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KS State Board of Healing Arts



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

In the Matter of)
)
Richard B. Connolly-Walker, D.C.)
Kansas License No. 01-05277)

Docket No. 15-HA 00091

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Seth K. Brackman, Associate Litigation Counsel (“Petitioner”), and Richard B. Connolly-Walker, 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: 8849 W. 95th Street, Overland Park, Kansas 66212.
2. Licensee is or has been entitled to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-05277 on or about August 13, 2009. Licensee’s license is active and was last renewed on or about December 30, 2014.
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 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 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.

Consent Order
Richard B. Connolly-Walker, D.C.

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 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(b), K.S.A. 65-2836(k), K.S.A. 65-2837(a)(1), K.S.A. 65-2837(a)(2), and K.S.A. 65-2837(a)(3), K.S.A. 65-2837(b)(12), K.S.A. 65-2837(b)(18), K.S.A. 65-2837(b)(24), and K.S.A. 65-2837(b)(25), 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 14, 2013, the Board received a complaint alleging that Licensee's business card read "no appointments, no x-rays, no start up fees, no gimmicks, adjustments

\$20.00.” The complainant in this matter questioned whether it was possible to guarantee that no x-rays would need to be taken if clinically indicated for diagnosis.

10. On or about November 15, 2013, a subpoena was issued to Licensee requesting any and all records pertaining to ten (10) patients treated in the year of 2013, to include billing records.
11. Upon receipt of the subpoenaed patient records, it was discovered that Licensee was not :
 - a. Performing proper clinical examinations;
 - b. Taking patient vital signs;
 - c. Performing x-rays;
 - d. Referring patients with symptoms beyond maintenance care;
 - e. Signing all entries in medical records;
 - f. Billing insurance and/or Medicare per the Federal Guidelines; and
 - g. Some entries in the medical records were in different handwriting.
12. Patient 1 is a seventy-two year old female with a history of high blood pressure and diabetes.
13. On November 7, 2013, Patient 1 presented to Licensee with complaints of pain in her left arm and elbow, pain in her left lower neck and shoulder blade, and that her digits 4/5 on her left hand were not working right.
14. Patient 1 states the pain started approximately four months prior when she tried to lift her husband.
15. Licensee noted Patient 1’s left shoulder and arm were tender to palpation.
16. Licensee diagnosed Patient 1 with Cervalgia, Cervical Subluxation and Thoracic Subluxation and performed C7 and T3 adjustments.

17. Licensee charged Patient 1 Twenty Dollars and Zero Cents (\$20.00).
18. Patient 2 is a sixty-one year old male who presented to Licensee on or about November 8, 2013, due to having injured his left forearm approximately one week prior.
19. Licensee performed an examination and documented pain, swelling and the possibility of a torn muscle in the left forearm as well as several subluxations.
20. Licensee recommended Patient 2 use heat on his left forearm.
21. Licensee failed to refer Patient 2 to another provider.
22. Patient 2 was billed Fifty Dollars and Zero Cents (\$50.00) for the “monthly plan.” Licensee states the “monthly plan” consists of four visits with no expiration date.
23. Patient 3 is a twenty year old male who presented to Licensee on or about November 11, 2013, after injuring his shoulder two days prior while lifting weights. Patient 3 described his shoulder as achy and that he had been hearing a click on movement.
24. Licensee performed an examination and documented subluxations in the cervical, thoracic, lumbar and pelvic regions. Licensee documented no positive shoulder findings.
25. Licensee failed to properly document the treatment provided and recommended stretching and heat.
26. Patient 3 was billed Twenty Dollars and Zero Cents (\$20.00).
27. Patient 4 is an eight year old female with a history of epilepsy and bedwetting, who presented on November 12, 2013, with complaints of headaches and neck pain.
28. Licensee performed an examination and determined Patient 4 had a C2 subluxation.
29. Licensee provided a cervical adjustment.
30. Patient 4 was billed Twenty Dollars and Zero Cents (\$20.00).

31. Patient 5 is a twenty-four year old male who presented to Licensee on or about November 12, 2013, for a “tune up.”
32. Patient 5 reported having previous chiropractic treatment.
33. Licensee performed an examination noting several subluxations and performed adjustments to several regions.
34. Patient 5 was charged Twenty Dollars and Zero Cents (\$20.00).
35. Patient 6 is a fifty-eight year old female who had seen chiropractors throughout her life and was looking for a new provider and presented to Licensee on or about November 6, 2013, for a “tune up.”
36. Licensee performed an examination noting several subluxations and performed adjustments to several regions.
37. Patient 6 was charged Fifty Dollars and Zero Cents (\$50.00) for the “monthly plan.”
38. Patient 7 is a forty-one year old female who presented to Licensee on or about November 15, 2013 with a history of a herniated disc as a result of an automobile accident years prior.
39. Licensee performed an examination noting several subluxations and performed adjustments to several regions.
40. Patient 7 was charged Twenty Dollars and Zero Cents (\$20.00).
41. Patient 8 is a fifty-two year old female who presented to Licensee on or about November 15, 2013 with a headache lasting three days.
42. Patient 8 states that medications and other treatments had not helped.
43. Licensee performed an examination and diagnosed several subluxations and classical migraine. Licensee performed adjustments to several regions.

44. Patient 8 was charged Twenty Dollars and Zero Cents (\$20.00).
45. Patient 9 is a forty-one year old male who presented to Licensee on or about November 15, 2013, for back pain which had started the previous day.
46. Patient 9 states the pain started after playing football and he rated the pain 9/10.
47. Licensee performed an examination and diagnosed several subluxations. Licensee performed adjustments to several regions and recommended heat.
48. Patient 9 was charged Twenty Dollars and Zero Cents (\$20.00).
49. Patient 10 is a sixty-three year old female who presented to Licensee on or about November 7, 2013, with complaints of mid-back pain and her arms falling asleep while she sleeps.
50. Licensee performed an examination and noted several subluxations. Licensee performed adjustments.
51. Patient 10 was charged Twenty Dollars and Zero Cents (\$20.00).
52. 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.
53. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836:
 - a) K.S.A. 65-2836(b), in that Licensee committed an act of unprofessional or dishonorable conduct or professional incompetency, that if continued would reasonably be expected to constitute an inability to practice the healing arts with

reasonable skill and safety to patients or unprofessional conduct as defined by K.S.A. 65-2837, and amendments thereto;

- b) K.S.A. 65-2836(k), in that Licensee has violated any lawful rule and regulation promulgated by the board;
- c) K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(12), for committing conduct likely to deceive, defraud or harm the public;
- d) K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(18), for obtaining any fee by fraud, deceit or misrepresentation;
- e) K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(24), for repeated failure to practice the healing arts with the level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances;
- f) K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(25), for failure to keep written medical records which accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results;
- g) K.S.A. 65-2837(a)(1), for one or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;
- h) K.S.A. 65-2837(a)(2), for repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; and

- i) K.S.A. 65-2837(a)(3), for a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts.
54. 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.
55. 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.
56. All pending investigation materials in KSBHA Investigative Case Number 14-00291 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 29 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
57. 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 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.*

58. 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.
59. 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.
60. 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.

61. 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.
62. 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.
63. 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.
64. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
65. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

66. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to:

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

67. Licensee shall obey all federal, state and local laws and rules governing the practice 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.

68. Licensee shall immediately notify the Board or its designee of any citation, arrest or charge filed against him or any conviction for any traffic or criminal offense.

69. Licensee shall immediately notify the Board or its designee of any complaint filed, or investigation opened, by the proper licensing authority of another state, territory, District of Columbia, or other country, or by a peer review body, a health care facility, a professional association or society, or by a governmental agency.

70. Licensee shall immediately at all times keep Board staff informed of his current practice locations addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten calendar (10) days of any such change.

71. 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.

72. This Consent Order constitutes public disciplinary action.

73. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

74. 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:

PUBLIC CENSURE

75. Licensee is hereby **PUBLICLY CENSURED** for violations of the Kansas Healing Arts Act.

PROBATION: EDUCATION

76. Licensee shall attend and successfully complete one of the three following documentation programs on the days listed, unless otherwise approved by Disciplinary Panel #29:

- a) Case Western Reserve University School of Medicine (“Case Western”)
 - i. Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers with Individual Preceptorships
 - 1. June 4-5, 2015, in Beachwood, Ohio (Cleveland)
- b) Physician Assessment and Clinical Education Program (PACE)
 - i. Medical Record Keeping Course
 - 1. April 30-May 1, 2015, in San Diego, California
 - 2. July 30-31, 2015 in San Diego, California
- c) The Center for Personalized Education for Physicians (CPEP)
 - i. Medical Record Keeping Seminar
 - 1. June 5, 2015, in Denver, Colorado

77. All costs associated with such program shall be at Licensee's own expense to include, but not be limited to, the cost of the program, the cost of travel to and from the program, and the cost of accommodations while attending the program.
78. These hours shall be in addition to those continuing education hours required for renewal of licensure.
79. On or before May 1, 2015, Licensee shall notify the Compliance Coordinator in writing of which course date Licensee has registered to attend.
80. Licensee shall provide proof of successful completion of the following to the Compliance Coordinator within thirty (30) calendar days of successfully completing the program:
- a) Certificate of completion of the record keeping course;
 - b) Certificate of completion of the post-program feedback or PIP.
81. Proof of completion of the education requirements shall be submitted by sending the same to:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Ste. A
Topeka, Kansas 66612

MONITORING

82. Within ten (10) days of attending the chosen in-person medical record-keeping course above, Licensee shall enter into and comply with all terms and conditions of a monitoring contract with Affiliated Monitors, Inc. ("AMI") of Boston, Massachusetts, and agrees to follow all recommendations by AMI.
83. Licensee further agrees to immediately notify the Board of any revisions to the contract and to immediately provide a copy of such revised contract to the Board.

84. The provisions of said contract are incorporated herein as if fully restated.
85. Licensee shall sign a contract with AMI for monitoring for no less than six (6) months and provide a copy of the contract to the Board within thirty (30) calendar days of attending the chosen in-person medical record-keeping course above.
86. The Monitor shall conduct his/her first review within thirty (30) calendar days of attending the chosen in-person medical record-keeping course above.
87. Monitoring shall include:
- a) Monthly site visits for the term of the Consent Order;
 - b) Review of patient charts and billing with a minimum of five (5) patient charts for each monitoring visit. Monitor(s) will randomly select charts based on patients seen by Licensee;
 - c) Monitor(s) shall submit a written report of the results of each review to the Board on a quarterly basis as described below. The report shall identify any deficiencies in Licensee's practices, which in the professional judgment of the Monitor(s) reasonably warrants corrective action by Licensee. The Monitor(s) shall provide a copy of each report to Licensee and the Board;
 - d) Monitoring reports shall be due quarterly to the Board;
 - e) Licensee is responsible for ensuring AMI's timely submission of reports to the Board; and
 - f) Licensee shall take any and all corrective actions which are reasonably necessary to correct any and all deficiencies identified in any of the practice reviews conducted by the Monitor.

88. Licensee expressly agrees that he shall be responsible for all costs and expenses associated with the Practice Monitoring by AMI and that the Board shall bear no responsibility or liability for the costs of those services.

89. All reports required pursuant to this Consent Order shall be submitted to:

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

TIMEFRAME

90. The above monitoring provisions are not self-terminating. After the completion of at least six (6) months of AMI monitoring, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing chiropractic in Kansas, the monitoring provisions will remain in effect but will be tolled and not counted toward reducing the six (6) months' timeframe.

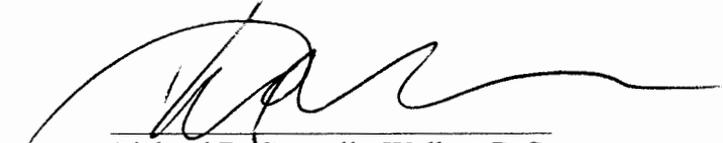
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 15 day of April, 2015.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:


Kathleen Selzler Lippert
Executive Director

4/15/15
Date


Richard B. Connolly-Walker, D.C.
Licensee

2-27-15
Date

PREPARED AND APPROVED BY:



Seth K. Brackman, #23726
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level Suite A
Topeka, Kansas 66612
785-368-7257: telephone
785-368-8210: fax
sbrackman@ksbha.ks.gov

Consent Order
Richard B. Connolly-Walker, D.C.

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 15th day of April, 2015, to the following:

Richard B. Connolly-Walker, D.C.
8849 W. 95th Street
Overland Park, Kansas 66212

And the original was hand-filed with:

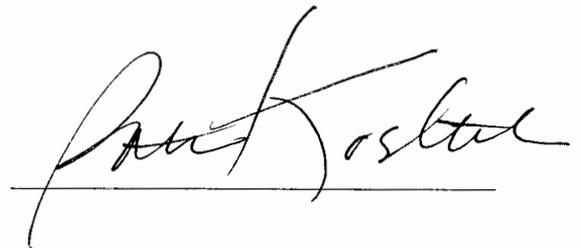
Kathleen Selzler Lippert
Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was 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



A handwritten signature in black ink, appearing to read "Paul Kostel", is written over a horizontal line.

Consent Order
Richard B. Connolly-Walker, D.C.