members of the Board's disciplinary panel, Drs. Conley, Beezley, Leinwetter and Ms. Ice recuse themselves from these proceedings. Dr. Merle Hodges assumed the Chair of the hearing.

FINDINGS OF FACT

1. The petitioner and the respondent presented a detailed proposed Consent Order for consideration by the Board.
2. The petitioner presented the sworn testimony of Dr. Stevenson who described his medical practice, business arrangement with Dr. Sitzman and agreed to supervise Dr. Sitzman's psychiatric medical practice.

3. The petitioner was sworn as a witness and testified to the injuries caused by his accident, his ability to practice psychiatric medicine and his agreement to practice under the supervision of Dr. Stevenson.

CONCLUSIONS OF LAW

1. The Board approves Stages I and II of the Consent Order as proposed by the parties as written.

2. The Board does not accept Stage III of the proposed Consent Order as written.

3. The Board orders the parties to continue negotiations on the language of Stage III of the proposed Consent Order.

4. The Board appoints Merle Hodges, M.D. as the Presiding Officer in this matter to review the proposed Consent Order.

5. The Board grants the Presiding Officer the authority to enter a FINAL ORDER on behalf of the Board in this matter pursuant to K.S.A. 77-514(g).

THEREFORE, after thoughtful consideration the Board:

1. GRANTS the MOTION TO ACCEPT CONSENT ORDER in part and DENIES the MOTION TO ACCEPT CONSENT ORDER in part.

2. ORDERS the parties to renegotiate Stage III of the proposed Consent Order.

3. APPOINTS Merle Hodges, M.D. as the Presiding Officer in this matter with the authority to enter into a FINAL ORDER on behalf of the BOARD.

IT IS SO ORDERED.

DATE: February 24, 2010.

KANSAS STATE BOARD OF
HEALING ARTS


Kathleen Selzler Lippert

Acting Executive Director

Kansas State Board of Healing Arts

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing JOURNAL ENTRY was served by depositing the same in the United States mail, first-class postage prepaid, this 25th day of February, 2010, addressed to:

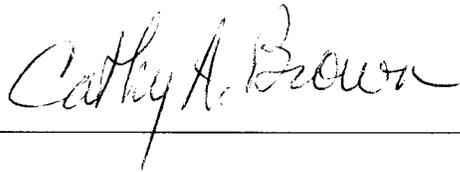
Charles R. Hay
Foulston, Siefkin, LLC
Bank of America Tower, Suite 1400
534 SW Kansas Ave.
Topeka, KS 66603

Everette Sitzman, Jr., M.D.
4936 Somerset Dr.
Prairie Village, KS 66207

Janith A. Lewis
Associate Litigation Counsel
235 SW Topeka Blvd.
Topeka, KS 66603-3068

And the original was filed with

Kathleen Selzler Lippert
Acting Executive Director
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, KS 66603



BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

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KS State Board of Healing Arts

In the Matter of)
) Docket No. 10-HA00020
Everette T. Sitzman, Jr., M.D.)
Kansas License No. 04-22079)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Janith A. Lewis, Associate Litigation Counsel (“Petitioner”), and Everette T. Sitzman, Jr., M.D. (“Licensee”), by and through his attorney, Charles R. Hay, of Foulston Siefkin, LLP, and move the Board for approval of a Consent Order as a condition to granting active status of 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: 4936 Somerset Drive, Prairie Village, Kansas 66207.
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. 04-22079 on approximately December 4, 1987. Licensee’s license is currently inactive.
3. Licensee filed an application for change in status from inactive to active.
4. 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.
5. 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

Consent Order
Everette T. Sitzman, Jr., M.D.

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.

6. The Kansas Healing Arts Act is constitutional on its face and as applied in the case. 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 that there are grounds pursuant to K.S.A. 65-2836^(denial) and K.S.A. 65-2836(j), to take action with respect to Licensee's request for a status change under the Healing Arts Act, K.S.A. 65-2801, *et seq.*, as follows:

a. License was involved in a serious motorcycle accident in November 2006,

(confidential)

b.

(confidential)

c.

(confidential)

d. Licensee was previously licensed in Missouri. On or about May 1, 2009, Licensee was denied reinstatement by the Missouri Board of Registration for the Healing Arts (“Missouri Board”). He is appealing that decision.

(confidential)

e.

(confidential)

10. Licensee waives his right to dispute or otherwise contest the facts contained in the above paragraphs in any future proceeding before this Board.
11. A protective order is hereby entered to protect all confidential information under K.S.A. 65-2836 (confidential)
12. Pursuant to K.S.A. 65-2836(i) and K.S.A. 65-2836(j) the Board has grounds to deny, revoke, suspend, place on probation, limit, or censure Licensee's license.
13. 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.
14. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board member(s) 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.
15. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following limitations and terms as a condition to being granted active status:

PRACTICE LIMITATIONS

- a. Licensee shall not practice medicine and surgery unless he complies with each of the following:
 - i. Licensee shall not engage in the solo practice of medicine and surgery.

- ii. Licensee shall only practice in a supervised, structured environment in which all of Licensee's practice activities are overseen and supervised by Edward K. Stevenson, M.D., 5200 W. 94th Terrace, Suite 105, Prairie Village, KS 66207.

Stage One: Practice Observation

- iii. During the initial thirty (30) days of his association with Dr. Stevenson, Licensee shall only observe Dr. Stevenson's practice and shall not actively engage in any practice activities of his own.
- iv. At the end of the initial thirty (30) day period, Dr. Stevenson shall submit a written report to the Board's Compliance Coordinator outlining his assessment of Licensee's depth of knowledge and professional capability, based on discussions and analysis of specific cases which Licensee has surveyed during the observation period. Dr. Stevenson shall also detail his opinion as to whether Licensee should be allowed to practice on a limited basis and under his supervision.

Stage Two: Limited Practice

- v. After the completion of the initial thirty (30) day period, and upon receipt of an affirmative opinion from Dr. Stevenson, Licensee shall be permitted to practice on a limited basis, for at least ninety (90) days as follows:

1. All of Licensee's patients shall be selected and referred to him by Dr. Stevenson and shall be patients with psychiatric issues which Dr. Stevenson characterizes as "mild".
2. Licensee shall not engage in more than thirty-five (35) hours of direct patient care each week.
3. Licensee may only prescribe medications to patients under the supervision of Dr. Stevenson, who must pre-approve the specific medication, dosage, and duration of use.

Stage Three: Supervised Practice

- vi. At the end of the ninety (90) day limited period of practice, Dr. Stevenson shall submit a written report to the Board's Compliance Coordinator outlining his assessment of Licensee's professional performance and capability. Dr. Stevenson shall also detail his opinion as to whether Licensee should be allowed to continue practice under his supervision, but without restriction on patient type or hours spent in direct patient care. Thereafter, Licensee and Dr. Stevenson shall appear before the Board at the Board's next regularly scheduled meeting in order for the Board to determine whether or not Licensee may practice under Dr. Stevenson's supervision, but without restriction on patient type or hours spent in direct patient care.
- vii. Upon receipt of an affirmative opinion from Dr. Stevenson and approval of the Board, Licensee shall be permitted to practice under the continued supervision of Dr. Stevenson, without restriction as to patient type or hours of direct patient care, as Dr. Stevenson deems appropriate.
- viii. Licensee shall continue to only prescribe medications under the supervision and pre-approval of Dr. Stevenson which may be by protocol for medications which are not controlled substances.

- ix. Licensee shall follow all practice recommendations made by Dr. Stevenson.
- x. During the supervised practice period, Dr. Stevenson shall submit written quarterly reports (due on the first day of the respective month) to the Board's Compliance Coordinator.
- xi. Such reports shall include a summary of:
 - 1. how many patients Licensee is providing direct care to in a five (5) day work week;
 - 2. how many hours, per five (5) day work week, Licensee is providing direct patient care;
 - 3. the psychiatric illnesses and conditions that Licensee has been treating;
 - 4. whether Licensee is prescribing appropriate medications;
 - 5. Dr. Stevenson's continuing assessment of Licensee's professional performance and capability.
- xii. Licensee is responsible for ensuring that Dr. Stevenson's reports are submitted by the quarterly deadlines.
- xiii. All reports shall be submitted to the Kansas State Board of Healing Arts, Attention: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

LIMITATION TIMEFRAME

- b. The above practice limitations are not self-terminating. After a period of one (1) year of Stage Three Supervised Practice, Licensee may request

termination of the practice limitation provisions. For any period of time that Licensee is not actively practicing medicine and surgery in Kansas, the limitations will remain in effect but will be tolled and not counted towards reducing the limitation timeframe.

PSYCHOPHARMACOLOGY CONTINUING MEDICAL EDUCATION

- c. On or before December 30, 2010, Licensee shall attend at least thirty (30) hours of psychopharmacology continuing medical education (“CME”) coursework.
- d. The Nevada Psychiatric Association Annual Pharmacology Update course is approved for the number of CME hours Licensee receives. Licensee shall submit all pertinent information regarding additional courses he proposes to take to the Board’s Compliance Coordinator.
- e. The Board designates Board Member Merle Hodges, M.D. to review and approve/disapprove any additional proposed educational courses required under this Consent Order.
- f. Licensee shall provide proof of attendance of all required hours of the approved psychopharmacology courses by submitting same, within thirty (30) days after completion, to the Board’s Compliance Coordinator.

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16. 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.
17. 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.
18. 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.

19. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.
20. 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.
21. 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.

22. Licensee, by signature to this document, waives any objection to the participation of the Board members 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.
23. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
24. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
25. 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: Janith A. Lewis, Associate Litigation Counsel, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
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 Order when filed with the office of the Executive Director for the Board and no further Order is required.

28. 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 upon meeting all technical requirements for such license status change, Licensee's status shall be changed to active.

IT IS FURTHER ORDERED that:

PRACTICE LIMITATIONS

- a. Licensee shall not practice medicine and surgery unless he complies with each of the following:
 - i. Licensee shall not engage in the solo practice of medicine and surgery.
 - ii. Licensee shall only practice in a supervised, structured environment in which all of Licensee's practice activities are overseen and supervised by Edward K. Stevenson, M.D., 5200 W. 94th Terrace, Suite 105, Prairie Village, KS 66207.

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- vii. Upon receipt of an affirmative opinion from Dr. Stevenson and approval of the Board, Licensee shall be permitted to practice under the continued supervision of Dr. Stevenson, without restriction as to patient type or hours of direct patient care, as Dr. Stevenson deems appropriate.
- viii. Licensee shall continue to only prescribe medications under the supervision and pre-approval of Dr. Stevenson which may be by protocol for medications which are not controlled substances.
- ix. Licensee shall follow all practice recommendations made by Dr. Stevenson.
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- xi. Such reports shall include a summary of:
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2. how many hours, per five (5) day work week, Licensee is providing direct patient care;
 3. the psychiatric illnesses and conditions that Licensee has been treating;
 4. whether Licensee is prescribing appropriate medications;
 5. Dr. Stevenson's continuing assessment of Licensee's professional performance and capability.
- xii. Licensee is responsible for ensuring that Dr. Stevenson's reports are submitted by the quarterly deadlines.
- xiii. All reports shall be submitted to the Kansas State Board of Healing Arts, Attention: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

LIMITATION TIMEFRAME

- b. The above practice limitations are not self-terminating. After a period of one (1) year of Stage Three Supervised Practice, Licensee may request termination of the practice limitation provisions. For any period of time that Licensee is not actively practicing medicine and surgery in Kansas, the limitations will remain in effect but will be tolled and not counted towards reducing the limitation timeframe.

PSYCHOPHARMACOLOGY CONTINUING MEDICAL EDUCATION

- c. On or before December 30, 2010, Licensee shall attend at least thirty (30) hours of psychopharmacology continuing medical education ("CME") coursework.

- d. The Nevada Psychiatric Association Annual Pharmacology Update course is approved for the number of CME hours Licensee receives. Licensee shall submit all pertinent information regarding additional courses he proposes to take to the Board's Compliance Coordinator.
- e. The Board designates Board Member Merle Hedges, M.D. to review and approve/disapprove any additional proposed educational courses required under this Consent Order.
- f. Licensee shall provide proof of attendance of all required hours of the approved psychopharmacology courses by submitting same, within thirty (30) days after completion, to the Board's Compliance Coordinator.

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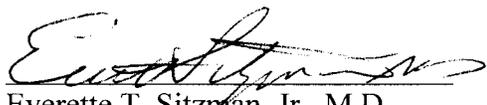
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IT IS SO ORDERED on this 24 day of February, 2010.

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


Kathleen Selzler Lippert
Interim Executive Director

2-24-10
Date


Everette T. Sitzman, Jr., M.D.
Licensee

Jan 29, 2010
Date

PREPARED BY:



Janith A. Lewis, #18115
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-368-7257

APPROVED BY:



Charles R. Hay
Attorney for Licensee
Foulston Siefkin LLP
Bank of America Tower, Ste. 1400
534 S. Kansas Ave.
Topeka, Kansas 66603-3436

CERTIFICATE OF SERVICE

I, Cathy A. Brown, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 25th day of

February, 2010, to the following:

Everette T. Sitzman, Jr., M.D.
Licensee
(confidential)
Prairie Village, Kansas 66207

Charles R. Hay
Foulston Siefkin LLP
Bank of America Tower, Ste. 1400
534 S. Kansas Ave.
Topeka, Kansas 66603-3436

And copies were hand-delivered to:

Janith A. Lewis
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Melissa Massey
Compliance Coordinator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And the original was hand-delivered for filing with:

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

Cathy A. Brown

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KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	}	
	}	
Everette T. Sitzman, Jr., M.D.	}	KSBHA Docket No. 10-HA00020
Application for Change of Status	}	OAH No. 10HA0003
Of License to Practice Medicine and Surgery	}	
From Inactive to Active	}	
Kansas License No. 04-22079	}	
_____	}	

FINAL ORDER

NOW this February 24, 2010 the above captioned matter comes before the Presiding Officer, Merle Hodges, M.D., on the Motion of the parties to accept a Consent Order. The petitioner appears in person and by and through Charles R. Hay of Foulston, Siefkin, LLP. The respondent appears by and through Janith A. Lewis. There are no other appearances. The Presiding Officer, having reviewed the file and being duly apprised of the premises makes the following findings of fact and conclusions of law:

1. The Kansas State Board of Healing Arts ("Board") at its February 19, 2010 meeting has granted the Presiding Officer the authority to issue a Final Order pursuant to K.S.A. 77-514(g).
2. The Presiding Officer has reviewed the language for the Consent Order as ordered by the Board at its February 19, 2010 meeting.
3. The Presiding Officer finds the Consent Order conforms to the order of the Board to protect the public and is incorporated by reference.

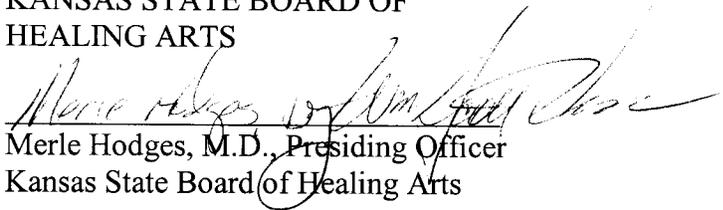
WHEREFORE, the MOTION of the parties to accept the CONSENT ORDER is GRANTED.

PLEASE TAKE NOTICE that this is a final order. A final order is effective upon service. A party to an agency proceeding may seek judicial review of a final order by filing a petition in the District Court as authorized by K.S.A. 77-601, et seq. Reconsideration of a final order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the final order. A copy of any petition for judicial review must be served upon Kathleen Selzler Lippert, the Board's Acting Executive Director, at 235 SW Topeka Blvd., Topeka, KS 66603.

IT IS SO ORDERED.

DATE: February 24, 2010.

KANSAS STATE BOARD OF
HEALING ARTS


Merle Hodges, M.D., Presiding Officer
Kansas State Board of Healing Arts

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing JOURNAL ENTRY was served by depositing the same in the United States mail, first-class postage prepaid, this 25th day of Feb., 2010, addressed to:

Charles R. Hay
Foulston, Siefkin, LLC
Bank of America Tower, Suite 1400
534 SW Kansas Ave.
Topeka, KS 66603

Everette Sitzman, Jr., M.D.
4936 Somerset Dr.
Prairie Village, KS 66207

Janith A. Lewis
Associate Litigation Counsel
235 SW Topeka Blvd.
Topeka, KS 66603-3068

And the original was filed with

Kathleen Selzler Lippert
Acting Executive Director
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, KS 66603



Cathy A. Brown