

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

FILED

DEC 13 2000

In the Matter of)
)
Douglas K. White, M.D.)
License No. 04-28582)
_____)

Docket No. 01-HA-12 KANSAS STATE BOARD OF
HEALING ARTS

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COME NOW, the Kansas State Board of Healing Arts ("Board") by and through Kelli J. Benintendi, Associate Counsel ("Petitioner"), and Douglas K. White, M.D. ("Licensee"), and stipulate and agree to the following:

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.

2. Licensee admits that this Stipulation and Agreement and Enforcement Order ("Stipulation") and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Stipulation.

3. Licensee agrees that the Kansas Healing Arts Act is constitutional on its face and as applied in this case.

4. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

5. 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 04-28582 on February 12, 2000. 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 May 23, 2000.

6. On or about October 12, 2000, Licensee had a license to practice the healing arts subject to disciplinary action by the Nebraska Department of Health and Human Services Regulation and Licensure ("Nebraska"), which is the proper licensing authority for that state. Nebraska's disciplinary action against Licensee was based on Licensee's failure to maintain adequate medical records, inappropriate and excessive prescribing of narcotics and violation of a prior Assurance of Compliance with that agency. These acts or conduct by Licensee are similar to acts or conduct which would constitute grounds for disciplinary action under the Healing Arts Act. K.S.A. 65-2801 *et seq*, K.S.A. 65-2836.

7. The acts and conduct as described above constitute grounds for disciplinary action by the Board. K.S.A. 65-2836(j) and K.S.A. 65-2836(s). According to K.S.A. 65-2838(b), the Board has authority to enter into this Stipulation without the necessity of proceeding to a formal hearing.

8. 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.

9. 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. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Stipulation on behalf of the Board.

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

(a) In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Stipulation, hereby voluntarily agrees to the following disciplinary action regarding his license to engage in the practice of medicine and surgery in the State of Kansas:

- (i) Licensee shall maintain a separate written log of controlled substance prescriptions sufficient to identify each prescription written or authorized by him during the effective time period of this Stipulation by date, drug, quantity, patient, and prescription purpose. The requirement to maintain a prescription log shall not apply to hospital inpatients;
- (ii) On a quarterly basis, Licensee shall submit to Board staff a copy of the controlled substance log by the tenth (10th) day of the month following the end of each quarter. The controlled substance log submissions are due as follows: April 10, 2001, July 10, 2001, October 10, 2001 and January 10, 2001.
- (iii) Following each quarterly submission, Board staff shall provide a copy of the controlled substance log to a physician Board member so designated by the Board to review the submissions and provide guidance to Board staff.
- (iv) Licensee shall provide notification of this disciplinary action to all employers or practice partners, to all hospitals where Licensee has staff privileges;
- (v) Licensee shall immediately notify Board staff of any changes in practice location, residential address and corresponding telephone numbers; and
- (vi) Licensee shall promptly respond to all requests and inquiries by Board staff concerning Licensee's compliance with the terms of this Stipulation.

(b) This Order constitutes disciplinary action pursuant to K.S.A. 65-2836, and shall remain in effect for one (1) year. The Stipulation is not self-terminating. At the end of one (1) year, Licensee may request the termination of the Stipulation. If Licensee is not engaged in the active practice of medicine and surgery for a period of thirty (30) consecutive days or longer, or is

exclusively practicing outside the State of Kansas, Licensee shall notify the Board in writing. The length of time the Stipulation remains in effect will be tolled during such period(s).

(c) Licensee's failure to comply with the provisions of the Stipulation will result in the Board taking disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

(d) Nothing in this Stipulation 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 known or unknown and are not covered under this Stipulation, or to initiate formal proceedings based upon known or unknown allegations of violations of the Healing Arts Act.

(e) Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, 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 forever 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 or the content of this Stipulation.

(f) 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 Databank, Federation of State Medical Boards, and any other reporting entities requiring disclosure of this Stipulation.

(g) This Stipulation, 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.

(h) 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.

(i) Licensee, by signature to this document, waives any objection to the participation of the Board members in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

(j) Licensee acknowledges that he has read this Stipulation and fully understands the contents.

(k) Licensee acknowledges that this Stipulation has been entered into freely and voluntarily.

(l) All correspondence or communication between Licensee and the Board relating to this Stipulation shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Kelli J. Benintendi, Associate Counsel, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

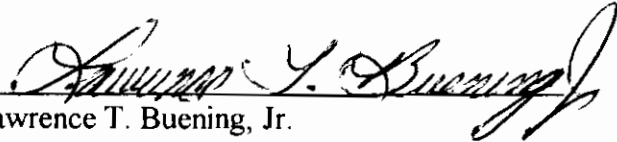
(m) Licensee shall obey all federal, state and local laws and rules governing the practice of medicine and surgery in the State of Kansas that may be in place at the time of execution of the Stipulation or may become effective subsequent to the execution of this document.

(n) Upon execution of this Stipulation by affixing a Board authorized signature below, the provisions of this Stipulation shall become an 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.

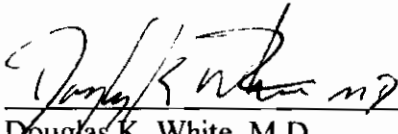
(o) Upon execution of this Stipulation by affixing a Board authorized signature below, the Petition to Revoke, Suspend or Otherwise Limit License shall be dismissed without prejudice.

IN WITNESS WHEREOF, the parties have executed this agreement on this 12th day of December, 2000.

KANSAS STATE BOARD OF HEALING ARTS


Lawrence T. Buening, Jr.
Executive Director

December 12, 2000
Date


Douglas K. White, M.D.
Licensee

9 Dec 00
Date

Prepared By:

Kelli J. Benintendi
Kelli J. Benintendi, #16032
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(913) 296-7413

CERTIFICATE OF SERVICE

I, Kelli J. Benintendi, Associate Counsel, Kansas Board of Healing Arts, hereby certify that I served a true and correct copy of the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** by United States mail, postage prepaid, on this the 12th day of December, 2000, to the following:

Douglas K. White, M.D.
212 West 36th Street
Hays, KS 67601

and the original was hand-delivered to:

Lawrence T. Buening, Jr.
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Kelli J. Benintendi
Kelli J. Benintendi