

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
)
JAMES R. WEBB, JR., D.O.)
Kansas License No. 05-27613)

Docket No. 12-HA 00065

CONSENT ORDER FOR SURRENDER OF LICENSE

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Associate Litigation Counsel, Brandy O. Snead, and Litigation Counsel, Reese H. Hays ("Petitioner"), and Licensee-Respondent James R. Webb, M.D. ("Licensee"), by and through his counsel, Brian Gaddy of Gaddy Geiger & Brown, PC and move the Board for approval of a Consent Order affecting Licensee's license to practice as a doctor of osteopathic medicine and surgery in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address as provided to the Board is: 13830 Santa Fe Trail Drive, Lenexa, Kansas 66215.
2. Licensee has been entitled to engage in practice as a doctor of osteopathic medicine and surgery in the State of Kansas, having been issued License No. 05-27613 on approximately June 13, 1998, and having last renewed such license on approximately October 1, 2010.
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 osteopathic medicine and surgery. K.S.A. 65-2801 *et seq.* and K.S.A. 65-2870.
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 the 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. Licensee admits no wrongdoing and further neither admits nor denies 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 allegations contained in the Petition. Licensee further waives his right to dispute or otherwise contest these allegations in any future proceeding before this Board.

9. Licensee issued prescriptions for large quantities of Schedule II and Schedule III drugs to clusters of patients, often on the weekends, many of whom were uninsured, paid in cash and had traveled from Missouri to Kansas.
10. Licensee provided narcotic prescriptions to a Medicaid recipient between 6/11/10 and 8/12/10. When an RN from Clinical Management called Licensee, he stated that he did not know the patient had insurance and that he usually told his patients to go to a couple of different pharmacies rather than the same one.
11. Licensee was selling prescriptions out of his vehicle for cash.
12. A detective with the Kansas City Police Department, came across Licensee's name while investigating a person who had purchased oxycodone at a CVS Pharmacy with a stolen credit card. The prescription was from Licensee. The detective called Licensee and Licensee admitted that the person was his patient, but that Licensee had not given him a prescription for that particular pain medication. However, Licensee told the detective Licensee had in fact given him the prescription while in a parking lot with a group of about five other people getting their own prescriptions.
13. Heather Torrey, an employee of the Quality Assurance program at the Kansas Medical Assistance Program, stated that they had received information regarding Licensee's practice of over-prescribing narcotic medications to **confidential** in April and May of 2011. The following prescriptions were noted:

4/13/11	Oxycodone 30 mg, #480, 20 day supply
4/19/11	Morphine Sulphate 100 mg, #90, 30 day supply
4/26/11	Oxycodone 30 mg, #480, 8 day supply
5/6/11	Oxycodone 30 mg, #480, 15 day supply
5/6/11	Oxycotin 80 mg, #180, 30 day supply
5/6/11	Alprazolam 2 mg, #60, 15 day supply

14. A concerned family member of one of Licensee's patients explained that his or her brother-in-law was now addicted and he had gotten the drugs from Licensee. He or she went on to state that Licensee had also sold prescriptions to two young men who in turn sold them to friends or other "regular customers."
15. A concerned mother wrote in regarding her son and stated that her son was addicted to oxycodone after receiving it multiple times from Licensee. He would go to Licensee's office, say he had a herniated disk, and receive prescriptions in exchange for cash.
16. Licensee does not currently hold DEA Certificate of Registration BW5321221. On 9/1/11, an Order to Show Cause and Immediate Suspension of Registration was filed by the Drug Enforcement Administration (DEA) against Licensee. The DEA immediately suspended Licensee's DEA Certificate of Registration BW5321221 because his continued registration "constitute[d] an imminent danger to the public health and safety." Licensee voluntarily surrendered his controlled substances privileges on 11/10/11.
17. The basis for the suspension of Licensee's DEA Certificate of Registration was Licensee's numerous violations of the Controlled Substances Act, Title 21, United States Code, Sections 823 and 824, for issuing Schedule II controlled substances to an undercover law enforcement officer approximately seven (7) times between on or about 1/25/11 and on or about 6/7/11 for other than a legitimate medical purpose or outside the usual course of professional practice.
18. On more than one occasion, Licensee allegedly explained that the cost for the prescriptions, or his "three levels of service," were as followed: 120 oxycodone 30 mg tablets for \$540, 220 tablets for \$870, and 350 tablets for \$1,400.

19. Licensee's acts, if proven, constitute violations of the Healing Arts Act as set forth in

K.S.A. 65-2836. Specifically, grounds to discipline include:

- a. K.S.A. 65-2836(b), in that Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.
- b. K.S.A. 65-2836(f), in that Licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.
- c. K.S.A. 65-2836(p), in that Licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.
- d. K.S.A. 65-2836(q), in that Licensee has violated a federal law or regulation relating to controlled substances.
- e. K.S.A. 65-2836(s), in that sanctions or disciplinary actions have been taken against the licensee by a... governmental agency...for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.
- f. K.S.A. 65-2836(u), in that Licensee has ... surrendered the authority to utilize controlled substances issued by ... [a] federal agency... while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

20. Licensee's acts, if proven, constitute violations of the Healing Arts Act as set forth in

K.S.A. 65-2837. Specifically, grounds to discipline include:

- a. K.S.A. 65-2837(12), in that Licensee committed conduct likely to deceive, defraud or harm the public.
- b. K.S.A. 65-2837(23), in that Licensee has prescribed, dispensed, administered or distributed a prescription drug or substance, including a controlled substance, in an improper or inappropriate manner, or for other than a valid medical purpose, or not in the course of the licensee's professional practice.
- c. K.S.A. 65-2837(24), in that Licensee repeated failed to practice healing arts with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

21. The Board has received information, investigated the same, and has reason to believe allegations of professional incompetency and unprofessional conduct occurred.
22. Licensee waives his right to contest the allegations contained in this Consent Order and consents to a finding that there are grounds for the Board to pursue disciplinary action against his license.
23. Pursuant to K.S.A. 65-2836, the Board may revoke Licensee's license; alternatively, Licensee may surrender his license while under investigation. Pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
24. Pursuant to K.S.A. 77-505 and 65-2838(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

25. All pending investigation materials for Investigative Nos. 11-00151 & 12-00120 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. On December 15, 2011, Disciplinary Panel No. 26 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
26. 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 osteopathic medicine and surgery:

SURRENDER

- a. Licensee hereby surrenders his license to practice osteopathic medicine and surgery. Such surrender shall be treated as a revocation for all purposes including reporting. 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.
- b. 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.
27. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.
28. 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.

29. 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.
30. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.
31. 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.
32. 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.

33. 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.

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

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

36. 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, 800 SW Jackson, Lower Level Suite A, Topeka, Kansas 66612.

37. 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 Final Order when filed with the office of the Executive Director for the Board and no further Order is required.

38. This Consent Order constitutes disciplinary action.

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

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

IT IS FURTHER ORDERED that:

SURRENDER

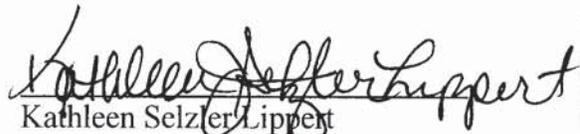
40. Licensee hereby surrenders his license to practice osteopathic medicine and surgery.

Such surrender shall be treated as a revocation for all purposes including reporting. 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.

41. 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.

IT IS SO ORDERED on this 20 day of March, 2011.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

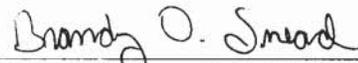

Kathleen Selzer Lippert
Executive Director

3/20/12
Date

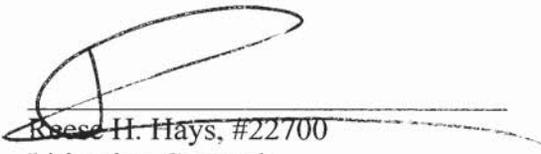

James R. Webb, D.O.
Licensee

3-15-12
Date

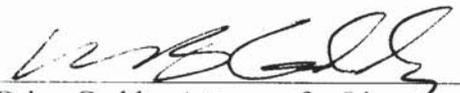
PREPARED AND APPROVED BY:


Brandy O. Snead, #25301 (Temporary License)
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson
Lower Level Suite A
Topeka, Kansas 66612

APPROVED BY:


Reese H. Hays, #22700
Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson
Lower Level Suite A
Topeka, Kansas 66612

AGREED TO BY:


Brian Gaddy, Attorney for Licensee
Gaddy Geiger & Brown PC
2345 Grand Boulevard, Suite 675
Kansas City, MO 64108

CERTIFICATE OF SERVICE

1. Cathy A. Brown, hereby certify that I served a true and correct copy of the Consent Order for Surrender of License by United States mail, postage prepaid, on this 20th day of March, 2012, to the following:

James R. Webb, D.O.

Licensee

confidential

Parksville, MO 64152

Brian Gaddy, Esquire

Attorney for Licensee

Gaddy Geiger & Brown PC

2345 Grand Boulevard, Suite 675

Kansas City, MO 64108

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:

Brandy Snead

Associate Litigation Counsel

Kansas Board of Healing Arts

800 SW Jackson

Lower Level Suite A

Topeka, Kansas 66612

Reese Hays

Litigation Counsel

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Cathy A. Brown