

FILED CAB
SEP 25 2012
KS State Board of Healing Arts

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

In the Matter of)
) Docket No. 12-HA00015
Salvador F. Valdeperas II, M.D.)
License No. 04-35373)

AMENDED CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Stacy R. Bond, Associate Litigation Counsel (“Petitioner”), and Salvador F. Valdeperas II, 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** Lee’s Summit, MO 64086.
2. On or about October 12, 2010, Applicant/Licensee submitted to the Board an application for licensure in medicine and surgery. Such application was deemed complete on June 7, 2011.
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

Consent Order
Salvador F. Valdeperas II, M.D.

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 possible 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 to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*
9. Licensee disclosed in his application for licensure that he has not engaged in the practice of the healing arts nor been engaged in a formal educational program

since October 2005, when he took leave from his residency program to explore other career options.

10. Licensee resigned from his residency program in January 2006.
11. In September 2010, Licensee obtained employment at eScreens as a medical review officer for review of drug screens.
12. Licensee's duties as a medical review officer for eScreens include receiving and reviewing laboratory results for both federal and non-federal drug screens; accepting inbound calls from donors to discuss drug screen results and evaluate whether a medical explanation exists for the outcome of the drug test; properly documenting and securing any confidential medical information acquired for later retrieval; and handling inquiries from employers and clinic personnel regarding the drug screening process and/or specific results.
13. Due to the length of time that transpired since Licensee practiced the healing arts, the Disciplinary Panel requested Licensee complete the re-entry evaluation at the Center for Personalized Education for Physicians (CPEP).
14. On March 2 and 3, 2011, Licensee underwent a clinical skills evaluation in general practice. On May 4, 2011, Licensee underwent an additional clinical interview, which focused on Licensee's knowledge in the field of screenings for drugs of abuse.

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CONFIDENTIAL

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17. On or about July 29, 2011, Licensee entered into a Consent Order with the Board which limited his license to only practicing “medicine and surgery solely as a medical review officer in the area of screenings for drugs of abuse.” This Consent Order was ratified by the Board on or about October 27, 2011.

18. On or about June 26, 2012, Licensee entered into an Educational Intervention Program with CPEP to address the educational needs identified in the CPEP Assessment Report prepared on or about March 2-3 and May 4, 2011, as related to Licensee’s performance in the area of general practice.

19.

CONFIDENTIAL

20. Pursuant to K.S.A. 65-2809(e), Any person who has not been in the active practice of the branch of the healing arts for which [license] is sought or who has not been engaged in a formal educational program during the two years preceding the application for [licensure] may be required to complete such additional

- testing, training or education as the board may deem necessary to establish the Licensee/Applicant's present ability to practice with reasonable skill and safety.
21. 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.
 22. All pending investigation materials in KSBHA Investigative Case Number 11-00239 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.
 23. 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 his 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.*

24. 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. 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.
25. 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.
26. 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.
27. 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.

28. 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.
29. 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.
30. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
31. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
32. Licensee understands that a Temporary License shall be issued based upon Licensee's signing this Consent Order and abiding by the terms of this Consent Order. Licensee further understands that the Temporary License is only effective until a conference hearing is held by the Board on ratification of this Consent Order and that if the Board fails to ratify this Consent Order, the Temporary License shall immediately expire at the conclusion such hearing. If the Board

ratifies this Consent Order, Licensee shall be issued a permanent licensure under the terms of this Consent Order. Licensee further understands that if the Board fails to ratify the Consent Order that the temporary lifting of the limitation placed on his license on October 27, 2011, will cease and the limitation will remain.

33. 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, Lower Level-Suite A, Topeka, Kansas 66612.
34. 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.
35. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order under K.S.A. 65-2838. This Consent Order shall constitute the Board's Final Order when filed with the office of the Executive Director for the Board and no further Order is required.
36. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
37. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following limitations as a condition to being granted licensure to engage in the practice of medicine and surgery:

LIMITATIONS

38. Licensee shall not practice medicine and surgery unless and until he complies with each of the following:
39. Within ten (10) days of the approval of this Consent Order, Applicant/Licensee agrees to formally enter an Educational Intervention Program, Education Plan with CPEP and provide proof of the same to the Board.
40. Applicant/Licensee agrees and understands that he must remain in strict compliance with the CPEP Education Plan set forth in CPEP's Educational Intervention Program, Education Plan, developed June 2012. That Applicant/Licensee is hereby advised that any notification from CPEP that Applicant/Licensee is not in compliance with the Education Plan constitutes a violation of the Board's order which may subject Applicant/Licensee to disciplinary action as set forth in K.S.A. 65-2836.
41. All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Complaint Coordinator, 800 SW Jackson, Lower Level-Suite A., Topeka, Kansas 66612.
42. The Board designates a representative of Disciplinary Panel 26 to review and approve/disapprove any issue that may arise in the implementation of this Consent Order.

LIMITATION TIMEFRAME

43. The above limitations are not self-terminating. After the successful completion of the Education Plan, Licensee may request modification or termination of the provisions.

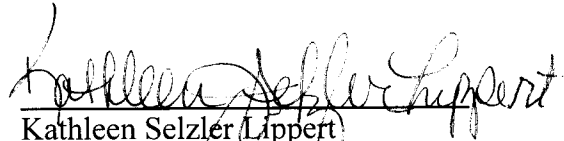
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS FURTHER ORDERED that the previous Consent Order entered into on or about October 27, 2011, "which limited [Licensee's] license to only practicing "medicine and surgery solely as a medical review officer in the area of screenings for drugs of abuse," is hereby temporarily lifted.

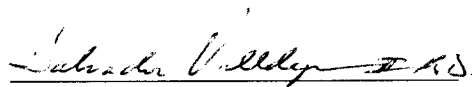
IT IS FURTHER ORDERED that upon meeting all technical requirements for licensure, Applicant/Licensee shall be granted an active license, pursuant to the conditions above.

IT IS SO ORDERED on this 20th day of Sept, 2012.

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

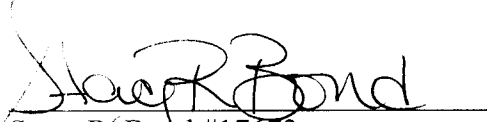

Kathleen Selzler Lippert
Executive Director

9/25/12
Date


Salvador F. Valldeperas II, M.D.
Licensee

09/13/2012
Date

PREPARED AND APPROVED BY:

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

Stacy R. Bond #17673

Associate Litigation Counsel

Kansas Board of Healing Arts

800 SW Jackson, Lower Level-Suite A

Topeka, Kansas 66612

785-296-3268

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 25 day of Sept., 2012, to the following:

Salvador F. Valldeperas II, M.D.
Licensee
CONFIDENTIAL
Lee's Summit, MO 64086

And the original was hand-filed with:

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

And a copy was hand-delivered to:

Stacy R. Bond
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Katy Lenahan
Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Cathy A. Brewer