

**BEFORE THE
LOUISIANA STATE BOARD OF MEDICAL EXAMINERS**

<p>-----</p> <p style="text-align:center">In The Matter of:</p> <p style="text-align:center">RICKY ALLEN SMITH, M.D. (Certificate No. 08660R)</p> <p style="text-align:center">Respondent</p> <p>-----</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p style="text-align:center">NO. 92-I-118-X</p> <p style="text-align:center">CONSENT ORDER</p>
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The above-entitled proceeding was docketed for investigation by the Louisiana State Board of Medical Examiners ("Board"), following receipt of information indicating that Ricky Allen Smith, M.D. ("Dr. Smith") had entered into a consent agreement with the Missouri State Board of Registration for the Healing Arts ("Missouri Board"), whereby he consented to a formal reprimand.¹ The Missouri action arose from Dr. Smith's having switched therapists from one approved by the Missouri Board to one not approved by the Missouri Board, in violation of an earlier disciplinary agreement, under which his Missouri license was on probation for a period of three (3) years.² The Missouri Board had placed Dr. Smith's license on probation in 1991, pursuant to consent agreement, based on Dr. Smith's history of treatment for dysthymia and a psychosexual disorder, which had affected his work as manifested in a decreased memory, concentration, and fatigue in the past.³

In December, 1992, Dr. Smith submitted to the Louisiana State Board of Medical Examiners, his annual application for renewal of Louisiana licensure, in which he declined to disclose the 1992 Missouri reprimand.⁴ By contrast, however,

¹ See *Agreement between the State Board of Registration for the Healing Arts and Ricky Allen Smith, M.D. Regarding the Discipline of the License of Ricky Allen Smith, M.D. to Practice the Healing Arts*, before the Missouri State Board of Registration for the Healing Arts (8/11/92). (Attached as Appendix 1).

² See *Agreement Regarding Application for License to Practice the Healing Arts by Ricky Allen Smith, M.D. and Conditions of Issuance of License*, before the Missouri State Board of the Healing Arts (June 14, 1991). (Attached as Appendix 2).

³ See *id.* at 3.

⁴ Dr. Smith was specifically asked the question "Was any action taken against you by any licensing authority?" His response was "No." Likewise, Dr. Smith answered "No" to the question: "Were you

the consent agreement entered with the Missouri Board in 1991 was disclosed and acknowledged by Dr. Smith in 1992 application for renewal of Louisiana licensure.

Although Dr. Smith currently resides and practices medicine exclusively in the state of Missouri, he remains licensed to practice medicine in the state of Louisiana. Accordingly, the investigation of the captioned matter has been assigned to John B. Bobear, M.D., Director of Investigations for the Louisiana State Board of Medical Examiners. Dr. Bobear's review and analysis of the Missouri consent agreement as well as the 1993 renewal application submitted by Dr. Smith confirms to his satisfaction that just cause exists for recommending that a formal administrative complaint be filed against Dr. Smith pursuant to the Louisiana Medical Practice Act, LSA-R.S. 37:1261 *et seq.*, charging Dr. Smith with "the refusal of a licensing authority of another state to issue or renew a license, permit or certificate to practice medicine or osteopathy in that state or the revocation, suspension or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state ..." in violation of LSA-R.S. 37:1285A(30), and with violation of LSA-R.S. 37:1285A(3), which prohibits "fraud, deceit, or perjury in obtaining any diploma, license, or permit pertaining to this part."

Recognizing his right to have any allegation or charge asserted in a formal administrative complaint, pursuant to LSA-R.S. 49:955-58, and to a subsequent adjudication and final decision rendered upon findings of fact and conclusions of law, Dr. Smith, nonetheless, hereby waives his right to formal charges and formal adjudication and, pursuant to LSA-R.S. 49:955D, consents to entry of the order set forth hereinafter.

By his subscription hereto, Dr. Smith also hereby authorizes the Investigating Officer designated by the Board with respect hereto, together with legal counsel, to present this Consent Order to the Board for its consideration and to fully disclose to and discuss with the Board the nature and results of the investigation without prejudice to any subsequent formal proceedings which may go forward in the event that this Consent Order is not accepted by the Board in its present form.

Based upon the information provided, accordingly, and on the recommendation of the Investigating Officer, the Board has concluded that its responsibility to ensure the health, safety and welfare of the citizens of this state, pursuant to LSA-R.S. 37:1261, will be effectively served by entry of the order set forth hereinafter, by consent.

Accordingly, in consideration of the foregoing, and pursuant to the authority vested in the Board by LSA-R.S. 37:1285 and LSA-R.S. 49:955D;

the subject of any type of disciplinary action or inquiry by any licensing authority, institution, society, etc.?" The application was signed by Dr. Smith and dated December 26, 1992.

IT IS ORDERED that the license of Ricky Allen Smith, M.D., to engage in the practice of medicine in the state of Louisiana, as evidenced by Certificate No. 08660R, be, and the same is hereby, placed on **PROBATION** to run concurrently with the balance of the three (3) years period of probation imposed by the Missouri State Board of the Healing Arts in its original 1991 consent agreement;

IT IS FURTHER ORDERED that the licensee, Ricky Allen Smith, M.D., be, and the same is hereby reprimanded;

IT IS FURTHER ORDERED that during the balance of the probationary period ordered hereinabove, Dr. Smith shall strictly comply with and satisfy the following probationary terms, conditions and restrictions:

- a) *Compliance with Missouri Order:* Dr. Smith shall comply fully with all terms and orders imposed by the Missouri State Board of the Healing Arts, including the June 14, 1991 Order as well as the August 11, 1992 Order;
- b) *Notice of Current Address:* Dr. Smith shall advise the Board of any change of address, mailing or office, within thirty (30) days of such occurrence;
- c) *Relocation to Louisiana:* In no event shall Dr. Smith relocate to Louisiana for the purpose of the practice of medicine in Louisiana until the passage of five (5) years from the effective date of this Order. In the event that Dr. Smith decides to return to Louisiana for the purpose of practicing medicine in this state following the five year period described above, he shall provide the Board with at least sixty (60) days advance written notice of such intention, and shall contact the Board to discuss his then-current practice plans and intentions.⁵

IT IS FURTHER ORDERED that any violation of or failure of strict compliance with any of the terms, conditions, or restrictions of this Consent Order by Dr. Smith shall, upon proof of such violation or failure, be deemed adequate and sufficient cause, for the suspension and/or revocation of Dr. Smith's medical license or for such other disciplinary action as the Board deems appropriate, as if such violations were enumerated among the causes provided in LSA-R.S. 37:1285.

IT IS FURTHER ORDERED that this Consent Order shall be, and shall be deemed to be, a public record.

⁵ The Board, in its sole discretion, may designate the Impaired Physicians Committee of Louisiana State Board of Medical Examiners as its agent for the purpose of meeting with Dr. Smith in satisfaction of such requirement.

New Orleans, Louisiana, this 2nd day of December, 1993.

LOUISIANA STATE BOARD
OF MEDICAL EXAMINERS

BY: 
BERNARD L. KAPLAN, M.D.
PRESIDENT

ACKNOWLEDGMENT AND CONSENT

I, RICKY ALLEN SMITH, M.D., hereby acknowledge, approve, accept and consent to entry of the above and foregoing Order, this 31st day of October, 1993.


RICKY ALLEN SMITH, M.D.

AGREEMENT BETWEEN THE STATE BOARD OF REGISTRATION FOR
THE HEALING ARTS AND RICKY ALLEN SMITH, M.D.
REGARDING THE DISCIPLINE OF THE LICENSE
OF RICKY ALLEN SMITH, M.D. TO
PRACTICE THE HEALING ARTS

I

Come now Ricky Allen Smith, M.D. and the State Board of Registration for the Healing Arts and enter into this Agreement for the purpose of resolving the question of whether Dr. Smith's license as a physician and surgeon will be disciplined for a probation violation.

Ricky Allen Smith, M.D. (hereinafter "Licensee") understands that this Agreement is in lieu of a trial-type hearing of the charges by the State Board of Registration for the Healing Arts where he would have the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing; the right to a decision upon the record by a fair and impartial hearing commissioner concerning the charges pending; and the right to a claim for attorney's fees and expenses if Licensee was a prevailing party. Being aware of these rights, the parties knowingly and voluntarily waive each and every one of these rights and agree to abide by the terms of this document, in lieu of proceedings before the State Board of Registration for the Healing Arts.

appendix 1

II

Licensee hereby stipulates with the State Board of Registration for the Healing Arts to the following facts:

1. The State Board of Registration for the Healing Arts ("the Board") is an agency of the state of Missouri created and established pursuant to § 334.120, RSMo Supp. 1990, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.

2. The Licensee is licensed by the Board as a physician and surgeon, Temporary License No. MDR-3P59. The Licensee's Missouri license is current and probationary.

3. On June 14, 1991, Licensee entered into an agreement with the Board whereby Licensee admitted that cause existed for the Board to deny Licensee's application for a license to practice the healing arts pursuant to Rule 4 CSR 150-2.010(1); § 334.031.1, RSMo 1986; and § 334.100.2(3) and (4)(g), RSMo Supp. 1990.

4. The Board placed Licensee's license on probation for three years.

5. The agreement entered into between the Board and Licensee reads, in pertinent part:

3. Upon receipt of this signed Agreement, the Board shall issue to applicant a license to practice the healing arts. The license shall be issued to the applicant on a probationary status which shall continue for a period of three years based upon the following terms and conditions:

A. The medical license issued to applicant is hereby placed on probation for a period of three years (the disciplinary period). During applicant's probation, applicant shall be entitled to engage in the practice of medicine under Chapter 334, RSMo, provided he adheres to all of the terms of this order.

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J. Within 30 days of the effective date of this Agreement, applicant shall undergo a psychiatric evaluation or psychological testing by a board-approved and board-certified psychiatrist who shall furnish a report to the Board or its designee. Applicant shall, within 14 days of the effective date of this Agreement, submit to the Board for its prior approval the name and qualifications of a psychiatrist of applicant's choice. Upon approval of the psychiatrist, applicant shall undergo and continue psychiatric treatment until further notice from the Board. Applicant shall have the psychiatrist submit quarterly status reports to the Board no later than June 30, September 30, December 31, and March 31 of each year of the disciplinary period. The reports shall include the psychiatrist's diagnosis, prognosis, recommendations for treatment, and assessment of applicant's current status. Applicant shall follow all recommendations for treatment made by the psychiatrist. Failure to follow treatment recommendations will be deemed as noncompliance with this Agreement. Applicant shall continue to see the psychiatrist for treatment at least four times a year or as recommended by the psychiatrist during the disciplinary period.

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6. The Licensee determined to change from his then therapist, Jane Niskey, Ph.D., to another therapist, after consultation with Karen Sanders, R.N., his rehabilitation coordinator with the Missouri Physicians Health Program, which is sponsored by the Missouri State Medical Association and not affiliated with the State Board of Registration for the Healing Arts; that Karen Sanders authorized Licensee to change therapists prior to Licensee's so doing; that Licensee believed that his said action was fully approved by Karen Sanders and that it was not necessary to seek further approval from the Board. As per the agreement of June 14, 1991, entered into between Licensee and the Board (at paragraph K), the Licensee entered into a certain aftercare and monitoring contract with said Missouri Physicians Health Program on March 4, 1991, and thereafter worked solely with said Karen Sanders in selecting Jane Niskey as his therapist. There existed a question in the mind of Licensee as to whether the Missouri Physicians Health Program or the Board were responsible for the supervision of Licensee. Licensee made no effort to clarify whether the Missouri Physicians Health Program or the Board were responsible for the supervision of Licensee. Licensee now understands that he is under the supervision of the Board, the only state agency responsible for supervising physicians in the practice of medicine.

7. The Board did not authorize Licensee to fire his therapist.

8. The Licensee's therapist did not recommend that he fire her.

9. The Licensee subsequently reentered therapy with his original therapist.

10. The Licensee's conduct was in violation of the disciplinary agreement and entitles the Board to impose further discipline pursuant to § 334.100.2(4)(o), RSMo Supp. 1991.

III

In light of the foregoing stipulation of facts, Licensee and the Board hereby consent and agree to the following disciplinary action to be imposed against License No. MDR-3P59 effective the date this document is signed by the Board's executive director.

The Licensee is hereby publicly reprimanded for his unilateral decision to fire his therapist against her recommendations for treatment and without the approval of the Board.

IV

1. All parties will bear their respective attorney's fees and other expenses; and each party and their attorneys expressly release the other parties (not their own clients) from any and all attorney's fees and expenses which they or their attorneys may be entitled to claim, including, but not limited to, those provided for in 42 U.S.C. § 1988 and Chapter 536, RSMo.

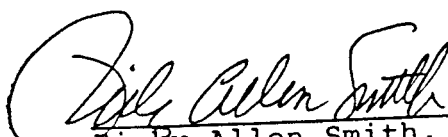
2. The parties agree that this Agreement is entered into for the sole purpose of resolving the question of whether the

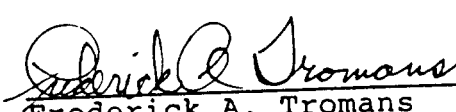
license to practice the healing arts in the state of Missouri of Dr. Smith will be disciplined for a probation violation and that neither party shall be bound by the provisions of this Agreement in any other litigation, administrative or other proceeding, licensing or other matter not involving these parties.

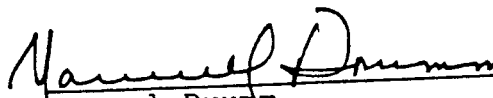
3. Dr. Smith has consulted with his attorney concerning the advisability of entering into this Agreement and he has knowingly, voluntarily, and intelligently entered into this Agreement. Dr. Smith hereby accepts and declares the terms of this Agreement to be fair and reasonable.

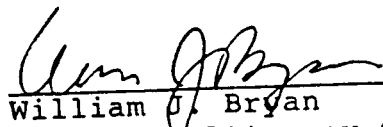
4. Nothing contained herein shall preclude the Board from initiating any action against Dr. Smith for matters not concerning the allegations set forth in the complaints filed with the Board before April 1, 1992.

5. This Agreement shall be binding on the parties hereto and their successors.

 8/11/92
Ricky Allen Smith, M.D. date
Licensee

 8/14/92
Frederick A. Tromans date
Executive Director

 8/11/92
Manuel Drumm date
Attorney at Law

 8/13/92
William P. Bryan date
Assistant Attorney General

Effective this 11th day of August 1992.
(Effective date to be filled in by Executive Director.)



State of Missouri

John Ashcroft, Governor

Department of Economic Development
Division of Professional Registration

Carl M. Koupal, Jr., Director
Tom Duncan, Director

State Board of Registration for the Healing Arts
P.O. Box 4
Jefferson City, Missouri 65102
Telephone 314/751-0098

Frederick A. Tromans, Executive Director

CERTIFICATION

I William T. Morgan, do hereby certify that the enclosed copies are true and correct copies of the below listed original documents on file with the Missouri State Board of Registration for the Healing Arts, Department of Economic Development, in the case of Ricky Allen Smith, M.D.

Copy of Agreement sent to Peggy Riviere, Louisiana State Board of Medical Examiners.

BOARD SEAL

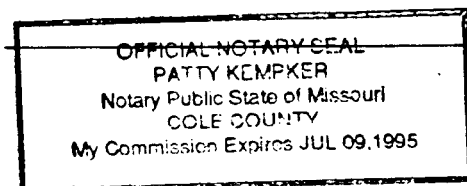
MISSOURI STATE BOARD OF REGISTRATION
FOR THE HEALING ARTS

BY: William T. Morgan
William T. Morgan
Chief Investigator

Subscribed and sworn to before me this 9th day of
October, 19 91.

Patty Kempker
Notary

My Commission Expires:



Notary Seal

AGREEMENT REGARDING APPLICATION FOR LICENSE TO PRACTICE
THE HEALING ARTS BY RICKY ALLEN SMITH, M.D., AND
CONDITIONS OF ISSUANCE OF LICENSE

Come now Ricky Allen Smith, M.D., and the Missouri Board of Registration for the Healing Arts and enter into this Agreement for the purpose of resolving the question of whether Ricky Allen Smith, M.D., will be granted a license to practice the healing arts and the conditions upon which a license to practice the healing arts will be granted.

I

Ricky Allen Smith, M.D. (hereinafter "applicant") acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing before the Administrative Hearing Commission to contest the Board's refusal to grant an unconditional license, the right to appear and be represented by counsel, the right to cross-examine any witnesses appearing at a hearing, the right to a decision upon the record by a fair and impartial administrative hearing commissioner, and the right to a claim of attorney's fees and expenses. Being aware of these rights provided by operation of law, applicant knowingly and voluntarily waives each and every one of these rights and freely enters into this Agreement and agrees to abide by the terms of this document.

II

Applicant and the Missouri Board of Registration for the Healing Arts (hereinafter "Board") hereby stipulate to the following facts:

1. The Missouri Board of Registration for the Healing Arts is an agency of the state of Missouri created and established pursuant to § 334.120, RSMo 1986, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo, Physicians and Surgeons.

2. On or about January 4, 1991, the applicant executed an Application for Missouri Licensure-Physician and submitted it to the Board for consideration. A true, accurate, and correct copy of the January 4, 1991 application is attached, marked as Exhibit 1, and incorporated by reference as if fully pleaded herein.

3. Applicant answered "yes" to the following question on his January 4, 1991 application: "23. Have you ever been requested to resign, withdraw or otherwise terminate your position with a medical partnership, professional association, corporation, or other medical practice organization, either public or private?"

4. Applicant answered "no" to the following questions on his January 4, 1991 application:

29. Have you ever been diagnosed or treated for any mental or physical illness that would serve to hinder your ability to practice medicine?

.

32. Have you ever been unable to practice medicine because of illness or impairment?

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5. Applicant practiced medicine in the Jackson Clinic, Jackson, Tennessee, from June 1988 through May 1990.

6. On May 14, 1990, applicant was asked to resign his position with the Jackson Clinic. Applicant was asked to resign due to multiple extramarital affairs.

7. Applicant did not have affairs with any of his patients.

8. Applicant contacted the medical director of the Tennessee Impaired Physician Program.

9. Applicant voluntarily admitted himself to the Golden Valley Health Center in Minneapolis, Minnesota, from May 22 through June 26, 1990.

10. Applicant was diagnosed as having dysthymia and a psychosexual disorder. Applicant's behavior affected his work and manifested in a decreased memory, concentration, and fatigue.

11. Subsequent to his discharge from the Golden Valley Health Center, applicant continued in an aftercare program with a certified sex therapist.

12. The facts contained in paragraphs 1 through 11 constitute grounds for the Board to deny applicant's license to practice the healing arts pursuant to Rule 4 CSR 150-2.010(1),

§ 334.031.1, RSMo 1986, and § 334.100.2(3) and (4)(g), RSMo Supp. 1990.

13. In lieu of the Board denying applicant's license to practice the healing arts and in lieu of applicant filing a complaint in the Administrative Hearing Commission pursuant to Chapter 621, RSMo, to contest any denial of licensure, the Board agrees to issue and the applicant agrees to accept a probationary license to practice the healing arts in the state of Missouri.

III

In light of the foregoing stipulation of facts, the parties mutually agree and stipulate to the following terms and conditions:

1. The parties understand that this Agreement is in lieu of proceedings before the Administrative Hearing Commission and all other federal and state courts.

2. Applicant has already submitted to the Board all fees required for the issuance of a license to practice the healing arts.

3. Upon receipt of this signed Agreement, the Board shall issue to applicant a license to practice the healing arts. The license shall be issued to the applicant on a probationary status which shall continue for a period of three years based upon the following terms and conditions:

A. The medical license issued to applicant is hereby placed on probation for a period of three years (the

disciplinary period). During applicant's probation, applicant shall be entitled to engage in the practice of medicine under Chapter 334, RSMo, provided he adheres to all of the terms of this order.

B. During the disciplinary period, applicant shall keep the Board informed of applicant's current work and home telephone numbers and addresses.

C. During the disciplinary period, applicant shall pay all fees required for licensing to maintain applicant's license in a current and active state. Applicant shall cooperate with the Board's investigators and comply with the Board's discipline surveillance program.

D. During the disciplinary period, applicant shall comply with all provisions of Chapters 195 and 334, RSMo; the regulations of the Board; all applicable federal and state drug laws, rules, and regulations; and all federal and state laws.

E. In the event applicant should leave Missouri to reside or to practice outside the state, applicant must, within ten days, notify the Board in writing of the dates of departure and return. Periods of residency or practice outside Missouri will not apply to the reduction of this probationary period, and the medical licensing authorities of the jurisdiction to which the applicant is moving or has moved must be promptly notified of the applicant's probationary status in Missouri. Notification shall be in

writing, and applicant shall retain a copy of such notice for verification by the Board or its designated representative.

F. Applicant shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

G. Applicant shall notify all hospitals, nursing homes, outpatient centers, surgical centers, clinics, and all other facilities where the physician has privileges or practices of his disciplinary status. Notification shall be in writing, and applicant shall retain a copy of such notice for verification by the Board or its designated representative.

H. Applicant shall submit quarterly reports as requested by the Board on forms provided by the Board, stating whether there has been compliance with all the conditions of this order. Applicant shall submit quarterly reports to the Board no later than the following dates: June 30, September 30, December 31, and March 31 during each year of the disciplinary period.

I. During the disciplinary period, applicant shall have a third party present at all times while examining or treating female patients.

J. Within 30 days of the effective date of this Agreement, applicant shall undergo a psychiatric evaluation or psychological testing by a board-approved and

board-certified psychiatrist who shall furnish a report to the Board or its designee. Applicant shall, within 14 days of the effective date of this Agreement, submit to the Board for its prior approval the name and qualifications of a psychiatrist of applicant's choice. Upon approval of the psychiatrist, applicant shall undergo and continue psychiatric treatment until further notice from the Board. Applicant shall have the psychiatrist submit quarterly status reports to the Board no later than June 30, September 30, December 31, and March 31 of each year of the disciplinary period. The reports shall include the psychiatrist's diagnosis, prognosis, recommendations for treatment, and assessment of applicant's current status. Applicant shall follow all recommendations for treatment made by the psychiatrist. Failure to follow treatment recommendations will be deemed as noncompliance with this Agreement. Applicant shall continue to see the psychiatrist for treatment at least four times a year or as recommended by the psychiatrist during the disciplinary period.

K. Applicant shall, within 30 days of the effective date of this Agreement, enter into an aftercare and monitoring contract with the Missouri State Medical Association Physicians' Health Program, Jack Croughan, M.D., Medical Director. Applicant shall promptly submit documentation of his enrollment in such program to

the Board. Applicant shall follow all recommendations for treatment, counseling, and monitoring given by the Missouri State Medical Association Physicians' Health Program. Failure to follow treatment, counseling, and monitoring recommendations will be deemed as noncompliance with this Agreement. Missouri State Medical Association Physicians' Health Program shall submit quarterly reports to the Board regarding applicant's treatment, prognosis, and current status no later than June 30, September 30, December 31, and March 31 of each year of the disciplinary period.

L. During the disciplinary period, applicant shall continue attending caduceus meetings at least one time each week.

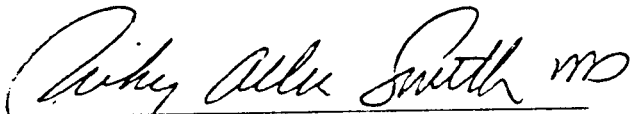
4. Upon the expiration of the disciplinary period, applicant's license shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the Missouri Board of Registration for the Healing Arts determines that applicant has violated any term or condition of this order, the Board may, in its discretion, vacate this order and impose such further discipline as the Board shall deem appropriate.

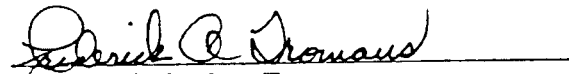
5. No additional order shall be entered by this Board pursuant to the preceding paragraph of this order without notice and an opportunity for hearing before this Board as a contested case in accordance with the provisions of Chapter 536, RSMo. If any alleged violation of this order occurred during the

disciplinary period, the Board may choose to conduct a hearing before it to determine whether a violation occurred and may issue additional orders.


6. This order does not bind the Board or restrict the remedies available to it concerning any future violation of Chapter 334, RSMo, by the applicant.

Missouri Board of
Registration for the
Healing Arts


Ricky Allen Smith, M.D.


Frederick A. Tromans
Executive Director

WILLIAM L. WEBSTER
Attorney General


Stephanie K. Karl
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Missouri Bar No. 35626

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Jefferson City, MO 65102
314-751-8370

Attorneys for Missouri Board
of Registration for the
Healing Arts

Effective this 14th day of June 1991