

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

<p><b>In the Matter of</b></p> <p><b>SAHBRENNAH WALTERS SMITH, M.D.</b></p> <p><b>Kansas License No. 04-27500</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>Docket No. 12-HA 00026</b></p>
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**CONSENT ORDER**

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Associate Litigation Counsel, Lori D. Dougherty, (“Petitioner”), and Sahbrennah Walters Smith, M.D., (“Licensee”), *pro se*, 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: confidential Maumelle, AR 72113.
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. 04-27500 on approximately April 25, 1998. Licensee’s license designation is federally active.
3. Licensee has previously been fined \$500.00 for violating K.S.A. 65-2836(r), failure to furnish legally requested information to the Board, in KSBHA Docket No. 06-HA00078.
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 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 her right to a hearing. Licensee voluntarily and knowingly waives her 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 received information and investigated the same, and has reason to believe that on or about April 2008 through November 2009, Licensee failed to produce records to Patient 1 in a timely manner and failed to furnish legally requested information to Board investigators.
10. On July 26, 2007, a release of records was signed for Patient 1 by Patient 2. Patient 2 had durable power of attorney for Patient 1. The form indicated that the purpose of the disclosure was due to Licensee closing her practice. The form also indicates the records were to be mailed to Leavenworth Family Health Center, at their Leavenworth address.
11. In May 2007, Licensee closed her practice while stationed in Arkansas.
12. A complaint was filed on April 29, 2008, by Patient 2, stating Patient 1's records had not been transferred to Leavenworth Family Health Center by Licensee.
13. On June 30, 2008, Darlene Carbough, the records custodian for Licensee, was unable to find Patient 1's records and stated she would have to wait until Licensee was back in town.
14. On June 30, 2008, Patient 2 requested Licensee's records custodian provide Patient 2's records and Patient 2's family's records. Patient 2 was told the original records could not be released and copying them would cause a delay in their production.
15. On July 8, 2008, Board investigator Peter Massey received a phone call from Patient 2, stating Patient 1's records still had not been received.
16. On July 8, 2008, Mr. Massey called Licensee's cell phone and was informed she had located Patient 1's records and would provide them "within the next day or two."
17. On August 4, 2008, Patients 1 and 2 received the requested records.

18. During the records investigation, allegations that Licensee had not properly supervised her physician assistant were investigated.
19. On September 2, 2008, Mr. Massey mailed a certified letter to Licensee, requesting a response by September 16, 2008. The certified letter was delivered to Licensee's mailing address on September 4, 2008.
20. On September 18, 2008, Licensee emailed Mr. Massey, stating she had attempted to email her response to him several times, but each attempt failed. Mr. Massey advised Licensee to send her response by postal mail.
21. On October 8, 2008, Mr. Massey emailed Licensee, stating he still had not received Licensee's response.
22. On October 10, 2008, Licensee stated she had responded by fax and email on September 19, 2009. Mr. Massey did not receive either the fax or email from Licensee.
23. Mr. Massey finally received a response to his inquiry on October 18, 2008.
24. 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 Kansas Healing Arts Act with respect to the above allegations. Licensee further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.
25. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836.
26. Licensee violated K.S.A. 65-2836(k), in that Licensee violated any lawful rule and/or regulation promulgated by the Board. Specifically, Licensee violated K.A.R. 100-22-1 by failing to furnish patient records upon receipt of patient's release form.
27. Licensee violated K.S.A. 65-4971 failing to furnish copies of health care records to a patient, a patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, within 30 days of the receipt of the authorization, or the health care provider shall notify the patient or the patient's authorized representative of the reasons why copies are not available
28. Licensee violated K.S.A. 65-2836(r), in that Licensee failed to furnish legally requested information to a Board investigator.

29. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure, or place under probationary conditions Licensee's license. Pursuant to K.S.A. 65-2863a, the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
30. 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.
31. All pending investigation materials in KSBHA investigation number 08-00522 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 25 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
32. 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 her 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.*
33. 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. 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 Kansas Healing Arts Act.
34. 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.*, 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.

35. 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.
36. 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.
37. 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.
38. 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.
39. Licensee acknowledges that she has read this Consent Order and fully understands the contents.
40. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
41. 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, 800 SW Jackson Street, Lower Level Suite A, Topeka, Kansas 66612.

42. 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.
43. 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.
44. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
45. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following non-disciplinary action against her license to engage in the practice of medicine and surgery:

**EDUCATION**

- a. Licensee shall attend and successfully complete a continuing education course "Medical Records Law in Illinois," by February 12, 2012, at her own expense.
- b. Licensee shall attend and successfully complete a continuing education course "Medical Records 101: Responding to Requests for Patient Information," by February 12, 2012, at her own expense.
- c. Licensee shall attend and successfully complete a continuing education course in the supervising physician extenders, by February 12, 2012, at her own expense. The courses must be pre-approved by the Board's designee Michael Beezley, M.D.
- d. Licensee shall attend and successfully complete a continuing education course in the area of practice management, specifically closing a practice, by February 12, 2012, at her own expense. The courses must be pre-approved by the Board's designee Michael Beezley, M.D.
- e. Licensee shall provide proof of successful completion by February 12, 2012. Licensee shall make send proof of completion to the Kansas State Board of Healing

Arts and send all payments to the attention of: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level-Suite A, Topeka, Kansas 66612.

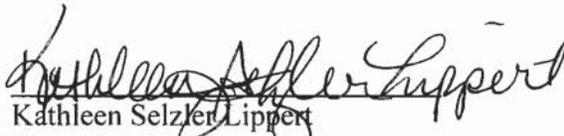
**FINES**

- f. Licensee is hereby ordered to pay a CIVIL FINE pursuant to K.S.A. 65-2863a in the amount of \$500.00. The total amount of \$500.00 shall be due on or before September 1, 2011.
- g. In the event that the Board does not receive a payment due and owing, the total amount of fines still due shall become immediately due and payable in full upon written notice by the Board to Licensee stating that payment has not been received.
- h. Licensee shall make all payments payable to the Kansas State Board of Healing Arts and send all payments to the attention of: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson Street, Lower Level-Suite A, Topeka, Kansas 66612.

**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 SO ORDERED** on this 31 day of August, 2011.

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

  
Kathleen Selzler Lippert  
Executive Director

8/31/11  
Date



Sahbrennah Walters Smith, M.D.  
Licensee

21 Jul 2011

Date

PREPARED AND APPROVED BY:



#18115  
Lori D. Dougherty #22696 Janith A. Lewis  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson Street  
Lower Level Suite A  
Topeka, Kansas 66612  
785-368-8212

**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 1<sup>st</sup> day of ~~August~~, 2011, to the following:  
*September*

Sahbrennah Walters Smith, M.D.

Licensee

confidential

confidential

~~Maumelle, AR 72113~~

LEAVENWORTH, KANSAS 66048

And the original was hand-filed with:

Kathleen Selzler Lippert  
Executive Director  
Kansas State Board of Healing Arts  
800 SW Jackson Street  
Lower Level Suite A  
Topeka, Kansas 66612

And a copy was hand-delivered to:

Lori D. Dougherty  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson Street  
Lower Level Suite A  
Topeka, Kansas 66612

Licensing Administrator  
Compliance Coordinator  
Kansas State Board of Healing Arts  
800 SW Jackson Street  
Lower Level Suite A  
Topeka, Kansas 66612

Cathy A. Brown