

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

APR 25 1994

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
)
BRIAN K. BROOKS, D.C.)
Kansas License No. 1-03508)
_____)

Case No. 93-00125

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COMES NOW the Kansas State Board of Healing Arts ("Board") and Brian K. Brooks, D.C. ("Licensee") and stipulate and agree as follows:

WITNESSETH:

WHEREAS, the Board is the sole and exclusive administrative agency in the State of Kansas statutorily authorized to regulate the practice of the healing arts to include the practice of chiropractic pursuant to K.S.A. 1993 Supp. 65-2801 et seq.

WHEREAS, Licensee is licensed to practice chiropractic in the State of Kansas, having last renewed his license on July 7, 1993, for the period ending June 30, 1994.

WHEREAS, an Order of Emergency Suspension of Licensure was issued by the Board on May 20, 1993, thereby suspending Licensee's license from that day forward to the present time.

WHEREAS, the Order of Emergency Suspension of Licensure was based upon information provided to the Board that Licensee had engaged in sexual improprieties with several patients. Specifically, at least three female patients alleged sexual contact with Licensee while they were patients, and two patients alleged illicit drug usage by Licensee. Further, Licensee

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WHEREAS, Licensee waived his due process rights to an immediate hearing in return for the Board's forbearance in filing a petition for revocation by and through his counsel's letter dated June 22, 1993.

WHEREAS, such acts or conduct as set forth above would constitute grounds to revoke, suspend, or otherwise limit licensure pursuant to K.S.A. 65-2836 and K.S.A. 1993 Supp. 65-2837. Specifically, Licensee may have violated K.S.A. 65-2836(b) as further defined in K.S.A. 65-2837(b)(16) which provides that the commission of any act of sexual abuse, misconduct or exploitation related to the Licensee's professional practice constitutes unprofessional conduct and is considered grounds for revocation, suspension or limitation of licensure. Licensee may further have the inability to practice chiropractic with reasonable skill and safety to patients by

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WHEREAS, the Board has jurisdiction pursuant to K.S.A. 65-2838(a) to impose appropriate discipline if Licensee has violated K.S.A. 65-2836.

WHEREAS, in lieu of the Board proceeding with a formal administrative hearing pursuant to K.S.A. 77-511, the Board has authority to enter into this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER ("STIPULATION")** pursuant to K.S.A. 65-2838(b).

NOW, in consideration of the conditions, terms, covenants, and promises contained herein, the parties agree as follows:

1. It is the intent and purpose of this **STIPULATION** to provide for the settlement of all issues without the necessity of proceeding to a formal disciplinary hearing. By executing this **STIPULATION**, Licensee waives all procedural and due process requirements afforded to him by the Kansas Administrative Procedure Act, K.S.A. 1993 Supp. 77-501 et seq.

2. The terms and conditions of this **STIPULATION** are entered into between the parties to become an Order of the Board which shall not become binding on the Board until a Board-authorized signature is affixed on the last page of this document. Licensee's signature on this document creates a unilateral contract binding Licensee to all the terms and conditions set forth in this **STIPULATION**, whether or not a Board-authorized signature is affixed to this document. Licensee acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

3. Licensee agrees this **STIPULATION** and its filing are in accordance with the requirements of law, that the Board has jurisdiction to consider this **STIPULATION** and that the Board is lawfully constituted to consider this matter. Licensee further agrees that the Kansas Healing Arts Act, K.S.A. 1993 Supp. 65-2801 et seq., as set forth by statute and as recited in this **STIPULATION**, is constitutional on its face and as applied in this case.

4. Licensee agrees that the following conditions, restrictions and limitations shall be placed upon his license to practice the healing arts:

a. Licensee hereby voluntarily surrenders his license to practice chiropractic

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in the State of Kansas.

- b. Licensee agrees his voluntary surrender of said license is made during a disciplinary investigation.
- c. Licensee may apply for reinstatement of his license at any time. However, such application will be taken under consideration by the Board utilizing the criteria set forth in Vakas v. Kansas State Board of Healing Arts, 248 Kan. 589, 808 P.2d. 1355 (1991). Licensee agrees he has the burden of proving he has met the Vakas criteria. No representation is made by the Board that an application for reinstatement made by Licensee will be viewed as automatic, nor that an unrestricted license to engage in the practice of chiropractic would be forthcoming. If reinstatement of Licensee's license is issued, it will be done so after appropriate consideration of all matters and issues regarding Licensee pursuant to the factors enumerated in Vakas.

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5. This **STIPULATION** 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.

6. This **STIPULATION** is entered into freely and voluntarily, and Licensee agrees

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he has read and understands this **STIPULATION**.

7. Licensee agrees he 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 **STIPULATION** or its contents. This release shall discharge the Board of any claims Licensee alleges to have had at the time of this release or might have had, either known or unknown.

8. Licensee understands and agrees this document shall be deemed a public record upon Licensee signing this **STIPULATION**. Licensee further acknowledges this **STIPULATION** shall be reported as a voluntary surrender pending a disciplinary investigation to the Federation of Chiropractic Licensing Boards, and any other reporting entity requiring disclosure of this **STIPULATION**.

9. Nothing in this agreement shall be construed to deny the Board jurisdiction to investigate alleged violations of the Healing Arts Act or to investigate complaints received under the Kansas Risk Management Law, K.S.A. 65-4921 et seq., whether unknown or not covered under the conditions of this **STIPULATION**, or past acts unknown to the Board or subsequent acts.

10. All correspondence or communication by Licensee to the Board shall be by United States mail, first class, postage prepaid, addressed to the Kansas State Board of Healing Arts, Attention: Office of the Disciplinary Counsel, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

11. Upon execution of this **STIPULATION** by the affixing of a Board-authorized

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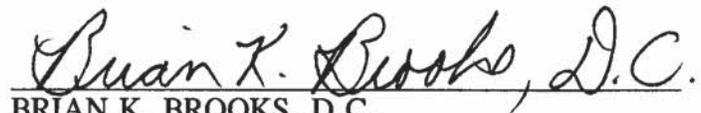
signature below, the provisions of this **STIPULATION** shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order pursuant to K.S.A. 65-2838(b) without further order.

IN WITNESS WHEREOF the parties have executed this agreement on this 25th day of April, 1994.

KANSAS STATE BOARD OF HEALING ARTS


LAWRENCE T. BUENING, JR.
Executive Director

April 25, 1994.
Date


BRIAN K. BROOKS, D.C.
Licensee

4/22/94
Date

Prepared and approved by:


GRETCHEN E. SCHMIDT, #16250
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068
(913) 296-7413

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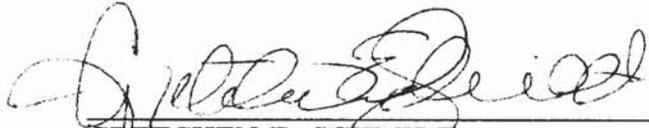
CERTIFICATE OF SERVICE

I, Gretchen E. Schmidt, Associate Counsel of the Kansas State Board of Healing Arts, certify that on this 25th day of April, 1994, a true and correct copy of the above **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** was deposited in the United States Mail, first class, postage prepaid, addressed to the following:

Brian K. Brooks, D.C.
117 South 8th
Independence, Kansas 67301

and the original was hand-delivered to:

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



GRETCHEN E. SCHMIDT