

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. The Board has received information and investigated the same, and has reason to believe there are grounds pursuant to K.S.A. 65-2836, to take action with respect to Licensee's license under the Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. In March 2007, Licensee had privileges at St. Francis Hospital and Medical Center in Topeka, Kansas. Medical Staff by-laws for St. Francis provide that each patient must be seen daily.
10. Licensee was the primary care physician and admitting physician for Patient 1 who was admitted to St. Francis Hospital on March ^H9, 2007. 
11. Licensee failed to review, write orders or make progress notes for Patient 1 on March 10, 2007 and March 11, 2007; leaving the appearance that this patient had not been seen by her physician for over 48 hours.
12. Licensee made chart entries for Patient 1 on March 12, 2007 indicating he had provided patient care on March 10 and 11, 2007; which was not accurate.
13. (confidential)
 - a. Licensee immediately acknowledged his error and provided a detailed response accepting responsibility. Licensee indicated that he inadvertently forgot to see this patient over a weekend and when he realized his error he fabricated notes for the missed days.
 - b. (confidential)
 - c. (confidential)

d. (confidential)

14. Licensee acknowledges the Board has sufficient evidence to prove that Licensee has violated the Healing Arts Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

15. (confidential)

16. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836.

17. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(25) in that Licensee failed to keep written medical records which accurately describe the services rendered to the patient. .

18. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b) in that Licensee has committed acts of unprofessional conduct. Specifically, Licensee is generally competent but negligently failed to use skill or judgment.

19. Pursuant to K.S.A. 65-2836, as amended by HB 2620 on July 1, 2008, the Board may revoke, suspend, limit censure or place under probationary conditions, Licensee's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Healing Arts Act.

20. 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.

21. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 23 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
22. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against his license to engage in the practice of medicine and surgery:

PROBATION

- a. Licensee license shall be placed on probation for violation of the Healing Arts Act.
- b. Licensee shall create and maintain accurate medical records which comply with the Healing Arts Act, including but not limited to K.S.A. 65-2837(b)(25) and K.A.R. 100-24-1.
- c. 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.
- d. Licensee, upon request, shall make himself available to meet with the Board, Board staff or their designee during the period of probation and provide any documents or records requested.

FINE

- e. Licensee is hereby fined \$2,500. Such fine is payable in full to the "Kansas Board of Healing Arts" on or before November 30, 2009.

PROBATION AND LIMITATION TIMEFRAME

- f. The above probation is not self-terminating. After a period of one (1) year, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing medicine and surgery in Kansas, the probation will remain in effect but will be tolled and not counted towards reducing the one (1) year timeframe.
23. 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.
24. Nothing in this Consent Order 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. 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 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 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.

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 reporting 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. 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, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
33. 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.
34. 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.
35. This Consent Order constitutes disciplinary action.
36. 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:

PROBATION

- a. Licensee license shall be placed on probation for violation of the Healing Arts Act.
- b. Licensee shall create and maintain accurate medical records which comply with the Healing Arts Act, including but not limited to K.S.A. 65-2837(b)(25) and K.A.R. 100-24-1.
- c. 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.
- d. Licensee, upon request, shall make himself available to meet with the Board, Board staff or their designee during the period of probation and provide any documents or records requested.

FINE

- e. Licensee is hereby fined \$2,500. Such fine is payable in full to the “Kansas Board of Healing Arts” on or before November 30, 2009.

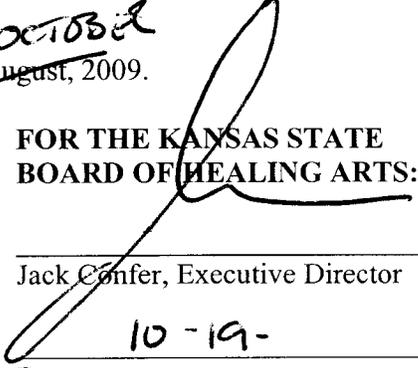
PROBATION AND LIMITATION TIMEFRAME

- f. The above probation is not self-terminating. After a period of one (1) year, Licensee may request modification or termination of the provisions.

For any period of time that Licensee is not actively practicing medicine and surgery in Kansas, the probation will remain in effect but will be tolled and not counted towards reducing the one (1) year timeframe.

IT IS SO ORDERED on this 19th OCTOBER day of August, 2009.

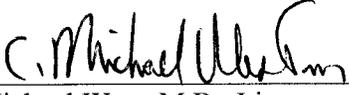
FOR THE KANSAS STATE
BOARD OF HEALING ARTS:



Jack Confer, Executive Director

Date

10-19-

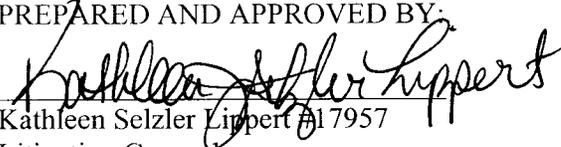


C. Michael West, M.D., Licensee

Date

July 23, 2009

PREPARED AND APPROVED BY:



Kathleen Selzler Lippert #17957
Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961

AGREED TO BY:



Arthur Glassman
Attorney for Licensee
Sloan, Eisenbarth, Glassman,
McEntire & Jarboe, L.L.C.
1000 Bank of America Tower
534 S. Kansas Avenue
Topeka, Kansas 66603-3456

Consent Order
C. Michael West, M.D.

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 19th day of ~~August~~, 2009, to the following: October

C. Michael West, M.D.
634 Mulvane #401
Topeka, Kansas 66606

Arthur Glassman
Sloan, Eisenbarth, Glassman,
McEntire & Jarboe, L.L.C.
1000 Bank of America Tower
534 S. Kansas Avenue
Topeka, Kansas 66603-3456

And the original was hand-filed with:

Jack Confer
Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Kathleen Selzler Lippert
Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Melissa Massey
Compliance Coordinator
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