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KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	)	
	)	Docket No. 06-HA-00037
Elizabeth Bell. Barker, M.D.	)	
Kansas License No. 04-13448 Cancelled	)	
Application For Reinstatement	)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Kathleen Selzler Lippert, Associate Counsel ("Petitioner"), and Elizabeth Bell Barker, M.D. ("Applicant"), pro se, and move the Board for approval of a Consent Order granting Applicant's Application For Reinstatement to practice medicine and surgery in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant's last known address to the Board is 4405 W 112th Terr. Leawood, Kansas 66211.
2. Applicant has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 04-13448 on approximately January 15, 1966. Applicant's license was canceled for failure to renew on August 1, 2003.
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. 65-2801 et seq. and 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 the case.
6. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. Applicant voluntarily and knowingly waives her right to a hearing. Applicant voluntarily and knowingly waives her right to present a defense by oral testimony and documentary evidence, to submit to rebuttal evidence, and to conduct cross-examination of witnesses. Applicant 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. Applicant specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.
9. In her application for reinstatement, Applicant disclosed that she has not actively engaged in the practice of medicine since December 2000. Applicant's specialty is psychiatry.
10. Pursuant to K.S.A. 65-2809(e), "Any person who has not been in the active practice of the branch of the healing arts for which reinstatement is sought during

the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the Applicant's present ability to practice with reasonable skill and safety."

11. 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.

12. In lieu of the conclusion of formal proceeding or opposition to application for reinstatement, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following monitoring provisions as a condition to being granted reinstatement of her license to engage in the practice of medicine and surgery:

MONITORING

a. In order to ensure Applicant is current in her pharmacological knowledge and prescribing practices, Applicant agrees to the monitoring of 100% of her prescribing practices by a Kansas-licensed psychiatrist for a period of at least twelve (12) consecutive months. Such monitoring shall be conducted at Applicant's own expense. The monitor must be pre-approved by the Board or the Board's designee.

b. For each prescription written or authorized by Applicant, Applicant shall document the initial prescription in the patient chart and in a separate log to be maintained for each patient. Such log shall be on a form provided by the Board staff to Applicant. The log shall serve as a reference to

determine all patients who were prescribed medications each month by Applicant or by an individual under Applicant's direction and/or control..

c. At the end of each month, the monitor shall review all the patient charts for every patient for which Applicant wrote or authorized prescriptions during that month. The monitor shall then submit a monthly report to the Board which is due on the 30th day of the following month. For the month of February, the report shall be due on the 27th day. The report shall be on a form provided by the Board staff and shall include the number of patient charts reviewed, a brief summary of Applicant's prescribing activity during the month and an opinion as to whether Applicant is prescribing medications within the standard of care. The monitor must immediately notify Board staff if he/she believes Applicant is prescribing medications in an inappropriate manner or outside the standard of care.

d. Applicant is responsible for ensuring the monitor's timely submission of the report each month. For any period(s) of time that Applicant is not actively practicing the healing arts in Kansas, the monitoring provisions of this Consent Order shall be tolled and not be counted in reducing the required timeframe for monitoring.

e. The monitoring requirement is not self-terminating. After a period of one (1) year, Applicant must make written request to the Board for approval of any modification or termination of the monitoring provisions.

f. Applicant shall at all time keep Board staff informed of all her current practice locations.

13. Applicant's failure to comply with the provisions of the Consent Order may result in the Board taking disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.
14. 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.
15. Applicant 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 Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

16. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and may be reported to any reporting entities requiring disclosure of the Consent Order.
17. 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.
18. Applicant 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 Applicant is not present. Applicant further acknowledges that the Board may conduct further inquiry as it deems necessary before the complete or partial acceptance or rejection of any Consent Order.
19. Applicant, 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.
20. Applicant acknowledges that she has read this Consent Order and fully understands the contents.
21. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.

22. All correspondence or communication between Applicant and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Kathleen Selzler Lippert, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
23. Applicant 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.
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 Applicant.

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 upon meeting all technical requirements for licensure, Applicant shall be granted a license.

IT IS FURTHER ORDERED that:

MONITORING

a. In order to ensure Applicant is current in her pharmacological knowledge and prescribing practices, Applicant agrees to the monitoring of 100% of her prescribing practices by a Kansas-licensed psychiatrist for a period of at least twelve (12) consecutive months. Such monitoring shall be conducted at Applicant's own expense. The monitor must be pre-approved by the Board or the Board's designee.

b. For each prescription written or authorized by Applicant, Applicant shall document the initial prescription in the patient chart and in a separate log to be maintained for each patient. Such log shall be on a form provided by the Board staff to Applicant. The log shall serve as a reference to determine all patients who were prescribed medications each month by Applicant or by an individual under Applicant's direction and/or control..

c. At the end of each month, the monitor shall review all the patient charts for every patient for which Applicant wrote or authorized prescriptions during that month. The monitor shall then submit a monthly report to the Board which is due on the 30th day of the following month. For the month of February, the report shall be due on the 27th day. The report shall be on a form provided by the Board staff and shall include the number of patient charts reviewed, a brief summary of Applicant's prescribing activity during the month and an opinion as to whether Applicant is prescribing medications within the standard of care. The monitor must immediately

notify Board staff if he/she believes Applicant is prescribing medications in an inappropriate manner or outside the standard of care.

d. Applicant is responsible for ensuring the monitor's timely submission of the report each month. For any period(s) of time that Applicant is not actively practicing the healing arts in Kansas, the monitoring provisions of this Consent Order shall be tolled and not be counted in reducing the required timeframe for monitoring.

e. The monitoring requirement is not self-terminating. After a period of one (1) year, Applicant must make written request to the Board for approval of any modification or termination of the monitoring provisions.

f. Applicant shall at all time keep Board staff informed of all her current practice locations.

IT IS SO ORDERED on this 12th day of December, 2005.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

Lawrence T. Buening, Jr.
Executive Director

December 12, 2005
Date

Elizabeth Bell Barker, M.D.
Applicant

November 21, 2005
Date

PREPARED AND APPROVED BY:

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

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 ____ day of December, 2005, to the following:

Elizabeth Bell Barker, M.D.
Applicant
Confidential

Leawood, Kansas 66211

And the original was hand-delivered to:

Lawrence T. Buening, Jr.
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 #17957
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

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