FILED
JUN 17 2015
KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	)	
	)	Docket No. 15-HA 00121
Lamberto O. Flores, M.D.	)	
Kansas License No. 04-34311	)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Seth K. Brackman, Associate Litigation Counsel ("Petitioner"), and Lamberto O. Flores, M.D ("Licensee"), *pro se,* and moves 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 mailing address to the Board is: Confidential Liberal, Kansas 67901.
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. 04-34311 on or about April 13, 2010. Licensee's license is currently 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. 65-2801 *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. 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. A protective order is hereby entered to protect all confidential information under 42 CFR Part II and K.S.A. 65-4925.
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 rebuttal evidence, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all 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. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-2836(b), K.S.A. 65-2836(s), and K.S.A. 65-2836(u) to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

10. On or about May 27, 2011, Licensee performed a circumcision on a one day old male at Southwest Medical Center in Liberal, Kansas.

11. Following the circumcision, nursing staff expressed concerns that the skin along the shaft of the penis was removed all the way down to the base of the penis.

12. Licensee returned to the OB unit to check on the infant. Licensee felt that the circumcision looked normal.

13. Confidential

14. Confidential

15. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses, or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Kansas 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.

    a. K.S.A. 65-2836(b), Licensee has committed act(s) of unprofessional or dishonorable conduct or professional incompetency;

    b. K.S.A. 65-2836(s), Licensee has had sanctions or disciplinary action taken against him by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section; and

c. K.S.A. 65-2836(u), Licensee has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

16. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

17. Pursuant to K.S.A. 65-2836, 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 Kansas Healing Arts Act.

18. According to K.S.A. 65-2838(b) and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

19. All pending investigation materials in KSBHA Investigation Numbers 12-00029 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 26. Disciplinary Panel No. 26 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

20. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any

sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice medicine and surgery in the State of Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

21. 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.

22. 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 Judicial Review Act, 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.

23. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.

24. 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.

25. 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.

26. 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.

27. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

28. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

29. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to:

    Compliance Coordinator
    Kansas State Board of Healing Arts
    800 SW Jackson, Lower Level-Ste. A
    Topeka, Kansas 66612

30. 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.

31. 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.

32. Licensee shall immediately notify the Board or its designee of any citation, arrest or charge filed against him or of any conviction for any traffic or criminal offense.

33. Licensee shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee shall provide the above

information in writing to the Board within ten (10) calendar days of any such change.

34. This Consent Order constitutes public disciplinary action.

35. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

36. 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 State of Kansas license to engage in the practice of medicine and surgery:

PROBATION: LIMITATION

37. Licensee is hereby limited from performing male circumcisions until he completes at least ten (10) hours of in-person continuing medical education, specifically in the area of male circumcisions, unless otherwise approved by Disciplinary Panel #26.

38. The Board, hereby, appoints Disciplinary Panel #26 to approve/disapprove and determine whether Licensee satisfactorily completed the necessary requirements for such limitation to be lifted.

39. All costs associated with such program shall be at Licensee's own expense to include, but not be limited to, the cost of the program, the cost of travel to and from the program, and the cost of accommodations while attending the program.

40. These hours shall be in addition to those continuing education hours required for renewal of licensure.

41. Licensee shall provide the Compliance Coordinator with a list of all continuing medical education courses for approval by Disciplinary Panel #26 at least thirty (30) days prior to the program's registration deadline.

42. If Licensee chooses to obtain further education and/or training in circumcisions, Licensee shall provide proof of successful completion of the following to the Compliance Coordinator within thirty (30) calendar days of successfully completing the program.

43. Proof of completion of the education requirements shall be submitted by sending the same to:

    Kansas State Board of Healing Arts
    Attn: Compliance Coordinator
    800 SW Jackson, Lower Level-Ste. A
    Topeka, Kansas 66612

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 17 day of June, 2015.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

Confidential

Kathleen Selzler Lippert
Executive Director

6/17/15
Date

Confidential

Lamberto O. Flores, M.D.
Licensee

2/27/15
Date

PREPARED AND APPROVED BY:

Confidential

Seth K. Brackman, #23726
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
P: 785-368-7257
F: 785-368-8210
sbrackman@gmail.com

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 17th day of June, 2015, to the following:

Lamberto O. Flores, M.D.
Licensee
Confidential

Liberal, Kansas 67901

and the original was hand-filed with:

Kathleen Selzler Lippert
Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

and a copy was delivered to:

Seth K. Brackman
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Katy Lenahan
Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Cathy A. Brown