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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 )
Hozair M. Syed, M.D. )
Kansas License No. 04-32894 )
Docket No. 15-HA 00093

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Seth K. Brackman, Associate Litigation Counsel, ("Petitioner"), and Hozair M. Syed, 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: 751 S. Weircanyon Road, Ste. 157662, Anaheim, California 92808.
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. 04-32894 on or about February 23, 2008. Licensee's license is currently inactive.
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 this case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. 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 substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
7. 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.
8. The Board has received information, and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-2836(j) to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*
9. All investigative information, specifically information related to KSBHA Investigation No. 14-00502, was fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 29. Disciplinary Panel No. 29, through their appointed member, authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

10. Licensee does not admit nor deny the allegations in the Consent Order. 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 his right to dispute or otherwise contest these allegations in any future proceeding before this Board.

11. On or about February 27, 2012, the Medical Board of California Department of Consumer Affairs--State of California ("California Board") filed an Accusation alleging Licensee violated the California Code, including but not limited to:

- "a. Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].
- b. Gross negligence.
- c. Repeated negligent acts . . .
- d. Incompetence.
- e. The commission of any act involving dishonesty or corruption or corruption which is substantially related to the qualification, functions, or duties of a physician and surgeon.
- f. Any action or conduct which would have warranted the denial of a certificate."

12. Further, the State of California defines unprofessional conduct "under California Business and Professions Code section 2234 [as] conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine."

13. Additionally, the Accusation further alleges Licensee violated “Section 726 of the Code[, which] states: ‘The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.’”

14. The California Board alleged the following:

- a. “At one of [Patient R.D.]’s appointments in October 2010, [Licensee] insisted on giving her money. Patient R.D. told him no. While leaving she gave him a friendly hug but he kissed her on the neck. [Licensee] then put \$40.00 in her purse which was open and sitting on her lap and told Patient R.D. that she was beautiful and he wanted to take her out to dinner. Patient R.D. told [Licensee] no.
- b. The evening before her November 4, 2010, appointment with [Licensee], Licensee called patient R.D. and said they should meet for lunch. He asked her to give him her address and said he would come to patient R.D.’s house. She said no and said she would meet him somewhere. He asked patient R.D., ‘Why don’t you want me to come to your house? Is it dirty?’ Patient R.D. asked [Licensee] where he wanted to meet and he told her that he wanted to go to a small restaurant. She suggested the mall. He offered to pick her up at her home. Patient R.D. told him no and that she would meet him at the mall. [Licensee] asked patient R.D. if she lived alone. She told him that she lived with her kids. Patient R.D. asked him why he was asking her these questions. [Licensee] told her that he was just a very good friend and cares about her. [Licensee] also told patient R.D. that he thinks about her a lot

and that she is a very beautiful girl. Patient R.D. said she would meet him at the mall. The morning they were scheduled to meet, [Licensee] called patient R.D. numerous times asking her if he could come to her house. Patient R.D. declined to have [Licensee] pick her up. She took public transportation to the mall to meet him.

- c. Patient R.D. met Respondent at a fast food restaurant at the mall. He offered his food to her to eat. She said no. [Licensee] asked her, 'What, you don't want to eat after me?' During his lunch, [Licensee] asked patient R.D. how close her parents were from her. She told him down the street. [Licensee] asked her if she wanted to have fun. Patient R.D. asked him what he meant. [Licensee] asked her if she would like to go out and have a good time and hang out. Patient R.D. told him no. [Licensee] told her that he liked to swim and asked her if she wanted to go swimming. Patient R.D. said no. [Licensee] asked her why she wore flip-flops and told her she needed new clothes. After they were done eating [Licensee] asked her if she would like him to buy her shoes. She told him no. [Licensee] insisted that he buy her clothes. Patient R.D. told him no. [Licensee] told her he would buy her a pair of new jeans. [Licensee] walked Patient R.D. to a clothes store and they both looked around until patient R.D. found a pair of jeans. Respondent told her to 'hold them up to you.' Patient R.D. stated she wanted the size she was holding. Respondent purchased the jeans and they left the store. He then grabbed her by the waist and pulled her close to him. [Licensee] also tried to kiss her. She pulled away from him. They walked out of the mall together and he asked her if she wanted a ride. She said no. Respondent then gave patient R.D. a hug and tried to

kiss her on the mouth. She pulled away and he told her that she was a very beautiful girl. He tried to kiss her again on the mouth and she pulled away again. [Licensee] told her that they would do this again and she walked away from him.”

15. On or about December 12, 2013, Licensee agreed to and signed the Stipulated Settlement and Disciplinary Order; wherein, Licensee agreed to the revocation of his California Physician’s and Surgeon’s Certificate, but that such revocation would be stayed and that he would be placed on probation for a period of seven (7) years on the following terms and conditions:

- a. Actual Suspension for thirty (30) days;
- b. Community Service, wherein Licensee would complete 200 hours of free services to a community or non-profit organization within the first two (2) years and not later than six (6) months prior to the completion of probation.
- c. Professionalism Program (Ethics Course) to be completed within one (1) year;
- d. Professional Boundaries Program to be completed within six (6) months;
- e. Confidential
- f.
- g. Restricted from
  - i. Solo practice;
  - ii. No female patients;
  - iii. No supervising physician assistants;
- h. Standard conditions of probation.

16. Licensee acknowledges that the Board has sufficient evidence to prove that Licensee has violated the following provisions of the Kansas Healing Arts Act with respect to the above facts:

- a. Licensee's acts and conduct constitute a violation of K.S.A. 65-2836 which states, "A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured or placed under probationary conditions . . . upon a finding of the existence of any of the following grounds: . . . (j) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken . . . by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof."

17. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

18. Pursuant to K.S.A. 65-2836, the Board has grounds to deny, revoke, suspend, limit, and/or censure 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.

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. 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.

21. 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.
22. 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.
23. 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.



24. 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.
25. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
26. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
27. Licensee acknowledges and agrees that Licensee's failure to comply with any of the provisions of this Consent Order is a violation of a Board order and grounds for disciplinary action against Licensee's license pursuant to K.S.A. 65-2836(k).
28. 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 Data Bank, Federation of State Medical Boards, and any other entities authorized to receive disclosure of the Consent Order.
29. 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.
30. 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.

31. This Consent Order constitutes public disciplinary action.
32. The Board may consider all aspects of this Consent Order in any future disciplinary matter regarding Licensee.
33. 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:

**REVOCATION STAYED TO SEVEN (7) YEARS PROBATION**

34. Licensee's license to practice medicine and surgery in the State of Kansas shall be revoked, but such revocation shall be stayed and Licensee agrees to successfully complete no less than seven (7) years' probation pursuant to the conditions outlined as terms of probation below.

**PROBATION LIMITATION: NO SOLO PRACTICE**

35. Licensee's license is hereby limited. Licensee shall be prohibited from engaging in the solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice where:
  - a. Licensee merely shares office space with another physician but is not affiliated for purposes of providing care;
  - b. Licensee is the sole physician at that location.

36. After a period of seven (7) years, Licensee agrees that a request to modify or terminate this condition of probation shall be in writing and addressed to:

Kansas State Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

37. All proceedings conducted on the request to terminate this condition of probation shall be in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et. seq.* and shall be reviewable in accordance with the Kansas Judicial Review Act, K.S.A. 77-601, *et. seq.*

**PROBATION LIMITATION: NO FEMALE PATIENTS**

38. Licensee's license is hereby limited. Licensee shall be prohibited from providing care and treatment to any and all female patients for at least one (1) year.

39. Licensee may apply to lift or terminate this limitation after the expiration of one (1) year from the date of approval of this Consent Order. The burden of proof by clear and convincing evidence shall be on Licensee to show sufficient rehabilitation to justify lifting or terminating this limitation. If the Board determines this limitation should not be lifted or terminated, Licensee shall not be eligible to reapply for the lifting or termination of this limitation for six (6) months from the effective date of the denial of all or part of any such request.

40. Licensee agrees to immediately surrender his license if he fails to comply with this aforementioned limitation of providing care and treatment to any and all female patients in any manner.

41. All proceedings conducted on this limitation shall be in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et. seq.* and shall be reviewable in accordance with the Kansas Judicial Review Act, K.S.A. 77-601 *et. seq.*

42. Such motion to lift or terminate this limitation shall be made in writing and addressed to:

Kansas State Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

**PROBATION: CHAPERONE**

43. Upon the lifting or termination of the limitation that prevents Licensee from providing care and treatment to any and all female patients, Licensee agrees the chaperone requirements as outlined below will take immediate effect.

44. For a period of at least three (3) years, Licensee shall not practice medicine and surgery unless he has a chaperone in the room at all times he is present with any female patient. Licensee agrees to use the Board-approved chaperone protocol that includes daily log sheets of his patient contact to be filled out by his designated chaperone. The chaperone protocol will be submitted to the Board for approval. The Board designates the Disciplinary Panel's Appointed Member to approve or disapprove of the chaperone protocol. Licensee shall bear all expenses associated with the patient chaperone.

45. Furthermore, the chaperone shall be required to create and maintain a daily log identifying all female patients seen in the office that day, and certifying their presence for all female patients seen in the office that day. Such daily logs must be submitted to the Board, and to Licensee's practice monitor on a monthly basis and must be received on or before the 15<sup>th</sup> day of the following month. Licensee is responsible for ensuring that the daily logs are submitted to the Board.

46. Prior to seeing and/or treating any female patients, Licensee shall provide the Board with the name and Curriculum Vitae (CV) of his proposed chaperone. Any proposed chaperone must have a current professional license in a healthcare profession that is regulated by a Kansas licensing agency. The proposed chaperone must also have been in the active practice of his/her profession for the previous one (1) year. The Board designates the Disciplinary Panel's Appointed Member to approve or disapprove of the chaperone. The chaperone must speak with a representative of the Board, or its designee, prior to approval.
47. Should Licensee need to change his chaperone, then he must provide the Board with a new name and CV of the new proposed chaperone for approval by the Board or by an appointed member of Disciplinary Panel No. 29. Any proposed subsequent chaperones shall meet or exceed the aforementioned requirements of the chaperones. Licensee shall not see and treat any female patients until a new chaperone has been approved.
48. After a period of three (3) years, Licensee agrees that a request to modify or terminate this condition of probation shall be in writing and addressed to:

Kansas State Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

49. All proceedings conducted on the request to terminate this condition of probation shall be in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et. seq.* and shall be reviewable in accordance with the Kansas Judicial Review Act, K.S.A. 77-601 *et. seq.*

**PROBATION: NO SUPERVISION OF MID-LEVEL PRACTITIONERS**

50. Licensee shall not supervise, direct, or monitor any mid-level practitioners effective upon approval of this Consent Order with the Board.

51. Licensee may apply for reinstatement of supervision authority over mid-level practitioners after the expiration of three (3) years from the date of approval of this Consent Order. The burden of proof by clear and convincing evidence shall be on Licensee to show sufficient rehabilitation to justify reinstatement of his supervision authority. If the Board determines his supervision authority should not be reinstated, Licensee shall not be eligible to reapply for reinstatement for one (1) year from the effective date of the denial of all or part of any such request.
52. Licensee agrees to immediately surrender his license if he fails to comply with this aforementioned limitation of supervision privileges in any manner.
53. All proceedings conducted on this limitation shall be in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et. seq.* and shall be reviewable in accordance with the Kansas Judicial Review Act, K.S.A. 77-601 *et. seq.*
54. Such application for reinstatement of supervision authority shall be made in writing and addressed to:

Kansas State Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

**PROBATION: EDUCATION**

55. Licensee shall attend and successfully complete one of the three following Professionalism/Boundaries/Ethics programs on the days listed unless otherwise approved by Disciplinary Panel No. 29. If Licensee has completed one of the three programs listed below since entering his California Stipulated Settlement and Disciplinary Order he signed on December 2, 2013, Licensee must submit proof of successful completion for satisfaction of this probation term. If Licensee completed a similar program, but a program that is not

listed below, in satisfaction of the California probation requirement, Licensee must submit all materials for that program as well as proof of successful completion to be reviewed by Disciplinary Panel No. 29 to determine if such program meets the Probation: Education requirements herein.

a. The Center for Personalized Education for Physicians (CPEP)

i. ProBE Program: Ethics and Boundaries Course

1. May 15-17, 2015, in Newark, New Jersey;
2. June 9-11, 2015, in Denver, Colorado;
3. July 10-12, 2015, in Raleigh, North Carolina;
4. August 13-15, 2015, in Denver, Colorado; OR
5. September 18-20, 2015, in Newark, New Jersey.

b. Case Western Reserve University School of Medicine (“Case Western”)

i. Medical Ethics, Boundaries & Professionalism

1. September 10-11, 2015, in Beachwood, Ohio (Cleveland)

c. Physician Assessment and Clinical Education Program (PACE)

i. Professional Boundaries Program

1. May 23-25, 2015, in San Diego, California
2. September 12-14, 2015 in San Diego, California

56. All costs associated with such program shall be at Licensee’s own expense to include, but not be limited to, the cost of the program, the cost of travel to and from the program, and the cost of accommodations while attending the program.

57. These hours shall be in addition to those continuing education hours required for renewal of licensure.

58. On or before May 1, 2015, Licensee shall notify the Compliance Coordinator in writing of which course date Licensee has registered to attend. If Licensee has completed one of the three programs listed above or a similar program as part of his California Stipulated Settlement and Disciplinary Order he signed on December 2, 2013, Licensee shall submit proof of successful completion of such program on or before May 1, 2015.
59. Licensee shall provide proof of successful completion to the Compliance Coordinator within thirty (30) calendar days of successfully completing the program.
60. Proof of completion of the education requirements shall be submitted by sending the same to:

Kansas State Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

**PROBATION: COMMUNITY SERVICE**

61. Licensee shall complete and submit proof of completion of 200 hours of community service (e.g., medical or nonmedical), free of charge, to a community or non-profit organization, within two (2) years. Licensee may receive credit for the same community service hours provided and accepted by the California Board as part of the California Stipulated Settlement and Disciplinary Order signed on December 2, 2013.
62. If Licensee has not completed the full 200 hours of community service, Licensee shall submit a community service plan to the Board within on or before May 1, 2015.
63. Licensee shall notify the Kansas Board within thirty (30) days of any changes to the community service plan.



64. Proof of completion of all community service hours shall be submitted by sending the same

to:

Kansas State Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

**Confidential**

65.

66.

67.

Confidential

68.

69.

ATTN = SETH K BRAKMAN

**TIMEFRAME**

70. The above probation and <sup>Confidential</sup> provisions are not self-terminating. Except as provided for above, after a period of no less than seven (7) years, Licensee may request modification or termination of the monitoring and probation provisions.

71. Licensee agrees that a request to modify or terminate any probation or treatment provision above shall be in writing and addressed to:


Kansas State Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

72. For any period of time that Licensee is not actively practicing medicine and surgery in Kansas, the monitoring and probation provisions will remain in effect but will be tolled and not counted towards reducing the seven (7) year timeframe.

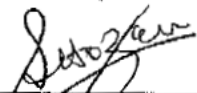
**IT IS THEREFORE ORDERED** that the Consent Order containing the agreement of the parties contained herein is hereby adopted by the Board as findings of fact and conclusions of law.

**IT IS SO ORDERED** on this 15 day of April, 2015.

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

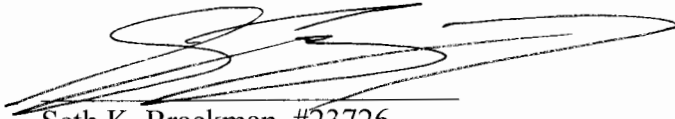
  
Kathleen Selzer Lippen  
Executive Director

4/15/15  
Date

  
Hozair M. Syed, M.D.  
Licensee

3/19/15  
Date

PREPARED AND APPROVED BY:



Seth K. Brackman, #23726  
Associate Litigation Counsel  
800 SW Jackson St.  
Lower Level Suite A  
Topeka, KS 66606  
(785) 368-7257-telephone  
(785) 368-8210-facsimile  
[sbrackman@ksbha.ks.gov](mailto:sbrackman@ksbha.ks.gov)

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 15<sup>th</sup> day of April, 2015, to the following:

Hozair M. Syed, M.D.  
Licensee  
751 S. Weircanyon Road, Ste. 157662  
Anaheim, California 92808

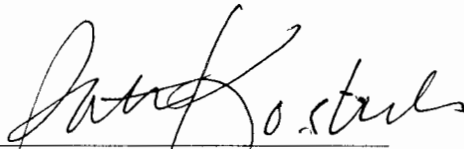
And the original was hand-delivered for filing with:

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

And copies were delivered to:

Seth K. Brackman, Associate Litigation Counsel  
Katy Lenahan, Licensing Administrator  
Kansas State Board of Healing Arts  
800 SW Jackson  
Lower Level- Suite A  
Topeka, Kansas 66612

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

  
\_\_\_\_\_  
Staff Member