

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

In the Matter of)
)
GEORGE R. TILLER, M.D.)
Kansas License No. 04-14025)
_____)

Docket No. 09-HA - 00093

stg
FILED

DEC 12 2008

PETITION

KS State Board of Healing Arts

COMES NOW the Kansas State Board of Healing Arts ("Board") by and through Kathleen Selzler Lippert, Litigation Counsel ("Petitioner"), and initiates these proceedings pursuant to the provisions of K.S.A. 65-2838, K.S.A. 65-2851a and K.S.A. 77-501 *et seq.* For its cause of action, Petitioner alleges and states:

1. George R. Tiller, M.D. ("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. 04-14025 on approximately July 1, 1968 and having renewed his license on July 1, 2008. Licensee currently holds an active current license to practice medicine and surgery in the State of Kansas.
2. Licensee's last known mailing address as provided to the Board is 5101 E. Kellogg, Wichita, Kansas 67218.
3. Disciplinary Panel #23 authorized Litigation Counsel to file a Petition in this matter.

FACTS COMMON TO ALL COUNTS

4. Licensee owns and operates Women's Health Care Services, PA ("WHCS"), in Wichita, Kansas.
5. Pursuant to K.S.A. 65-6703(a) no person shall induce an abortion when the fetus is viable unless such person is a physician and has a documented referral

from another physician not legally or financially affiliated with the physician performing or inducing the abortion and both physicians determine that: (1) The abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy will cause a substantial and irreversible impairment of a major bodily function of the pregnant woman.

6. In approximately 1999, Licensee approached Ann K. Neuhaus, M.D. (“Dr. Neuhaus”) about providing consultations for some of his patients. Such consultations consisted of screening patients that desired termination of an unwanted pregnancy that were over 22 weeks gestation. This service was an attempt to comply with K.S.A 65-6703, in which an independent physician, not financially affiliated with Licensee, needed to provide a second opinion stating that the termination of an unwanted pregnancy was necessary in order to preserve the life of the patient.

7. In 1999 when Dr. Neuhaus began performing consultations for Licensee, she understood that she was not the only physician providing consultation services to Licensee. Sometime in 2003, Dr. Neuhaus became aware that she was the only physician still providing consultation services to Licensee.

8. From approximately 2003 to the present date, Dr. Neuhaus has worked exclusively with Licensee providing consultation services and referrals to him as an attempt to comply with K.S.A. 65-6703.

9. Dr. Neuhaus’ sole source of income in 2003 were referrals from Licensee.

10. The practice arrangement between Licensee and Dr. Neuhaus typically involved:

- A. Patients contacting Licensee's clinic seeking termination services for an unwanted pregnancy. If the patient was determined to be over 22 weeks gestation by a qualified provider at WHCS, Licensee's clinic staff would then refer the patient to Dr. Neuhaus and contact Dr. Neuhaus to schedule a consultation with her.
- B. Dr. Neuhaus listed her home residence as her practice address in 2003; she did not consult or treat patients in her home. Dr. Neuhaus did not have an independent office practice. Dr. Neuhaus would usually meet with the patient at Licensee's clinic. However, Dr. Neuhaus would occasionally consult with a patient over the telephone.
- C. Following the consultation, Dr. Neuhaus would then send Licensee a letter and refer the patient back to him if she determined the patient qualified for post-viability abortion services pursuant to the criteria set forth in K.S.A. 65-6703.

11. Licensee and Dr. Neuhaus had a symbiotic relationship. Without the second opinion referral from Dr. Neuhaus, Licensee would not be able to provide the service of pregnancy termination to any patient beyond 22 weeks gestation. Dr. Neuhaus was dependant on referrals from Licensee as a source of her practice. Dr. Neuhaus did not have any patients except for those provided by Licensee. There was a legal or financial affiliation between the physician performing or inducing the abortion and the referring physician. Dr. Neuhaus' referral was not independent.

12. Since issuance of license, and while engaged in a regulated profession as a medical doctor in the State of Kansas pursuant to K.S.A. 65-2801 *et seq.*, Licensee did commit the following act(s):

COUNT I

13. Petitioner incorporates herein by reference paragraphs 1 through 12, inclusive.

14. In approximately July 2003, Licensee performed an abortion on Patient #1, a fourteen (14) year old female. Patient #1 was approximately 26 weeks gestation.

15. Patient #1 was seen by Dr. Neuhaus in approximately July 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

16. In approximately July 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #1 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

17. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

18. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

19. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT II

20. Petitioner incorporates herein by reference paragraphs 13 through 19, inclusive.

21. In approximately July 2003, Licensee performed an abortion on Patient #2, a ten (10) year old female. Patient #2 was approximately 28 weeks gestation.

22. Patient #2 was seen by Dr. Neuhaus in July 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

23. In approximately July 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #2 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

24. Licensee failed to get a referral from an independent physician with whom he is not legally and financially affiliated.

25. Licensee committed acts in violation of K.S.A.65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A 65-2836(b)(12) License has committed acts likely to deceive, defraud or harm the public.

26. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT III

27. Petitioner incorporates herein by reference paragraphs 20 through 26, inclusive.

28. In approximately August 2003, Licensee performed an abortion on Patient #3, a fifteen (15) year old female. Patient #3 was approximately 26 weeks gestation.

29. Patient #3 was seen by Dr. Neuhaus in approximately August 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

30. In approximately August 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #3 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

31. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

32. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

33. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT IV

34. Petitioner incorporates herein by reference paragraphs 27 through 33, inclusive.

35. In approximately August 2003, Licensee performed an abortion on Patient #4, a fifteen (15) year old female. Patient #4 was approximately 28 weeks gestation.

36. Patient #4 was seen by Dr. Neuhaus in approximately August 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

37. In approximately August 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #4 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

38. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

39. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

40. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT V

41. Petitioner incorporates herein by reference paragraphs 34 through 40, inclusive.

42. In approximately August 2003, Licensee performed an abortion on Patient #5, a fifteen (15) year old female. Patient #5 was approximately 25 weeks gestation.

43. Patient #5 was seen by Dr. Neuhaus in approximately August 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

44. In approximately August 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #5 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

45. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

46. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

47. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT VI

48. Petitioner incorporates herein by reference paragraphs 41 through 47, inclusive.

49. In approximately August 2003, Licensee performed an abortion on Patient #6, a fourteen (14) year old female. Patient #6 was approximately 25 weeks gestation.

50. Patient #6 was seen by Dr. Neuhaus in approximately August 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

51. In approximately August 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #6 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

52. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

53. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

54. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT VII

55. Petitioner incorporates herein by reference paragraphs 48 through 54, inclusive.

56. In approximately September 2003, Licensee performed an abortion on Patient #7, a fifteen (15) year old female. Patient #7 was approximately 25 weeks gestation.

57. Patient #7 was seen by Dr. Neuhaus in approximately September 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and

irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

58. In approximately September 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #7 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

59. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

60. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

61. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT VIII

62. Petitioner incorporates herein by reference paragraphs 55 through 61, inclusive.

63. In approximately November 2003, Licensee performed an abortion on Patient #8, a thirteen (13) year old female. Patient #8 was approximately 25 weeks gestation.

64. Patient #8 was seen by Dr. Neuhaus in approximately November 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

65. In approximately November 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #8 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

66. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

67. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;

- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

68. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT IX

69. Petitioner incorporates herein by reference paragraphs 62 through 68, inclusive.

70. In approximately November 2003, Licensee performed an abortion on Patient #9, a fifteen (15) year old female. Patient #9 was approximately 25 weeks gestation.

71. Patient #9 was seen by Dr. Neuhaus in approximately November 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

72. In approximately November 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #9 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

73. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

74. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

75. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT X

76. Petitioner incorporates herein by reference paragraphs 69 through 75, inclusive.

77. In approximately November 2003, Licensee performed an abortion on Patient #10, an eighteen (18) year old female. Patient #10 was approximately 25 weeks gestation.

78. Patient #10 was seen by Dr. Neuhaus in approximately November 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

79. In approximately November 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #10 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

80. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

81. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and
- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

82. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

COUNT XI

83. Petitioner incorporates herein by reference paragraphs 76 through 82, inclusive.

84. In approximately November 2003, Licensee performed an abortion on Patient #11, a sixteen (16) year old female. Patient #11 was approximately 29 weeks gestation.

85. Patient #11 was seen by Dr. Neuhaus in approximately November 2003 for an evaluation to see if the continuation of the pregnancy would cause a substantial and irreversible impairment of a major body function, or to see if the abortion would be necessary to preserve the life of the patient.

86. In approximately November 2003, Dr. Neuhaus sent a letter of referral to Licensee indicating that the patient was being referred to him for consultation regarding her unwanted pregnancy. In the letter of referral, Dr. Neuhaus indicated that Patient #11 would suffer substantial and irreversible impairment of a major physical or mental function if she were forced to continue the pregnancy.

87. Licensee failed to get a referral from an independent physician with whom he was not legally or financially affiliated.

88. Licensee committed acts in violation of K.S.A. 65-6703 and committed acts in violation of the Healing Arts Act, K.S.A. 65-2836 as further set forth in 65-2837, including but not limited to:

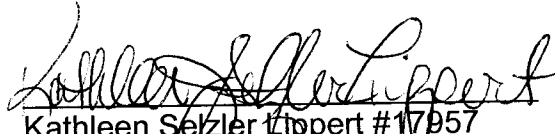
- a. K.S.A. 65-6703(a) Licensee performed an abortion on a fetus that was viable without having a documented referral from another physician not legally or financially affiliated with him;
- b. K.S.A. 65-2836(b) Licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency; and

- c. K.S.A. 65-2836(b)(12) Licensee has committed acts likely to deceive, defraud or harm the public.

89. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend or otherwise limit Licensee's license for violation of the Healing Arts Act.

WHEREFORE, Petitioner prays that the Board make findings of fact and conclusions of law that Licensee committed these acts in violation of the Kansas Healing Arts Act, that Licensee's license to practice the healing arts in the State of Kansas be revoked, suspended, or otherwise limited, and that the Board assess such administrative fines and impose such costs against Licensee as it shall deem just and proper as authorized by law.

Respectfully submitted,


Kathleen Seizler Lippert #17957
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603
(785) 296-7413

CERTIFICATE OF SERVICE

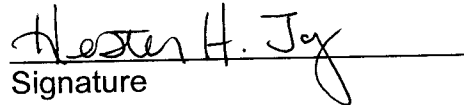
I, hereby certify that a true and correct copy of the above and foregoing
PETITION was served on the 12th day of December, 2008, by United States mail, first
class postage prepaid and addressed to:

George R. Tiller, M.D.
5101 E. Kellogg
Wichita, Kansas 67218

Randy Forbes
Frieden & Forbes
555 S. Kansas Avenue, Suite 303
Topeka, Kansas 66601-0639

and the original was hand delivered for filing to:

Jack Confer
Acting Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068


Signature