

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

AUG 19 1996

**KANSAS STATE BOARD OF
HEALING ARTS**

IN THE MATTER OF)
)
NEONILLO A. TEJANO, M.D.)
Kansas License No. 04-15674)
_____)

Case # 94-00078
95-00277

STIPULATION AND AGREEMENT
AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts ("Board") by and through Kevin K. LaChance, Disciplinary Counsel, and Neonilo A. Tejano, M.D. ("Licensee") by and through his attorney, Larry Shoaf, of McDonald, Tinker, Skaer, Quinn & Harrington, P.A., Wichita, Kansas, 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. Licensee 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. Licensee further notes that the Kansas Healing Arts Act is constitutional on its face and as applied in this case. Licensee further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provision of law.

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 number 04-15674 on May 7, 1974. At all times relevant to the allegations set forth below, Licensee has held a current license to engage in the

practice of medicine and surgery in the state of Kansas, having last renewed his license on July 12, 1995.

3. The Board has received information, has investigated such information, and has reasonable cause to believe that Licensee has committed certain acts in violation of the Healing Arts Act. K.S.A. 65-2801 et seq; K.S.A. 65-2836. Specifically, it is alleged that Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(a)(1), (a)(2), and/or (a)(3). The Board states it would present substantial evidence in an administrative hearing in support of its allegations. Licensee neither confirms nor denies the allegations.

4. Such acts or conduct as set forth above could constitute grounds for disciplinary action by the Board pursuant to the cited provisions of the Healing Arts Act. Under the provisions of K.S.A. 65-2838(a), the Board has jurisdiction to impose appropriate discipline if a licensee to the Board has engaged in any commissions or omissions to bring licensee within the purview of K.S.A. 65-2836. Under the provisions of K.S.A. 65-2838(b), the Board has authority to enter into this Stipulation without the necessity of proceeding to a formal hearing. Licensee voluntarily and affirmatively waives his right to a hearing pertaining to any matter under the jurisdiction of the Board regarding his license to engage in the practice of medicine and surgery. Licensee voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, to conduct such cross-examination of witnesses as may be desired and to waive any and all substantive and procedural motions and defenses that could be raised if an administrative hearing would be held.

The terms and conditions of the Stipulation 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 Stipulation shall not be binding on the Board until an authorized signature is affixed

at the end of this document. Upon signature by Licensee to this document, it shall be deemed a unilateral contract and agreement and shall bind Licensee to the terms and conditions set forth in the Stipulation whether or not the Board's signature is affixed to the document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

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

a) In lieu of the commencement of formal proceedings and/or the making of findings by the Board, Licensee, by signature attached to this Stipulation and Agreement, hereby voluntarily agrees to the following disciplinary measures placed on his license to engage in the practice of medicine and surgery in the State of Kansas:

i) Licensee agrees that, for a period of at least three (3) years he will perform surgical procedures only at the Hertzler Clinic and/or Halstead Hospital, both located in Halstead, Kansas.

ii) Licensee agrees that he will continue to be subject to monitoring of his surgical practice, in accordance with the Memorandum of Understanding ("MOU") of August 17, 1992 between Licensee and the Hertzler Clinic. MOU items 1-7 are hereby adopted as if fully restated herein.

a) During the first twelve months after Board acceptance of this Stipulation, Licensee shall be responsible to ensure that the Hertzler clinic provides monthly reports pertaining to each of the seven monitoring items of the MOU. The reports will be due by the fifteenth (15th) day of the month for the month immediately proceeding. If, upon Licensee's petition, and in the Board's sole discretion, the results of the monitoring are satisfactory, the frequency of monitoring reports may change as detailed in subparagraph (b) immediately following.

(b) For the remainder of the monitoring period, Licensee shall be responsible to ensure that the Hertzler provides quarterly reports as detailed in subparagraph (a) immediately preceding. The reports will be due on the fifteenth (15th) day of the month for the previous quarter.

iii) Licensee may request termination of the Stipulation 36 (thirty-six) months after Board acceptance of the terms of this Stipulation. The Board, in its sole discretion, shall determine whether or not the Stipulation should be terminated.

b) Licensee's failure to comply with the provisions of the Stipulation will result in the Board taking disciplinary action as the Board deems appropriate in compliance with the Kansas Administrative Procedure Act and/or the terms of this Stipulation.

c) 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.

d) 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.

e) Licensee acknowledges that he has read this Stipulation and fully understands its contents. Licensee acknowledges that this Stipulation has been entered in freely and voluntarily given.

f) Licensee 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 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 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.

g) Licensee acknowledges that this document shall be deemed a public disciplinary record upon Licensee's signing this document and Board acceptance of the terms of this document. Licensee further acknowledges that the Board has determined that this action requires the Board to make a report to the National Practitioner Data Bank and the Federation of State Medical Boards.

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

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

8. Licensee has an affirmative duty to notify the Board of changes in his personal professional status which would inhibit compliance with the above conditions in this Stipulation.

9. Upon execution of this Stipulation by the affixing of a Board authorized signature below, the provisions 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

19th day of August, 1996.

KANSAS STATE BOARD OF HEALING ARTS

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

Aug 19, 1996
Date

Neonilo A. Tejano, M.D.
Neonilo A. Tejano, M.D.
Licensee

Date

Prepared and Approved As To Form By:

[Signature]

Kevin K. LaChance, #15058
Disciplinary Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
(913) 296-7413

[Signature]

Larry Shoaf
McDonald, Tinker, Skaer, Quinn, & Herrington
Counsel for Licensee
Wichita, Kansas 67402-1247
(913) 827-7251

CERTIFICATE OF SERVICE

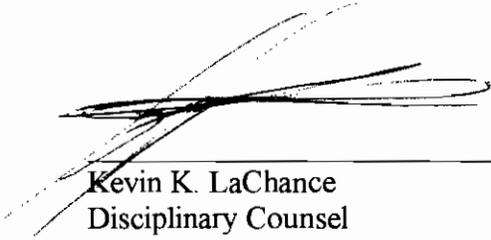
I, Kevin K. LaChance, do hereby certify that on this 20th day of August, 1996, a copy of the above and foregoing STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER was deposited in the United States mail, first class, postage prepaid to the following:

Neonilo A. Tejano, M.D.
The Hertzler Clinic PA
327 Chestnut Street
Halstead, KS 67056

Larry Shoaf, Esq.
McDonald, Tinker, Skaer, Quinn & Harrington
Counsel for Licensee
Wichita, KS 67402-1247

and the original was hand-delivered to:

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



Kevin K. LaChance
Disciplinary Counsel
Kansas State Board of Healing Arts

ATTACHMENT "A"

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

DOCTOR NEONILLO TEJANO, M.D.

- 1) Pre-op evaluation
- 2) Pre-op intervention by Internal Medicine
- 3) Availability for all his surgical patients on the day of surgery
- 4) Limit outreach volume
- 5) Availability for all post-surgical complications
- 6) Visit each patient each day with his hand-written note in the patient's record
- 7) Monitor the volume of patients seen to meet the normal number for his specialty