

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

**FILED** *CAH*

FEB 22 2006

In that Matter of )

William H. Whiteside, M.D. )  
Kansas License No. 04-20629 )

KS State Board of Healing Arts

) Docket No. 05-HA-51

**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts ("Board"), by and through Kelli J. Stevens, Litigation Counsel, and Kathleen Selzler Lippert, Associate Counsel ("Petitioner"), and William H. Whiteside, M.D. ("Licensee"), by and through his counsel, Michael Hepperly, 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 address to the Board is 425 E. 61<sup>st</sup> Street N., Park City, Kansas 67219.
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 No. 04-20629 on approximately June 15, 1984. Licensee's license is active.
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. 65-2869.
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. 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 this case.
6. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. 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 to 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.
8. 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.
9. On or about May 14, 2003, Licensee's clinical privileges and staff membership at a hospital in Wichita, Kansas were revoked **(Confidential)**  
**(Confidential)**

10. On or about January 8, 2004, another hospital in Wichita, Kansas revoked Licensee's clinical privileges and staff membership **(Confidential)**  
**(Confidential)**

11. **(Confidential)**

**(Confidential)**

Licensee enters

into this agreement solely to avoid the risk and uncertainty associated with any adjudicative proceeding.

#### **PROTECTIVE ORDER**

12. A protective order is hereby entered to protect all peer review and risk management documents pursuant to K.S.A. 65-4915 and 65-4921, et seq. Peer review and/or risk management committees' decision-making processes, conclusions or final decisions shall not be disclosed to any third person, except as authorized by statute or by court order. A protective order is further entered to prohibit disclosure to any third person of confidential records pursuant to present statutes and case law, including but not limited to: K.S.A. 38-1501 et seq., 39-708c and 65-516(a)(3), or information contained therein, except as authorized by statute or court order.

13. Licensee engaged in an intimate relationship with the mother of one of his pediatric patients. Licensee also prescribed controlled substances to this individual.

14. Pursuant to K.S.A. 65-2836(b), K.S.A. 65-2836(s) and K.S.A. 65-2837(b)(23), the Board has grounds to revoke, suspend, limit, or censure Licensee's license.
15. 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.
16. In lieu of the conclusion of formal proceedings, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action and limitations on his license to engage in the practice of medicine and surgery:

#### **CENSURE**

- a. Licensee is publicly censured for having an intimate relationship with the mother of a patient and prescribing controlled substances to that individual;

#### **EDUCATION**

- b. Licensee shall attend and successfully complete A Continuing Education Course for Physicians Who Cross Sexual Boundaries, Maintaining Proper Boundaries, a three (3) day course. This course may be taken at any location or site that Vanderbilt Medical Center makes it available. This course is to be completed by December 31, 2005; at his own expense. Licensee shall provide proof of successful completion by January 2006;

## **MONITORING**

- c. Licensee agrees to have a Board approved practice monitor, who is another Kansas-licensed physician, to review the practices and procedures of Licensee's medical practice office to ensure compliance with community and ethical standards. Licensee shall bear all expenses associated with the practice monitor.
- d. Within twenty (20) days of the approval of this Consent Order, Licensee shall propose a physician to serve as his practice monitor. The Board, or the Board's designee, shall approve or disapprove of the monitoring physician. Upon such approval, the parties shall determine a schedule under which the monitor shall periodically review Licensee's office procedures five (5) times over a period of one (1) year and provide a written report each time to the Board regarding the review and any recommendations for Licensee's practice. Said reports are due to the Board twenty (20) days following each review completed. Licensee agrees to follow all recommendations of the practice monitor and is responsible for ensuring timely submission of the practice monitor's reports;

## **LIMITATIONS**

- e. Licensee shall not practice medicine and surgery unless he has a chaperone in the room at all times he is present with any patient. Such chaperone shall document their attendance in the medical record for each patient visit. The chaperone shall be an adult and must be identified to

Board staff by Licensee. The chaperone must be agreed upon between the parties, and such will not be unreasonably withheld.

f. For a period of at least one (1) year, the chaperone shall be required to create and maintain a daily log identifying all patients seen in the office that day, and certifying their presence for all patients seen in the office that day. Such daily logs must be submitted to the Board on a monthly basis and must be received on or before the 15<sup>th</sup> day of the following month. Licensee is responsible for ensuring that the daily logs are submitted to the Board;

g. Licensee is prohibited from prescribing, ordering, dispensing or administering medications to any employee, family members or any person with whom Licensee has a intimate relationship;

h. Licensee shall only prescribe, order, dispense or administer prescriptions for persons with whom he has a doctor-patient relationship and for whom he maintains a medical record; and

i. Licensee is prohibited from prescribing, ordering, dispensing or administering medications to himself, including sample medications.

Licensee shall arrange to have a personal physician who oversees his care.

**17.** The above limitations are not self-terminating. After a period of one (1) year, Licensee may request modification or termination of the provisions.

**18.** 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.

19. 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.
20. 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.
21. 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 the Consent Order.

- 22.** 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.
- 23.** 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.
- 24.** Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceedings on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.
- 25.** Licensee acknowledges that he has read this Consent Order and fully understands the contents.
- 26.** Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.



27. 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: Kelli J. Benintendi, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
28. 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.
29. 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.
30. 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:

**CENSURE**

- a. Licensee is publicly censured for having an intimate relationship with the mother of a patient and prescribing controlled substances to that individual;

## **EDUCATION**

- b. Licensee shall attend and successfully complete A Continuing Education Course for Physicians Who Cross Sexual Boundaries, Maintaining Proper Boundaries, a three (3) day course. This course may be taken at any location or site that Vanderbilt Medical Center makes it available. This course is to be completed by December 31, 2005; at his own expense. Licensee shall provide proof of successful completion by January 2006;

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- c. Licensee agrees to have a Board approved practice monitor, who is another Kansas-licensed physician, to review the practices and procedures of Licensee's medical practice office to ensure compliance with community and ethical standards. Licensee shall bear all expenses associated with the practice monitor.
- d. Within twenty (20) days of the approval of this Consent Order, Licensee shall propose a physician to serve as his practice monitor. The Board, or the Board's designee, shall approve or disapprove of the monitoring physician. Upon such approval, the parties shall determine a schedule under which the monitor shall periodically review Licensee's office procedures five (5) times over a period of one (1) year and provide a written report each time to the Board regarding the review and any recommendations for Licensee's practice. Said reports are due to the Board twenty (20) days following each review completed. Licensee agrees to follow all recommendations of the practice monitor and is

responsible for ensuring timely submission of the practice monitor's reports;

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- f. For a period of at least one (1) year, the chaperone shall be required to create and maintain a daily log identifying all patients seen in the office that day, and certifying their presence for all patients seen in the office that day. Such daily logs must be submitted to the Board on a monthly basis and must be received on or before the 15<sup>th</sup> day of the following month. Licensee is responsible for ensuring that the daily logs are submitted to the Board;
- g. Licensee is prohibited from prescribing, ordering, dispensing or administering medications to any employee, family members or any person with whom Licensee has a intimate relationship;
- h. Licensee shall only prescribe, order, dispense or administer prescriptions for persons with whom he has a doctor-patient relationship and for whom he maintains a medical record; and
- i. Licensee is prohibited from prescribing, ordering, dispensing or administering medications to himself, including sample medications.

Licensee shall arrange to have a personal physician who oversees his care.

IT IS SO ORDERED on this 22<sup>nd</sup> day of February, 2005.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

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

February 22, 2006  
Date

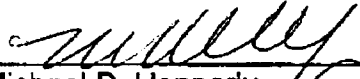
William H. Whiteside  
William H. Whiteside, M.D.  
Licensee

9-30-05  
Date

PREPARED AND APPROVED BY:

Kathleen Selzler Lippert  
Kelli J. Stevens #16032  
Litigation Counsel  
Kathleen Selzler Lippert #17957  
Associate Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

**AGREED TO BY:**

  
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 Michael D. Hepperly  
 Attorney for the Licensee  
 The Quarters  
 310 West Central, Suite 103  
 Wichita, Kansas 67202

**CERTIFICATE OF SERVICE**

I, hereby certify that I served a true and correct copy of the **CONSENT ORDER**  
 by United States mail, postage prepaid, on this 22 day of February  
 200~~5~~<sup>6</sup> to the following:

William H. Whiteide, M.D.  
 425 E. 61<sup>st</sup> Street N.  
 Park City, Kansas 67219

Michael D. Hepperly  
 Attorney for the Licensee  
 The Quarters  
 310 West Central, Suite 103  
 Wichita, Kansas 67202

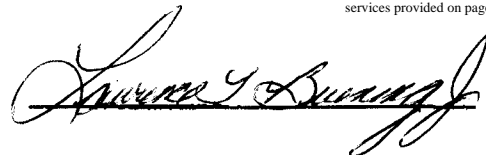
And a copy was hand-delivered to:

Kelli J. Stevens  
 Litigation Counsel  
 Kansas State Board of Healing Arts  
 235 S. Topeka Boulevard  
 Topeka, Kansas 66603-3068

and the original was hand-delivered for filing to:

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

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