FILED
APR 19 2011
KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	)	
	)	Docket No. 10-HA00003
Charlene Ann Williams, M.D.	)	
Kansas License No. 04-32778	)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Janith A. Lewis, Associate Litigation Counsel ("Petitioner"), and Charlene Ann Williams, M.D. ("Licensee"), by and through her counsel, Carol Ruth Bonebrake, 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: Confidential Confidential San Antonio, Texas 78261.

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. 04-32778 on approximately October 20, 2007, and having last renewed such license on approximately June 17, 2010. Licensee's license is currently designated as federally 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 further hearings. Licensee voluntarily and knowingly waives her right to present a further defense by oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct further cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all further 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 resolving all outstanding issues without further litigation and to allow 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 there are grounds pursuant to K.S.A. 65-2836 to take action with respect to Licensee's license under the Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. Licensee is currently a commissioned officer in the United States Air Force ("Air Force"), stationed at Lackland Air Force Base, Texas, and has been a commissioned officer in the Air Force at all times relevant to the factual allegations set forth.

Application for Licensure

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16. Licensee acknowledges that her answer to Question #14 of the application form appears to be a material misrepresentation based upon the documentary evidence available to the Board.

17. Confidential

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19. If proven, Licensee's acts and conduct in providing what appears to be false information on her Application For Licensure constitutes acts in violation of the Kansas Healing Arts Act, specifically K.S.A. 65-2836(a), in that Licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.

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26. By violating Air Force policy on self-prescribing, Licensee has committed acts of unprofessional or dishonorable conduct or professional incompetency in violation of K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(23), in that Licensee engaged in prescribing, dispensing, administering or distributing a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or for other than a valid medical purpose, or not in the course of the licensee's professional practice.

27. Licensee has committed acts in violation of K.S.A. 65-2836(s), in that sanctions or disciplinary actions have been taken against the licensee 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 K.S.A. 65-2836.

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32. On September 10, 2010, the Board filed a Motion for Emergency Order of Suspension or Order to Limit License to Inactive Designation and for Emergency Proceedings.

33. A hearing on the Motion for Emergency Order was held on October 5, 2010 and after a formal hearing on the matter and due consideration, the Petitioner's Motion was denied.

34. Confidential

35. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses, or other evidence, the Board has sufficient uncontested evidence to prove that Licensee has violated the Healing Arts Act with respect to the above allegations. Licensee further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

36. Pursuant to K.S.A. 65-2836 the Board has grounds to deny, revoke, suspend, limit, or censure Licensee's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Healing Arts Act.

37. A protective order has previously been entered and shall continue in effect to protect all confidential information under 42 CFR Part II,

K.S.A. 65-2836(i), K.S.A. 45-221(a)(1), K.S.A 65-2839a(d), K.S.A. 65-4925, 5 U.S.C. §552a and 10 U.S.C. §1102.

38. 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.

39. All pending investigation materials, and specifically materials in investigation number(s) 08-00232 and 10-00412, regarding Licensee were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 24 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

40. 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:

CENSURE

a. Licensee agrees to and is hereby publicly censured for violating the Healing Arts Act.

PROBATION

b. Licensee's license to practice medicine and surgery is placed on probation with the following terms and conditions:

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i. 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.

j. Confidential

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PROBATION: PRACTICE MONITORING

m. Licensee has had 100% patient chart review for over two years by her Air Force medical superiors. During the pendency of the emergency proceedings, she voluntarily stopped providing direct patient care. In December 2010,

she resumed patient care duties and the patient chart review continues.

n. Lt. Col. Juan Garza, M.D., Chief of the Medical Staff, or his designee(s), will act as practice monitor and shall provide the Board with a written summary report of Licensee's chart review since December 2010. Thereafter, Dr. Garza, or his designee, shall provide quarterly written reports to the Board. Dr. Garza, or his designee, shall determine when the 100% chart review should conclude and shall notify the Board of such, in writing.

o. While subject to chart review, Licensee shall follow all recommendations of her practice monitor(s) and comply with all reasonable requests.

p. The monitor(s) must immediately notify Board staff if he/she believes Licensee is not following recommendations or complying with reasonable requests.

PROBATION: GENERAL PROVISIONS

q. 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 all hospitals, clinics or other facilities in which she holds or anticipates holding any form of staff privileges or employment.

r. Licensee shall follow all military provisions/rules which are applicable to her, including any prohibition on self-prescribing.

s. Licensee is prohibited from prescribing, ordering, dispensing or administering medications to herself, including sample medications.

t. Confidential

u. Licensee shall at all times keep Board staff informed of her current practice location, address and telephone number. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.

v. Licensee shall promptly notify the Board of any deployment or other military orders which affect her primary duties and/or status.

PROBATION: COSTS

w. Licensee agrees to pay the following costs to the Board: Prehearing Conference (held March 12, 2010) $62.40; Hearing (held April 26, 2010) $437.20; Emergency Hearing (held October 4, 2010) 373.70; Prehearing Conference (held January 19, 2011) $207.00; Presiding Officer/OAH fees of $150.00 for a total of $1,230.30. Such costs are payable in

full to the "Kansas Board of Healing Arts" ninety (90) days after approval of the Consent Order by the Board.

PROBATION: MONITORING TIMEFRAME

x. The above monitoring provisions and limitations are not self-terminating. After a period of five (5) years, Licensee may request modification or termination of the provisions.

y. For any period of time that Licensee is not actively practicing medicine and surgery on the authority of her Kansas license, the monitoring provisions will remain in effect but will be tolled and not counted towards reducing the five (5) year timeframe.

z. If monitoring cannot be actively performed due to the deployment of Licensee, the monitoring provisions will remain in effect but time spent in deployment will be tolled and not counted towards reducing the five (5) year timeframe.

41. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for 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 Paragraph 40 above. 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.*

42. 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.

43. 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 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 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.

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

45. 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.

46. 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.

47. Licensee acknowledges that she has read this Consent Order and fully understands the contents.

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

49. 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: Janith A. Lewis, Associate Litigation Counsel, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

50. 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.

51. 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.

52. This Consent Order constitutes disciplinary action.

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

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 SO ORDERED on this 19 day of April, 2011.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

Kathleen Seizler Lippert
Executive Director

4-19-11
Date

Charlene Ann Williams, M.D.
Licensee

12 Mar 2011
Date

PREPARED AND APPROVED BY:

Janith A. Lewis, #18145
Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level- Suite A
Topeka, Kansas 66612
785-368-7257

AGREED TO BY:

Carl Ruth Bonebrake
Attorney for Licensee
Holbrook & Osborn, P.A.
107 SW 6th Street, 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 19th day of April, 2011, to the following:

Charlene Ann Williams, M.D.
Confidential
San Antonio, Texas 78261

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

And the original was filed with the Office of the Executive Director:

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

And a copy was hand-delivered to:

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

Janith A. Lewis
Associate Litigation Counsel
Kansas State Board of Healing Arts
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Cathy A. Brown