FILED

JUL 1 1 2016

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	)	
	)	Docket No. 17-HA00001
Edward S. Stanton, M.D.	)	
Kansas License No. Pending	)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Tracy Fredley, Associate Litigation Counsel ("Respondent"), and Edward S. Stanton, M.D. ("Applicant"), *pro se*, and move the Board for approval of a Consent Order affecting Applicant's license to practice medicine and surgery in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant's last known mailing address to the Board is: Confidential Sanford, North Carolina 27330.
2. On or about March 8, 2016, Applicant submitted to the Board an application for licensure in medicine and surgery. Such application was deemed complete and filed with the Board on July 6, 2016.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts. K.S.A. 65-2801 *et seq*.
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. 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. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. Applicant voluntarily and knowingly waives his right to a hearing. Applicant 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. Applicant voluntarily and knowingly agrees to waive all 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. Applicant 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(a), to take action with respect to Applicant's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*
9. In his application for licensure, Applicant failed to disclose that he had a malpractice Complaint filed against him in The Circuit Court for the County of Allegheny, Virginia, on or about June 19, 2015. (Case No. CL 15-132)

10. In an email dated May 26, 2016, Applicant sent this information to the licensing specialist assisting with his application in the State of Kansas. He stated that his attorney initially advised him that the malpractice case was not a case that he needed to report because Applicant was "only a consultant, and not involved in the medical care that caused the patient's problems". Further, he stated "[Plaintiff] dropped any claim against [him]."
11. Approximately a year after the Complaint was filed, on or about May 18, 2016, Applicant was nonsuited without prejudice, because the Court found that Applicant was not served with process, nor had he made an appearance on the case.
12. In Addendum two (2) of the Application, Applicant properly answered "yes" to disciplinary question no. 23 that asks the following: "Have you ever been a defendant in a legal action involving professional liability (malpractice), or had a professional liability claim paid in your behalf, or paid such claim yourself?"
13. Applicant disclosed numerous malpractice lawsuits in which he was named as a defendant; however, he failed to disclose Case No. CL 15-132, in which he was named as an individual defendant. Applicant failed to "furnish complete details including date, place, reason and disposition of the matter and attach all relevant documentation" as required by the Application.
14. Applicant acknowledges that if formal hearing proceedings were conducted and Applicant presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Applicant has violated the Kansas Healing Arts Act with respect to the above allegations. Applicant further waives

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

15. Applicant's acts, if proven, constitute a violation under K.S.A. 65-2836(a), by committing fraud or misrepresentation in applying for an original license, because Applicant failed to disclose that a malpractice Complaint was filed against him in 2015 in the Circuit Court of Allegheny County, Virginia, Case No. CL 15-132. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Applicant's license to practice medicine and surgery.
16. According to K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
17. All pending investigation materials in KSBHA Investigative Case Number 16-00549 regarding Applicant were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 31 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
18. Applicant further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Applicant 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 Applicant's license to practice medicine and surgery in the State of Kansas. Applicant hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Applicant 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, Applicant 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.*

19. 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.

20. 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 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 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.

21. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and shall be reported to any entities authorized to receive 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. 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 offer of settlement.

24. Applicant, 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.

25. Applicant acknowledges that he has read this Consent Order and fully understands the contents.

26. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.

27. 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.

28. 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. 77-505. 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.

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

30. Applicant understands that a Temporary License shall be issued based upon Applicant's signing this Consent Order, paying the temporary license fee, abiding by the terms of this Consent Order, and upon an authorized Board signature. Applicant further understands that the Temporary License is only effective until a hearing is held by the Board on ratification of this Consent Order and that if the Board fails to ratify this Consent Order, the Temporary License shall immediately expire at the conclusion of such hearing. If the Board ratifies this Consent Order, Applicant shall be issued a permanent licensure under the terms of this Consent Order.

31. In lieu of conducting a formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public disciplinary and rehabilitative action against his license to practice medicine and surgery:

REHABILITATIVE EDUCATION

32. Applicant shall enter into, complete, and pass all five (5) topic areas of the EBAS Essay Examination that is provided by Ethics and Boundaries Assessment Services, LLC. Applicant shall receive a passing score in all five (5) topic areas of the EBAS Essay Examination within one hundred twenty (120) days of the Board's approval of this Consent Order. The score report of any and all examination attempts by Applicant, regardless of Applicant receiving a passing or failing score, shall be provided to the Board by Licensee within ten (10) business days of Applicant receiving the test result. The results shall be sent to:

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

33. Within ten (10) days of the approval of the Consent Order, Applicant shall contact EBAS, 901 54th Avenue, Greeley, Colorado 80634, (970) 352-9050, to schedule the Ethics and Boundaries Essay Examination at the earliest dates available to both EBAS and Applicant; however, no later than sixty (60) days from the approval of this Consent Order by the Board.

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 FURTHER ORDERED that upon meeting all technical requirements for licensure, Applicant shall be granted a license, pursuant to the conditions above.

IT IS SO ORDERED on this 11 day of July, 2016.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

Kathleen Selzler Lippert
Executive Director

7/11/2016
Date

Edward S. Stanton, M.D.
Applicant

July 5, 2016
Date

PREPARED AND APPROVED BY:

Tracy Fredley, #25467
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level Ste A
Topeka, Kansas 66612
Phone: 785-368-7257
Fax: 785-368-8210
Email: tracy.fredley@ks.gov

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 11 day of July, 2016, to the following:

Edward S. Stanton, M.D.
Applicant
Confidential

Sanford, NC 27330

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:

Tracy Fredley
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

General Counsel's Office
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

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

Debra Albright