

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of )  
 )  
 ) KSBHA Docket No. 22-HA00013  
David P. Sulzman, P.A. )  
Kansas License No. 15-00464 )

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**CONSENT ORDER FOR SURRENDER OF LICENSE**

COMES NOW the Kansas State Board of Healing Arts (“Board”), by and through Matthew Gaus, Associate Litigation Counsel, and David P. Sulzman, P.A. (“Licensee”), *pro se*, and move the Board for approval of this Consent Order affecting Licensee’s license to practice as a physician assistant in Kansas. The Board and Licensee stipulate to the following:

1. Licensee’s last known mailing address to the Board is: **CONFIDENTIAL** ;
- CONFIDENTIAL** . Licensee’s last known e-mail address to the Board is: **CONFIDENTIAL** **DENTI**
2. Licensee is or has been entitled to practice as a physician assistant in Kansas, having been issued License No. 15-00464 on April 29, 1995, and having last renewed such license on February 18, 2021. Licensee’s current license status is Active.
3. At all times relevant to the allegations set forth in this Consent Order Licensee has held an Active license to practice as a physician assistant in Kansas.
4. 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. The Consent Order incorporates **CONFIDENTIAL** , which was initiated by a **CONFIDENTIAL** ; received by the Board on or about September 25, 2019, stating Licensee had been writing narcotic prescriptions (Norco

10/325mg) fraudulently to accomplices with script pads from a practice facility, Amity Health, that had been closed for years.

b. In a written response to **CONFIDENTIAL** , Licensee wrote “I did write prescriptions for people not in my professional practice . . . . I wish I could explain to you why I wrote prescriptions on a script pad that was not even in use, but I honestly do not have a good answer other than I may have thought it would help protect my current employer and practice. I know it makes no sense.” Licensee further stated he knew it was not the correct thing to do.

c. In his response, Licensee further admitted “I also did injections at times to help and ease issues of pain” outside of his professional practice.

d. When later interviewed by **CONFIDENTIAL** , Licensee stated he had written prescriptions for four persons who were not his patients on an old prescription pad from Amity Health, where he had not practiced for approximately five years.

e. Licensee stated to **CONFIDENTIAL** he had administered prednisone shots in his home to one of the four patients to whom he had written prescriptions.

f. Prescribing records showed he had written prescriptions for opioids to all four patients; he had additionally written prescriptions for phentermine for one of the patients; and he had additionally written prescriptions for benzodiazepines and for muscle relaxants for another of the patients. In all, the records show he wrote 171 prescriptions for the four patients from the period of January 2014 through September 2019.

g. None of these prescriptions were written at the direction of, or under the supervision or authority of, a supervising physician.

- h. Licensee did not keep medical records for any of the prescriptions or treatments described above.
- i. On or about November 5, 2019 Licensee surrendered his DEA license after that agency had initiated an investigation.
- j. Licensee did not notify the Board of the DEA investigation, nor did he inform the Board he had surrendered his DEA license until asked about it by **CONFIDENTIAL** over four months later. In fact, on his December 16, 2019 License renewal Licensee specifically certified that in the last 12 months he had not been under any investigations by a government agency, and that no disciplinary action had been taken against him by any government agency.

**VIOLATIONS OF THE PHYSICIAN ASSISTANT LICENSURE ACT**

5. The Licensee has committed an act or acts of unprofessional conduct that have violated the Physician Assistant Licensure Act and/or applicable rules and regulations adopted by the board. Specifically, Licensee has violated the Act in the following particulars:

- a. K.S.A. 65-28a05(a) and K.A.R. 100-28a-8(e). Licensee has willfully and repeatedly violated the Kansas Physician Assistant Licensure Act by repeatedly writing prescriptions which he had no authority to authorize, using a prescription pad containing information fraudulently suggesting such prescriptions were in fact authorized, and by performing medical procedures on a person who was not his patient, without direction, supervision, or authorization by a supervising or responsible physician. Licensee admits he made such violations knowingly and intentionally.

b. K.S.A. 65-28a05(a) and K.A.R. 100-28a-8(j). Licensee on multiple occasions prescribed, dispensed, administering, or distributing a prescription drug or substance, including controlled substances, in an inappropriate manner, and not in the course of his professional practice.

c. K.S.A. 65-28a05(a) and K.A.R. 100-28a-8(u). Licensee on multiple occasions failed to keep written medical records that accurately describe the services rendered to those persons he treated outside the course of his professional practice.

d. K.S.A. 65-28a05(i). Licensee has failed to report to the board any adverse action taken against the Licensee by a governmental agency or by a law enforcement agency for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under the Kansas Physician Assistant Licensure Act; specifically, he not only failed to disclose the DEA investigation and the subsequent surrender of his DEA license, but he also affirmatively certified that no such investigation or disciplinary action took place.

e. K.S.A. 65-28a05(o). Licensee exceeded or acted outside the scope of authority given the physician assistant by his supervising physician or by the Kansas Physician Assistant Licensure Act by prescribing drugs and performing treatments without direction, supervision, or authorization by a supervising or responsible physician.

## MISCELLANEOUS PROVISIONS

6. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts, specifically practice as a physician assistant. K.S.A. 65-2801 *et seq.* and K.S.A 65-28a01 *et seq.*

7. 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.

8. The Kansas Healing Arts Act and the Kansas Physician Assistant Licensure Act are constitutional on their 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.

9. 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. 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.

10. 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 Physician Assistant Licensure 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.

11. 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.

12. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Healing Arts Act or the Kansas Physician Licensure 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 or the Kansas Physician Assistant Licensure Act.

13. 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.

14. 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 the Consent Order.

15. 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.

16. 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.

17. 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.

18. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

19. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

20. 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.

21. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

22. This Consent Order constitutes **public disciplinary action**.

**SURRENDER OF LICENSE TO PRACTICE AS A PHYSICIAN ASSISTANT**

23. In lieu of conducting a formal proceeding on the allegations, **Licensee agrees to surrender his license to practice as a physician assistant in Kansas**. Such surrender will be treated as a revocation for all purposes, including reporting.

24. 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.



25. Licensee agrees that in the event he applies for reinstatement of his license, the allegations contained in this Consent Order will be considered as findings of fact and conclusions of law.

26. Approving the proposed Consent Order will resolve **CONFIDENTIAL** without the need for litigation, thereby promoting judicial efficacy and making good use of limited resources. Furthermore, approving the proposed Consent Order will further the Board's mission of protecting the public against the unprofessional, improper, unauthorized, and unqualified practice of the healing arts by immediately removing Licensee's authority to practice as a physician assistant in Kansas.

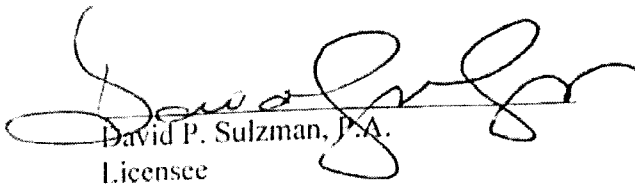
**IT IS THEREFORE ORDERED** that this Consent Order and agreement of the parties contained herein is **hereby adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.**

**IT IS SO ORDERED** on this 11<sup>th</sup> day of October, 2021.

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

*Susan Hill*

10/11/2021  
Date

  
David P. Sulzman, P.A.  
Licensee

9-22-21

Date

PREPARED AND RESPECTFULLY SUBMITTED BY:

/s Matthew Gaus

Matthew Gaus, #22609  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
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*Attorney for Petitioner*

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Consent Order for Surrender of License  
David P. Sulzman, P.A.  
License No. 15-00164

**CERTIFICATE OF SERVICE**

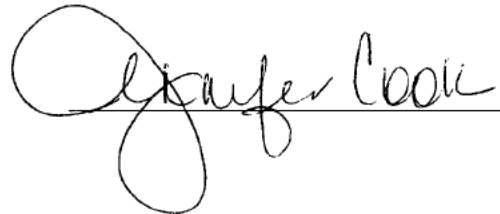
I hereby certify that I served a true and correct copy of the **CONSENT ORDER FOR SURRENDER OF LICENSE** by () placing the same in the U.S. mail, postage prepaid, () facsimile to the phone numbers listed below, and that the transmission was reported as complete and without error and that the facsimile machine complied with Supreme Court Rule 119(b)(3), or () hand delivery, on this the 11<sup>th</sup> day of October, 2021, to the following:

David P. Sulzman, P.A.  
**CONFIDENTIAL**

*Licensee*

And the original was hand-filed with:

Executive Director  
Kansas Board of Healing Arts  
800 SW Jackson  
Lower Level-Suite A  
Topeka, Kansas 66612

A handwritten signature in black ink that reads "Jennifer Cook". The signature is written in a cursive style and is positioned above a horizontal line.