

*CAB*

OCT 23 2006

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

**KS State Board of Healing Arts**

In the Matter of	)	
	)	
<b>Chad E. Sharp, M.D.,</b>	)	
Kansas License No. 4-24831	)	
_____	)	Docket No. 07-HA- <u>00031</u>

**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts ("Board") by and through Kelli J. Stevens, Litigation Counsel ("Petitioner"), and Chad E. Sharp, M.D., by and through Steve A. Schwarm, Polsinelli, Shalton, Welte & Suelthaus, P.C., 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 8 Flanigan Court, Augusta, Kansas 67010.
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. 04-24831 on October 9, 1993. Licensee last renewed his license on or about June 27, 2006. Licensee's license status 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.*; 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. 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 this case. Licensee agrees that, in considering this matter, the Board is not 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. At all relevant times hereto, Licensee has been actively practicing medicine and surgery in Kansas.

9. On or about April 10, 2000, Licensee entered into a Stipulation and Agreement and Enforcement Order ("2000 Stipulation") with the Board due to (Confidential)

(Confidential) which also affected his ability to practice the healing arts with reasonable skill and safety to patients, (Confidential)

10. (Confidential)  
(Confidential)

(Confidential) The provisions were to remain in place for at least five (5) years.

11. On or about October 8, 2005, the Board terminated the provisions of the 2000 Stipulation.

12. Licensee admits that from about June 2005 through March of 2006, he prescribed controlled substances and other prescription-only medications for coworkers and friends outside of a physician-patient relationship and without maintaining a medical record.

13. On or about April 28, 2006, Licensee was terminated from his employment as a physician (Confidential)  
(Confidential)

14. (Confidential)

15. (Confidential)  
(Confidential)

16. The Board has grounds for discipline against Licensee's license pursuant to K.S.A. 65-2836(b), as further set forth in K.S.A. 65-2837(b)(23), for prescribing, dispensing, administering, distributing a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or quantity or not in the course of the licensee's professional practice.

17. The Board has grounds for discipline against Licensee's license pursuant to K.S.A. 65-2836(b), as further set forth in K.S.A. 65-2837(b)(25), for failure to keep written medical records which accurately describes the services rendered to patients.

18. The Board has grounds for discipline against Licensee's license  
**(Confidential)**

19. 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.

20. In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, 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 in Kansas:

**LIMITATION**

- a. Licensee's license is hereby LIMITED in that Licensee is prohibited from prescribing, dispensing or administering controlled substances

for at least one (1) year from the date this Consent Order is filed, and shall immediately surrender or cancel his Drug Enforcement Administration ("DEA") authority to prescribe controlled substances. At the conclusion of one (1) year, Licensee may file a motion with the Board to request termination of this limitation;

**FINE**

- b. Licensee is hereby FINED in the amount of \$500, which shall be payable to the Board on or before December 15, 2006;

**(Confidential)**

- c.

- d. **(Confidential)**

(Confidential)

e. (Confidential)

f. (Confidential)

g. At the conclusion of the five-year (5) (Confidential) period, Licensee may file a motion with the Board to terminate this provision.

21. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate in accordance with the Kansas Administrative Procedure Act.

22. 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. 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 Healing Arts Act.

23. Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, both administrative and civil, including the Kansas Act for judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* This release shall forever discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this Consent Order or the content of this Consent order.

24. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to the National Practitioner Databank, Federation of State Medical Boards and any other reporting entities authorized to receive disclosure of this Consent Order.

25. 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.

26. 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.

27. Licensee by signature to this document, waives any objection to the participation of the Board members 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 proceeding 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.

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

29. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be by certified mail addressed to the Kansas Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

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. 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, and is the Order of the Board.

**IT IS FUTHER ORDERED** that:

**LIMITATION**

- a. Licensee's license is hereby LIMITED in that Licensee is prohibited from prescribing, dispensing or administering controlled substances for at least one (1) year from the date this Consent Order is filed, and shall immediately surrender or cancel his Drug Enforcement Administration ("DEA") authority to prescribe controlled substances. At the conclusion of one (1) year, Licensee may file a motion with the Board to request termination of this limitation;

**FINE**

- b. Licensee is hereby FINED in the amount of \$500, which shall be payable to the Board on or before December 15, 2006;
- c. (Confidential)

**(Confidential)**

d. **(Confidential)**

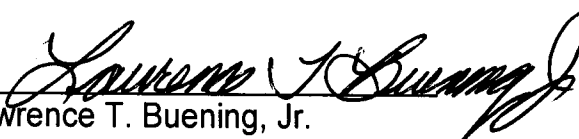
e. **(Confidential)**

f. **(Confidential)**


g. At the conclusion of the five-year (5) **(Confidential)** period,  
Licensee may file a motion with the Board to terminate this provision.

**IT IS SO ORDERED.**

**KANSAS BOARD OF HEALING ARTS:**

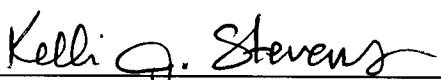
  
Lawrence T. Buening, Jr.  
Executive Director

October 23, 2006  
Date


  
Chad E. Sharp, M.D.  
Licensee

10-9-06  
Date

**PREPARED BY:**

  
Kelli J. Stevens #16032  
Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068  
(785) 296-7413  
*Attorney for Petitioner*

**APPROVED BY:**

  
Steve A. Schwarm # 13232  
ROLSINELLI, SHALTON, WELTE  
& SUELTHAUS, P.C.  
555 Kansas Avenue, Suite 301  
Topeka, Kansas 66603  
(785) 233-1446  
*Attorney for Licensee*

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the foregoing CONSENT ORDER was served this 23<sup>d</sup> day of October, 2006, by depositing the same in the United States mail, postage prepaid, and addressed to the following:

Chad E. Sharp  
8 Flanigan Court  
Augusta, Kansas 67010

Steve A. Schwarm  
POLSINELLI, SHALTON, WELTE  
& SUELTHAUS, P.C.  
555 Kansas Avenue, Suite 301  
Topeka, Kansas 66603

and a copy was hand-delivered to:

Kelli J. Stevens, Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603

and the original was hand-delivered for filing to:

Lawrence T. Buening, Jr.  
Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

