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DEC 04 2006

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

KS State Board of Healing Arts

In the Matter of )  
 )  
**KATHLEEN WILLIAMS, M.D.** )  
Kansas License No. 04-28411 )  
\_\_\_\_\_ )

Docket No. 07-HA-00001

**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts ("Board"), by and through Kelli J. Stevens, Litigation Counsel, and Kathleen Williams, M.D. ("Licensee"), by and through counsel, Mark A. Lynch of Holbrook & Osborn, P.A., and move the Board for approval of a Consent Order affecting Licensee's license to practice medicine and surgery in Kansas. The parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is 800 West Laurel, P.O. Box 845, Independence, Kansas, 67301.
2. Licensee was issued License No. 04-28411 on approximately August 14, 1999. Licensee currently holds an active license to engage in the practice of medicine and surgery in the State of Kansas, having last renewed her license on approximately May 26, 2006.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the medicine and surgery.
4. This Consent Order and the filing of such document are in accordance with the applicable law and the Board may enter into an informal settlement of this matter as provided in K.S.A. 65-2838, without the necessity of proceeding to a formal hearing.

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**Kathleen Williams, M.D.**  
Consent Order

5. Upon approval, the provisions in this Consent Order shall constitute the findings of the Board, and this Consent Order shall be the Board's Final Order.

6. The Kansas Healing Arts Act is constitutional on its face and as applied in this case.

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

8. Licensee voluntarily and knowingly waives her right to a hearing in this matter in that Licensee voluntarily and knowingly waives her 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 in this matter were held.

9. The terms and conditions of the Consent Order are entered into between the undersigned parties that 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.

10. Petitioner has alleged that Licensee deviated from the standard of care to a degree constituting gross negligence and committed acts of unprofessional conduct in her care and treatment of one (1) patient. Petitioner alleged that Licensee failed to act in accordance with the patient's Durable Power of Attorney and/or full code status that Licensee knew or should have known were in place during the time Licensee treated

such patient. The patient subsequently died. The specific allegations are set forth in the Petition filed July 13, 2006. Further inquiry and investigation since the filing of the Petition has concluded in the following stipulations of the parties:

a. That Mercy Hospital of Independence had a person other than the patient's husband listed as the patient's Power of Attorney in the medical record. Licensee's reliance on the hospital's listing does not serve as grounds for discipline in this matter.

b. That Licensee would present evidence at the hearing that prior to the patient's extubation, Licensee and others under her direction made multiple efforts to contact the patient's husband and the person listed by the hospital as the Power of Attorney, and that such efforts were without success until after the patient expired.

c. That Licensee would present evidence at the hearing that her decision to extubate the patient was based upon proper extubation parameters, all of which the patient either met or exceeded. Although the Board would present evidence of a differing opinion as to the propriety of extubating the patient, the parties agree that the decision to extubate the patient did not in itself constitute gross negligence or unprofessional conduct and does not serve as grounds for discipline in this matter.

d. That Licensee would present evidence at the hearing that her decision not to re-intubate the patient or call a formal Code Blue was based on Licensee's good faith belief that the patient had affirmatively indicated through non-verbal means her desire for extubation and that she did not want to be re-intubated. However, the parties agree Licensee's actions amount to an instance involving failure to adhere to the applicable

standard of care to a degree which constitutes gross negligence, in violation of the Healing Arts Act, K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(a)(1).

e. That if all known facts were presented at a formal hearing, the evidence would not support a finding that Licensee's acts constituted unprofessional conduct in violation of the Healing Arts Act, K.S.A. 65-2836(b).

11. For the sole purpose of this Consent Order, Licensee acknowledges that her acts and conduct with respect to the referenced patient, as stated in paragraph 10(d) above, violated the Healing Arts Act. Licensee further waives her right to dispute or otherwise contest the allegations contained in the Petition in any future proceeding before this Board.

12. Pursuant 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.

13. In lieu of concluding the presently pending formal proceedings, Licensee, by her signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against her license to engage in the practice of medicine and surgery in Kansas:

#### **SUSPENSION**

a. Licensee's license is hereby SUSPENDED for a period of seven (7) days, effective December 15, 2006.

#### **CONTINUING MEDICAL EDUCATION**

b. Licensee is hereby required to attend, at her own expense, a continuing medical education course addressing as its primary subject matter, physician decision-making regarding end-of-life issues with patients. Said course shall be approved in

advance by the Board, or the Board's designee, and shall be completed by Licensee on or before November 30, 2007. Licensee shall provide the Board with appropriate written certification of her completion of said course on or before December 30, 2007.

14. Licensee's failure to comply with this Consent Order will result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

15. 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.

16. Licensee hereby releases the Board, its individual members (in their official and personal capacities), 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 and 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.

17. 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, the Federation of State Medical Boards and any other reporting entities authorized to receive disclosure of the Consent Order.

18. 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.

19. 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 or settlement.

20. 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 proceeding on the basis that the Board member or General Counsel has received investigative information regarding the allegations contained in the Petition which otherwise may not be admissible or admitted as evidence.

21. Licensee acknowledges that she has read this Consent Order and fully understands the contents and that this Consent Order has been entered into freely and voluntarily.

22. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be sent by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

23. Licensee shall obey all federal, state and local laws and rules governing the practice of the healing arts 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.

24. 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.

25. 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 in lieu of concluding the presently pending formal proceedings, Licensee, by her signature affixed to this Consent Order, voluntarily agrees to the following disciplinary measures regarding her license:

**SUSPENSION**

a. Licensee's license is hereby SUSPENDED for a period of seven (7) days, effective December 15, 2006.

**CONTINUING MEDICAL EDUCATION**

b. Licensee is hereby required to attend, at her own expense, a continuing medical education course addressing as its primary subject matter, physician decision-making regarding end-of-life issues with patients. Said course shall be approved in advance by the Board, or the Board's designee, and shall be completed by Licensee on or before November 30, 2007. Licensee shall provide the Board with appropriate written certification of her completion of said course on or before December 30, 2007.

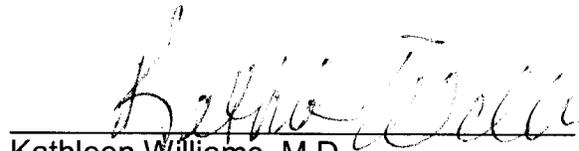
IT IS SO ORDERED on this 4<sup>th</sup> day of December, 2006.

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



Lawrence T. Buening, Jr.  
Executive Director

December 4, 2006  
Date



Kathleen Williams, M.D.  
Licensee

12/2/06  
Date

**PREPARED AND APPROVED BY:**



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Kelli J. Stevens, #16032  
Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3065  
(785) 296-7413  
*Attorney for Petitioner*

**APPROVED BY:**



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Mark A. Lynch, #14277  
Holbrook & Osborn, P.A.  
Commerce Plaza II  
7400 W. 110<sup>th</sup> Street, Ste. 600  
Overland Park, KS 66210  
*Attorney for Licensee*

**CERTIFICATE OF SERVICE**

I, hereby certify that a true and correct copy of the foregoing **Consent Order** was served on the 4<sup>th</sup> day of December 2006 by hand-delivery and by United States mail, first-class postage pre-paid and addressed to:

Mark A. Lynch  
Holbrook & Osborn, P.A.  
Commerce Plaza II  
7400 W. 110<sup>th</sup> Street, Ste. 600  
Overland Park, KS 66210

and a copy was hand-delivered to:

Kelli J. Stevens  
Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3065

and a courtesy copy was hand-delivered to:

Charlene Abbott  
Licensing Administrator  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3065

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

