

JUL 14 2017

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

KS State Board of Healing Arts

In the Matter of)
)
ZACHARY BAKER, D.C.)
Kansas License No. 01-05780)
)
Docket No. 17-HA00058

CONSENT ORDER FOR SURRENDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Jane E. Weiler, Associate Litigation Counsel, ("Petitioner"), and Zachary Baker, D.C., ("Licensee"), *pro se*, and move the Board for approval of a Consent Order affecting Licensee's license to practice chiropractic in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is: [REDACTED] Kansas City, Kansas 66106.
2. Licensee is or has been entitled to practice chiropractic in the State of Kansas, having been issued License No. 01-057801 on approximately November 2, 2015, having last renewed such license on approximately December 29, 2016. Licensee's current license is suspended.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of chiropractic. K.S.A. 65-2801 *et seq.* and K.S.A. 65-2871.
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 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. 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.*

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9.

[REDACTED] (KSBHA Docket No. 16-

HA00029).

10. On or about August 30, 2016, in KSBHA Docket No. 17-HA00010, a Petition was filed that alleged Licensee had violated the conditions imposed upon his license.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
11. The Board issued a Final Order in KSBHA Docket No. 17-HA00010 (“2016 Final Order”) on or about October 20, 2016. The 2016 Final Order found that Licensee had violated K.S.A. 65-2836(k), by violating a lawful directive or order of the board [REDACTED] entered in KSBHA Docket No. 16-HA00029. (KSBHA Docket No. 17-HA00010).

12. [REDACTED]

[REDACTED] Additionally, Licensee was required to take the EBAS ethics test within six (6) months of the date of the 2016 Final Order. Licensee was also publicly censured.

13. On or about April 25, 2017, a Petition was filed in this matter that alleged that Licensee had violated K.S.A. 65-2836(k), by violating a lawful directive or order

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of the board. The Petition alleged that Licensee had violated K.S.A. 65-2836(k), by failing to [REDACTED]

[REDACTED] and that Licensee had failed to take the EBAS ethics exam within the six (6) month period required by the Final Order in KSBHA Docket No. 17-HA00010. The Petition further alleged that as of the date of the filing of the Petition, Licensee had not even registered for the EBAS ethics exam.

14. At the conference hearing on his matter on June 9, 2017, Licensee admitted that he had not taken the EBAS ethics exam as required by the Final Order. Licensee stated that he could not afford the \$1500 fee for the examination.
15. In response to Licensee's assertion that he could not afford the \$1500 fee, Petitioner noted that Licensee took a trip to Hawaii in November of 2016 for eleven days; in May of 2017, he traveled to Mexico for a period of six (6) days; and that he has another trip to Hawaii scheduled for June of 2017, for eleven days.
16. On June 9, 2017, the Board found that Licensee violated K.S.A. 65-2836(k) on two occasions, (1) by violating a lawful directive or order of the board to by failing to [REDACTED]
and (2) by failing to take the EBAS examination as required by the 2016 Final Order.
17. On June 9, 2017, the Board also found that Licensee's failure to take the EBAS examination as required was an intentional act on his part. Even though he may not spend "a lot" of money on his trips to Hawaii or Mexico, Licensee choose to

take these trips instead of following the requirements of the 2016 Final Order, and these were aggravating factors for the Board to consider.

18. Additionally, on June 9, 2017, the Board found that Licensee's failure to follow a lawful directive or order of the Board for a second time was an aggravating factor for the Board to consider.
19. Although Licensee claimed that he has had to care for a family member in poor health, the Board found Licensee's statements to be inconsistent with his travel activities.
20. The Board concluded that Licensee engaged in two (2) violations of K.S.A. 65-2836(k), which the Board determined to be a 2A category of offense as set forth in the sanctioning guidelines. The Board found that Licensee's actions in this matter as well as his past violations of the Healing Arts Act puts Licensee in the presumed sanction for multiple offenses column.
21. 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 his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.
22. Licensee's acts constitute violations of the Kansas Healing Arts Practice Act as set forth in K.S.A. 65-2836.

23. Licensee violated K.S.A. 65-2836(k), in that he violated a lawful order of the Board previously ordered by the Board in Docket No. 17-HA00010 when Licensee failed to comply with the terms and conditions of the 2016 Final Order.
24. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
25. According to K.S.A. 65-2838(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.
26. All of the materials in KSBHA Investigative Case Number 17-00373 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 30. Disciplinary Panel No. 30 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
27. 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 chiropractic 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

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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 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.*

28. 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.
29. 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.

30. 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.
31. 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.
32. 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.
33. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
34. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
35. All correspondence or communication between Licensee and the Compliance Coordinator relating to the Consent Order shall be by certified mail addressed to:

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

36. Licensee shall obey all federal, state and local laws and rules governing the practice as of chiropractic 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.
37. 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.
38. This Consent Order constitutes public disciplinary action.
39. A protective order is hereby entered to protect all confidential information under 42 CFR Part II and K.S.A. 65-4925.
40. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
41. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public disciplinary action against his license to engage in the practice of chiropractic.

VOLUNTARY SURRENDER TREATED AS REVOCATION

42. Licensee hereby surrenders his Kansas license to practice chiropractic. Such surrender shall be treated as a revocation for all purposes including reporting such

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action. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the provisions of K.S.A. 65-2844. Further, Licensee's application will be governed by *Vakas v. The Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991), and all applicable statutes, law, rules and regulations regarding qualifications for licensure and reinstatement.

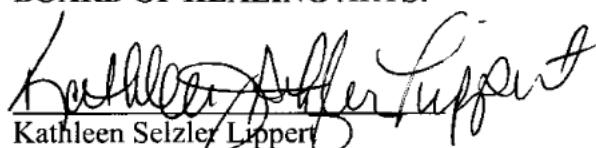
43. Licensee shall be required to pay the fee for reinstatement of a revoked license with any application for reinstatement.
44. Licensee agrees that in the event he applies for reinstatement of his license, the allegations contained in this Consent Order will be considered as findings of fact and conclusions of law.
45. Licensee shall place his patients' records in the custody of another licensed chiropractor 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 August 11, 2017, of the specific measure taken and the appropriate contact information so that the Board can respond to questions from patients about the location of their patient records and how they can obtain them.
46. Licensee acknowledges that Pursuant to K.S.A. 65-2867, it shall be unlawful for Licensee to open or maintain an office for the practice of the healing arts or to announce or hold out to the public the intention, authority, or skill to practice the healing arts.

47. Licensee is prohibited from owning, managing, being employed by or in any way acting in an advisory capacity for any entity providing chiropractic services in the State of Kansas.

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.

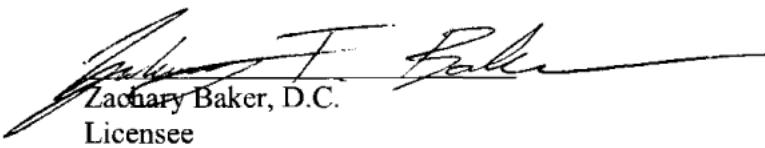
IT IS SO ORDERED on this 13th day of July, 2017.

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



Kathleen Selzler Lippert
Executive Director

1/13/17
Date



Zachary Baker, D.C.
Licensee

7-13-17
Date

PREPARED AND APPROVED BY:



Jane E. Weiler, #25276
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order for Surrender by United States mail, postage prepaid, on this 14th day of July, 2017, to the following:

Zachary Baker, DC
[REDACTED]

Kansas City, Kansas 66106

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:

Jane E. Weiler, Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

Cathy A. Brown

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