

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

FILED *CAB*
FEB 26 2015
KS State Board of Healing Arts

In the Matter of)
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John B. Moore, IV, M.D.) Docket No. 15-HA000 72
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)
Kansas License No. 04-20320)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Anne Barker Hall, Associate Litigation Counsel (“Petitioner”), and John B. Moore, IV M.D. (“Licensee”), 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 mailing address to the Board is: 20375 W. 151st St., Suite 370, Olathe, KS 66061.
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. 04-20320 on approximately December 9, 1983, and having last renewed such license on June 4, 2014. 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. 65-2801 *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

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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. 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.
7. 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.
8. 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) as defined by K.S.A. 65-2837(b)(12) and K.S.A. 65-2837(b)(25) to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. On or about July 13, 2013, Licensee performed a wrong site incision and surgical implant on Patient 1, a seventy-three (73) year old female. The incision was supposed to be made on the long finger and Licensee made the incision on Patient 1's ring finger.
10. Although Licensee and Patient 1 had discussed the possibility of replacing the MP joint on the ring finger if it was necessary in the future, Patient 1 only gave written consent to a "resection/implant arthroplasty left long MP joint" absent some unforeseen conditions or emergencies necessitating additional or different procedures that those specifically consented to by Patient 1.
11. The Universal Protocol Checklist, Short Form History/Physical, and Preoperative Orders were consistent with Patient 1's April 2, 2013 signed consent form.
12. Post-operatively, Licensee failed to document a wrong site incision and that implantation was made on Patient 1's left ring finger.
13. 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.
14. Licensee committed an act of unprofessional conduct by performing a wrong site surgery in violation of K.S.A. 65-2836(b).

15. Licensee violated K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(b)(12) in that he committed conduct likely to harm the public when he performed the wrong site surgery.
16. Licensee violated K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(b)(25) by failing to keep written medical records which accurately describe the services rendered to the patient, including pertinent findings, examination results and/or test results.
17. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, privately or publicly 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 Investigative Case Number 14-00247 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel and/or their appointed member for this matter. Disciplinary Panel No. 29 authorized and directed Board counsel, through their appointed member for this matter, 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 or not 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 her 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 the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 800 SW Jackson, Lower Level-Suite 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 a Final 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 his 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) days of any such change.

34. This Consent Order constitutes public disciplinary action. The private censure will be redacted in the Board's final order. The parties acknowledge that the private censure along with any otherwise protected information and facts contained within this Consent Order will be redacted in the event that this document becomes publically disseminated. A protective order is hereby entered to protect all confidential information under 42 CFR Part II, K.S.A. 65-4915, K.S.A. 45-4922, and K.S.A. 65-4925.

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 license to engage in the practice of medicine and surgery:

Confidential

37.

38.

WRITTEN EXPLANATION

39. Licensee is ordered to write the Board a letter explaining how he is changing his internal policies and procedures to prevent this problem from occurring again.

Licensee will provide the letter no later than thirty (30) days after this consent order is approved by the Board.

40. The Board appointed the appointed member of Disciplinary Panel No. 29 for this matter to review and evaluate Licensee's written explanation to determine whether Licensee's internal policies and procedures have been sufficiently changed. If Licensee's changes are deficient, Licensee agrees to further remedial action as deemed appropriate by the appointed member of Disciplinary Panel No. 29.

PUBLIC CENSURE

41. Licensee is hereby publicly censured for violating K.S.A. 65-2836(b) as defined by K.S.A. 65-2837(b)(25) by failing to keep written medical records which accurately describe the services rendered to the patient, including pertinent findings, examination results and/or test results.

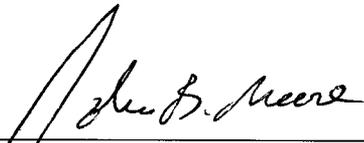
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 25 day of Feb, 2014.

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


Kathleen Selzer Lippert
Executive Director

2/25/15
Date



John B. Moore, IV, M.D.
Licensee

10/20/14

Date

PREPARED AND APPROVED BY:



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(816) 701-1100

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 26th day of February, 2014, to the following:

John B. Moore, IV
Licensee
20375 W. 151st St., Suite 370
Olathe, KS 66061

Mark Ericson
Attorney for Licensee
Wagstaff & Cartmell, LLP
4740 Grand Avenue, Suite 3300
Kansas City, MO 64112

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 hand-delivered to:

Anne Barker Hall
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Topeka, Kansas 66612

General Counsel's Office
Kansas Board of Healing Arts
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Consent Order
John B. Moore, IV, M.D.

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