

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

In the Matter of)
) Docket No. 14-HA00043
Kimberly Darlene West, M.D.)
A.K.A. Kimberly D. Higgins, M.D.)
Kansas License No. 04-33125)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Reese H. Hays, Litigation Counsel (“Petitioner”), and Kimberly Darlene West, M.D. (“Licensee”), by and through her counsel, Carol Ruth Bonebrake, Holbrook & Osborn, P.A., and 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: 115 N. Main, Garden City, Kansas 67846.
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. 04-33125 on approximately June 21, 2008, and having last renewed such license on June 19, 2013. 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 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 her right to a hearing. 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 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) and 65-2836(k) to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*
9. Licensee admits that there are undisputed facts to support Board action with respect to Licensee's license under the Kansas Healing Arts Act.
10. This Consent Order incorporates herein by reference the facts as stated in the Amended Petition that was filed on December 3, 2013. Exhibit 1, Amended Petition in the Matter of Kimberly Darlene West, M.D. 14-HA00043.
11. 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 allegations set forth in the Amended Petition. Licensee further waives her right to dispute or otherwise contest the allegations set forth in the Amended Petition in any further proceeding before this Board.
12. Licensee has committed acts of unprofessional and dishonorable conduct in violation of K.S.A. 65-2836(b) and as further defined by K.S.A. 65-2837(b)(16) and (25) as alleged in the Amended Petition.
13. Licensee violated K.S.A. 65-2836(k) in that Licensee has violated a lawful regulation promulgated by the Board, specifically, K.A.R. 100-24-1, by

failing to meet the minimum requirements for an adequate patient record as alleged in the Amended Petition.

14. 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.
15. 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.
16. All pending investigation materials in KSBHA Investigative Case Number 13-00054 and Docket Number 14-HA00043 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. 28 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.
17. 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 Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

18. 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.
19. 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.

20. 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.
21. 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.
22. 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.
23. Licensee, by signature to this document, waives any objection to the participation of the Board members, except the Presiding Officer, 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, except the Presiding Officer, 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.

24. Licensee acknowledges that she has read this Consent Order and fully understands the contents.
25. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
26. 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.
27. 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.
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. 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.
29. Licensee shall immediately notify the Board or its designee of any citation, arrest, or charge filed against her or of any conviction for any traffic or criminal offense excluding speeding and/or parking violations.
30. Licensee shall at all times keep Board staff informed of all her 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.

31. This Consent Order constitutes disciplinary action.
32. The Board and Licensee have reviewed the Guidelines for the Imposition of Disciplinary Sanctions (August 2008) and agree that the discipline herein falls within the Guidelines.
33. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
34. In lieu of conducting a formal proceeding, Licensee, by 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:

SUSPENSION

35. Licensee's license shall be suspended for a period of sixty (60) calendar days with said suspension to begin on June 21, 2014 and to end on August 20, 2014.

Confidential

MONITORING

36. Confidential

Confidential

37. Licensee will furnish a copy of this Consent Order to each and every state in which she holds licensure or applies for licensure and to an appropriate work site supervisor or personnel Confidential
38. Licensee agrees to notify a Board representative Confidential immediately that she failed to comply in any manner Confidential

PROBATION: EDUCATION

39. Licensee shall attend and successful complete the continuing education course entitled "Intensive Course in Medical Record Keeping with Individual Preceptorships" put on by Case Western Reserve University, at her own expense.
- i. Licensee shall attend and complete the scheduled seminar course date of November 6-7, 2014.
 - ii. Licensee shall provide proof of successful completion of the seminar portion to the Board by December 1, 2014.
 - iii. Licensee shall provide proof of successful completion of the post-program feedback portion to the Board within 210 days (seven [7] months) after the seminar date.
40. Licensee shall attend and successful complete the September 11-12, 2014 continuing education course entitled "Intensive Course in Medical Ethics, Boundaries & Professionalism" put on by Case Western Reserve

University, at her own expense. Licensee shall provide proof of successful completion to the Board by October 1, 2014.

41. The aforementioned continuing education course hours shall be in addition to those hours required for renewal of licensure.

PROBATION: PRACTICE MONITOR AND CHAPERONE

42. For a period of at least one (1) year, Licensee shall not practice medicine and surgery unless she has a chaperone in the room at all times she is consulting, examining, or treating any patient. Licensee agrees to create a Board-approved chaperone protocol that includes daily log sheets of her patient contact to be filled out by her designated chaperone. The chaperone protocol will be submitted to the Board for approval. The Board designates the Disciplinary Panel's Appointed Member to approve or disapprove of the chaperone protocol. Licensee shall bear all expenses associated with the patient chaperone.
43. Furthermore, the chaperone shall be required to utilize and maintain the Board's approved chaperone daily log identifying all patients seen in the office that day and certifying their presence for all patients seen in the office that day. Such daily logs must be submitted to the Board and to Licensee's practice monitor on a monthly basis and must be received on or before the 15th day of the following month. Licensee is responsible for ensuring that the daily logs are submitted to the Board.
44. Within ten (10) business days of the approval of the Consent Order, Licensee shall propose a professionally - licensed health professional to

serve as her chaperone. Such information shall include the proposed chaperone's name, a description of the proposed chaperone's professional employment history, and a copy of the proposed chaperone's Kansas professional license. The Board designates the Disciplinary Panel's Appointed Member to approve or disapprove of the chaperone. The chaperone must speak with a representative of the Board, or its designee, prior to approval.

45. For the period of at least one (1) year, after the approval of this Consent Order, Licensee agrees to have a Board-approved practice monitor, who is another Kansas-licensed physician, to review the practices and procedures of Licensee's office to ensure compliance with community and ethical standards. Furthermore, the practice monitor will review all of the chaperone's daily log sheets of patient contact to determine whether Licensee is complying with all community and ethical standards for patient contact. Licensee shall bear all expenses associated with the practice monitor.
46. Within ten (10) business days of the approval of the Consent Order, Licensee shall submit the curriculum vitae of a proposed practice monitor for approval of the Board. Licensee shall propose a physician to serve as her practice monitor. The Board designates the Disciplinary Panel's Appointed Member to approve or disapprove of the monitoring physician.
47. The practice monitor shall submit quarterly reports (October 15th, January 15th, April 15th, and July 15th to the Board on a form provided by Board

staff. Such reports shall include a summary of whether Licensee is seeing patients, documenting in the medical record, treating patients appropriately, and prescribing medications in an appropriate and timely manner. Licensee is responsible for ensuring that the practice monitor's reports are submitted by the quarterly deadlines.

48. All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Compliance Coordinator, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

PROBATION AND ^{Confiden}_{tial} MONITORING TIMEFRAME

49. The above probation and monitoring provisions are not self-terminating. After a period of one (1) year following her sixty (60) - day suspension, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing medicine and surgery in Kansas, the probation and monitoring provisions will remain in effect but will be tolled and not counted towards reducing the one (1) year timeframe.

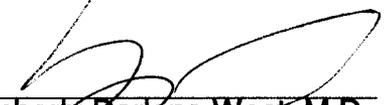
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 13 day of June, 2014.

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

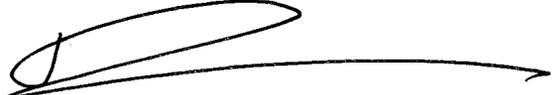

Kathleen Selzler Lippert
Executive Director

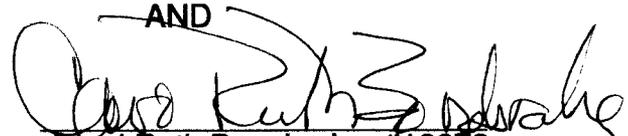
6/13/14
Date


Kimberly Darlene West, M.D.
Licensee

5/12/14
Date

PREPARED, APPROVED, AND AGREED BY:


Reese H. Hays, #22700
Ann Baker Hall #23672
Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level Suite A
Topeka, Kansas 66612
785-296-8022

AND

Carol Ruth Bonebrake, #12672
Attorney for Licensee
Holbrook & Osborn, P.A.
107 SW 6th Ave. Suite 210
Topeka, Kansas 66603
785-232-6200

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 14th day of June 2014, to the following:

Kimberly Darlene West, M.D. Licensee
115 N. Main
Garden City, Kansas 67846

Carol Ruth Bonebrake
Attorney for Licensee
Holbrook & Osborn, P.A.
107 SW 6th Ave. Suite 210
Topeka, Kansas 66603

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:

Reese H. Hays
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
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Staff Member

Consent Order
Kimberly Darlene West, M.D.