

**FILED**

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

JAN 24 1996

KANSAS STATE BOARD OF  
HEALING ARTS

IN THE MATTER OF )  
 )  
FREDERIC ARTHUR SWARTZ, M.D. )  
Applicant for Licensure by Endorsement )  
\_\_\_\_\_ )

Case No. 96-00131

STIPULATION AND AGREEMENT  
AND ENFORCEMENT ORDER

**COMES NOW**, the Kansas State Board of Healing Arts ("Board") by and through Lori Miskel McNett, Associate Counsel, and Frederic Arthur Swartz, M.D. ("Applicant"), and stipulate and agree as follows:

1. 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.; K.S.A. 65-2869. Applicant admits that this Stipulation and Agreement and Enforcement Order ("Stipulation") and the filing of such document are in accordance with the requirements of law; that the Board has jurisdiction to consider the Stipulation and is lawfully constituted to consider this matter to include consideration of this Stipulation. Applicant further notes that the Kansas Healing Arts Act is constitutional on its face and as applied in this case. Applicant further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provision of law.

2. Applicant applied for licensure by endorsement to practice medicine and surgery in the State of Kansas pursuant to K.S.A. 65-2833. Applicant is currently licensed to practice medicine and surgery in the State of Florida. Applicant previously held licenses to practice medicine and surgery in the State of Georgia and the State of New York, which licenses are not current.

3. Applicant answered affirmatively to question number 5 on the Application for Endorsement. Specifically, Applicant answered that his vascular surgery privileges at Bethesda Memorial Hospital in Boynton, Florida were not renewed and that a report was made to the National Practitioner Data Bank.

4. An investigation into these claims was initiated by the Board on or about December 22, 1995. Applicant voluntarily provided the Board with documentation from Bethesda Memorial Hospital regarding the termination of his vascular surgery privileges.

5. There may be probable cause to believe grounds exist to deny Applicant's application for licensure by endorsement. Specifically, the following grounds may constitute a basis for denial or limitation of license pursuant to K.S.A. 65-2836(s):

- a. Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

6. Applicant has made proper application for a license by endorsement, has the required qualifications for such license, and has paid the prescribed fees. Applicant is thus eligible to receive a temporary license to practice medicine and surgery in the State of Kansas pursuant to K.S.A. 65-2811, absent the above noted potential disciplinary impediments to licensure.

7. In consideration of the conditions, terms, covenants, and promises contained herein, the parties agree as follows:

- a. Applicant agrees that he will not perform vascular surgery in the State of Kansas until such time as he can demonstrate current clinical competency in vascular surgery to the Board's satisfaction.
- b. Applicant will be issued a temporary license to practice medicine and surgery in the State of Kansas effective until the next regularly scheduled Board meeting, February 17, 1996, at which time Applicant's application will be presented to the Board for review and consideration.
- c. Upon review and consideration of Applicant's application, the Board may extend the effective date of the temporary license, may grant permanent licensure (with or without limitations), or may deny the application for licensure.
- d. Applicant agrees that should the Board deny his application for licensure by endorsement, Applicant's temporary license will be immediately cancelled.
- e. Nothing in this agreement 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. 65-4921 et seq., that are unknown and are not covered under the conditions of this Stipulation, or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act, including the information which provides the basis for this Stipulation.

- f. This Stipulation constitutes the entire agreement between the parties and may only be modified and/or amended by a subsequent document executed in the same manner by the parties.
- g. Applicant acknowledges that he has read this Stipulation and fully understands its contents. Applicant acknowledges that this Stipulation has been entered into freely and voluntarily given.
- h. Applicant releases the Board, its employees and agents, from all claims to mean those damages, actions, liabilities and causes of actions, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions; K.S.A. 77-601 et seq. This release shall discharge the Board of any and all claims or demands of every kind and nature that Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commend to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Board, its employees or agents, arising out of acts leading to the execution of this Stipulation and Agreement or the contents of this Stipulation and Agreement.
- i. Applicant acknowledges that this document shall be deemed a public record upon Applicant's signing this document and Board acceptance of the terms of this document. Applicant acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

j. Board acknowledges that this Stipulation is not a disciplinary action and therefore the Board is not required to make a report to the National Practitioner Databank, the Federation of State Medical Boards, or other reporting agencies.

8. All correspondence or communication between Applicant and the Board shall be by certified mail addressed to: Kansas State Board of Healing Arts, ATTENTION: Office of the Disciplinary Counsel, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

9. Applicant 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 Stipulation and Agreement or may become effective subsequent to the execution of this document.

10. Upon execution of this Stipulation by the affixing of a Board authorized signature below, the provision of this Stipulation shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order under K.S.A. 65-2838. This Stipulation shall constitute the Board's Order when filed with the Office of the Executive Director for the Board and no further Order is required.

IN WITNESS WHEREOF, the parties have executed this agreement on the 5 day  
of KANAS, 1996.

KANSAS STATE BOARD OF HEALING ARTS

Lawrence T. Buening, Jr.  
Lawrence T. Buening, Jr.  
Executive Director

January 18, 1996  
Date

Frederic Arthur Swartz, M.D.  
Frederic Arthur Swartz, M.D.  
Applicant

1/18/96  
Date

Prepared and Approved As to Form by:

Lori Miskel McNett  
Lori Miskel McNett, #17223  
Associate Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, KS 66603-3068  
(913) 296-7413

**STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**  
Frederic Arthur Swartz, M.D.

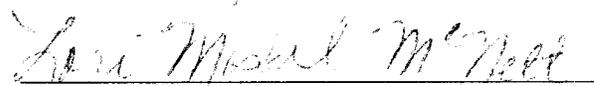
Certificate of Service

I do hereby certify that on this 2<sup>nd</sup> day of January, 1996, I caused a true and correct copy of the above and foregoing STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER to be delivered via facsimile and United States mail, first class postage prepaid, to:

Frederic Arthur Swartz, M.D.  
17648 Foxwood Way  
Boca Raton, Florida 33487  
fax no. (407) 496-1007

and hand delivered to:

Lawrence T. Buening  
Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, KS 66603

  
Lori Miskel McNett