

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
) Docket No. 13-HA00012
Anita M. Andersen, D.O.)
Kansas License No. 05-23490)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Seth K. Brackman, Associate Litigation Counsel (“Petitioner”), and Anita M. Andersen, D.O. (“Licensee”), by and through her counsel, Patricia M. Dengler, and move the Board for approval of a Consent Order affecting Licensee’s license to practice osteopathic 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: PO Box 781485, Wichita, Kansas 67278.
2. Licensee is or has been entitled to engage in the practice of osteopathic medicine and surgery in the State of Kansas, having been issued License No. 05-23490 on or about December 14, 1990. Licensee’s license is active, having last renewed such license on or about September 11, 2012.
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 osteopathic medicine and surgery. K.S.A. 65-2801 *et seq.* and K.S.A.65-2870.
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 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(k) 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 August 19, 2008, Licensee entered into a Consent Order (“August 2008 Consent Order”) with the Board in KSBHA Docket No. 09-HA00034. The basis for the August 2008 Consent Order was as follows:

a. Licensee had entered into an Agreement for Corrective Action with the Minnesota Board of Medical Practice in 1993 ^{Confidential}

^{Confidential}

AND

b. Licensee was arrested for Driving Under the Influence of Alcohol/Drugs in September 2007.

10. The August 2008 Consent Order required the following:

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11. The August 2008 Consent Order noted that Licensee's failure to comply with the provisions of the Consent Order could result in the Board taking action as the Board deemed appropriate against her license.

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23. On or about September 10, 2012, pursuant to K.S.A. 77-537, a Summary Order was filed based upon Licensee's violation of her August 2008 Consent Order.

24. On or about October 2, 2012, Licensee filed a timely Request for Hearing pursuant to K.S.A. 77-542.

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29. At this point in time, Licensee requests to voluntarily place her license to practice osteopathic medicine and surgery in Kansas on inactive status due to family obligations elsewhere.

30. While not admitting wrongdoing, 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 her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board. Licensee further waives her right to dispute or otherwise contest the facts contained in the above paragraphs in any future proceeding before this Board.

31. A protective order is hereby entered to protect all confidential information under 42 CFR Part II, K.S.A. 65-2836(i), and K.S.A. 65-4925.

32. Licensee's acts, if proven, violated K.S.A. 65-2836(k), in that Licensee violated any lawful rule and/or regulation promulgated by the Board. Confidential

Confidential

33. Pursuant to K.S.A.65-2836, the Board may revoke, suspend, limit, censure, deny, or impose administrative fines for violations of the Kansas Healing Arts Act.

34. According to K.S.A.65-2836(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.

35. All pending investigation materials in KSBHA Investigative Case Number 12-00558 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 27 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

36. 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 osteopathic 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.*

37. 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.

38. 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.

39. 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.

40. 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.

41. 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.

42. 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.

43. Licensee acknowledges that she has read this Consent Order and fully understands the contents.
44. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
45. 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.
46. This Consent Order constitutes non-disciplinary action.
47. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
48. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following action against her license to engage in the practice of osteopathic medicine and surgery:

CHANGE OF LICENSE STATUS TO INACTIVE

49. Licensee hereby agrees to change her license status to inactive. Such status change shall be effective on July 17, 2013.
50. Licensee agrees that if she applies for a change of status to an active license, such application will be considered by the Board in accordance with the provisions of

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K.S.A. 65-2844. Further, Licensee's application will be governed by *Vakus v. Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991), and all applicable statutes, laws, and rules and regulations regarding the qualifications for licensure and reinstatement.

51. Licensee agrees that all terms and conditions of the August 2008 Consent Order shall be tolled until such time as Licensee's status becomes active in the State of Kansas.

**FUTURE REQUEST FOR
CHANGE FROM INACTIVE TO ACTIVE STATUS**

52. Licensee agrees that in the event she applies for a change of status to an active license, the allegations contained in this Consent Order will be considered as findings of fact and conclusions of law.

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54. Upon Licensee's application to reactivate her license, Licensee will complete any continuing education hours, as necessary, if such reactivation application is made within two (2) years of change to inactive status.

55. If Licensee's application to reactivate her license is filed more than two (2) years after her status change to inactive, then Licensee will agree to such testing, training, and education as necessary to establish her ability to practice osteopathic medicine and surgery with reasonable skill and safety. This testing, training, and education may include, but not be limited to, an evaluation by the Center for Personalized Education for Physicians (CPEP), which is located in Denver, Colorado.

PROFESSIONAL PRACTICE STATUS

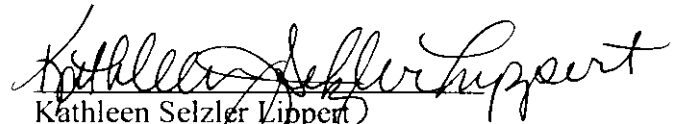
56. Licensee shall place her patients' records in the custody of another licensed physician or records maintenance facility in compliance with K.A.R. 100-24-2 and 100-24-3. Licensee shall notify the Board on or before July 31, 2013, of the specific measures taken and the appropriate contact information so that the Board can respond to questions from patients about the location of their medical records and how they can obtain them.

57. Licensee will not practice the healing arts and will not hold herself out as professionally engaged in such practice. Licensee's business entity, Anita M. Andersen, D.O., P.A., may stay in existence to collect account receivables; however, she shall not advertise its presence.

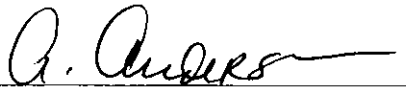
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 19 day of June, 2013.

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

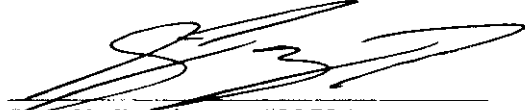

Kathleen Selzler Lipper
Executive Director

6/19/13
Date


Anita M. Andersen, D.O.
Licensee

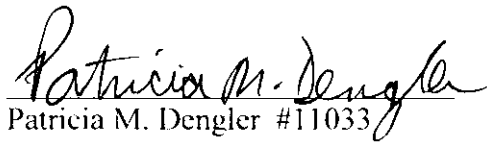
6/6/13
Date

PREPARED AND APPROVED BY:



Seth K. Brackman, #23726
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave. Lower Level Ste A
Topeka, Kansas 66612
785-368-7257

AGREED TO BY:



Patricia M. Dengler #11033
Attorney for Licensee
1938 N. Woodlawn, Ste. 405
Wichita, KS 67208
316-260-9720

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 20th day of June, 2013, to the following:

Anita M. Andersen, D.O. (Licensee)
PO Box 781485
Wichita, KS 67278

Patricia M. Dengler
Attorney for Licensee
1938 N. Woodlawn, Ste. 405
Wichita, KS 67208

And the original was hand-filed with:

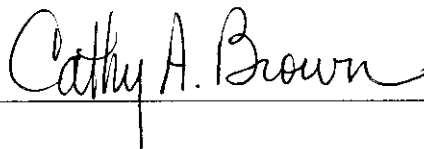
Kathleen Selzler Lippert
Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

Seth K. Brackman
Associate Litigation Counsel
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

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



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