

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

<b>FILED</b> <b>AUG 16 2005</b> KS State Board of Healing Arts
--

<b>In the Matter of</b>	)	
	)	
<b>Daniel P. Cullum, D.C.</b>	)	<b>Docket No. 05-HA-55</b>
<b>Kansas License No. 01-04122</b>	)	
_____	)	

**FINAL ORDER**

**NOW ON THIS** Thirteenth Day of August 2005, this matter comes before the Board for approval of a consent order. Diane L. Bellquist, Associate Counsel appears for Petitioner. Respondent Daniel P. Cullum, D.C. appears in person and through Benoit M. J. Swinnen of Ralston, Pope and Diehl, L.L.C.

The Board approves the proposed consent judgment with the following modification, to which Respondent has agreed and consented:

1. In place of paragraph 16(a)-(c), which would impose an 18 month suspension, Dr. Cullum offers and the Board accepts the surrender of Dr. Cullum's license to practice chiropractic. It is understood that the surrender occurs while a matter is under investigation. The Board will report to the National Practitioner Data Bank and to other entities to which the Board reports that Dr. Cullum surrendered his license while under investigation.
2. At any time after the conclusion of 18 months following the effective date of this order, Dr. Cullum may apply for reinstatement of his license. The Board will treat the application as being for reinstatement of a revoked license as provided by KSA 65-2844. Upon receiving a completed application, the Board will, on its own motion,



**Certificate of Service**

I certify that a true copy of the foregoing order was served this 16<sup>th</sup> day of August 2005 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Benoit M. J. Swinnen  
2913 Maupin Lane  
Topeka, KS 66614

And a copy was hand-delivered to the office of

Diane L. Bellquist  
Associate Counsel  
235 S. Topeka Blvd.  
Topeka, KS 66603

\_Lawrence T Buening, Jr.\_

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

In the Matter of	)	
	)	
Daniel Cullum, D.C.	)	Docket No. 05-HA-55
Kansas License No. 1-04122	)	
_____	)	

**CONSENT ORDER**

COMES NOW the Kansas State Board of Healing Arts (“Petitioner”), by and through counsel Diane L. Bellquist and Kelli J. Benintendi, and Daniel P. Cullum, D.C. (“Licensee”), by and through counsel Benoit Swinnen, and move the Board for approval of a Consent Order affecting Licensee’s license to practice chiropractic. The parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is PO Box 100, Sublette, Kansas 67877-0100.
2. Licensee was issued License No. 1-04122 on approximately October 31, 1992. Licensee currently holds an active license to engage in the practice of chiropractic care and treatment in the State of Kansas.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of chiropractic care and treatment.
4. This Consent Order and the filing of such document are in

accordance with the applicable law and the Board may enter into an informal settlement of this matter as provided in K.S.A. 65-2838, without the necessity of proceeding to a formal hearing.

5. Upon approval, the provisions in this Consent Order shall constitute the findings of the Board, and this Consent Order shall be the Board's Final Order.

6. The Kansas Healing Arts Act is constitutional on its face and as applied in this case.

7. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

8. 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.

9. The terms and conditions of the Consent Order are entered into between the undersigned parties that are submitted for the purpose of allowing these terms and conditions to become 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.

10. Petitioner alleges that Licensee deviated from the standard of care

to a degree constituting gross and ordinary negligence and committed acts of unprofessional conduct in his care and treatment of Patient #1. The specific allegations are set forth in the Petition filed March 21, 2005.

11. Licensee agrees that he deviated from the standard of care in his treatment of Patient #1 in the following respects:

- a. Licensee admits he deviated from the standard of care to a degree constituting gross negligence in his treatment of Patient #1 with a voice command medallion without any generally accepted scientific proof of the efficacy of such treatment;
- b. Licensee admits he deviated from the standard of care in failing to appropriately refer Patient #1 for medical care and treatment; and
- c. Licensee deviated from the standard of care when he treated Patient #1 with colored light therapy, sound wave energy therapy and liver flushes without the proper informed consent.

12. Licensee, for the sole purposes of this Consent Order and without admitting any liability or wrongdoing, consents to a finding that grounds for discipline of his chiropractic license exist with respect to the allegations contained in the Petition regarding Patient #2. Licensee waives his right to dispute or otherwise contest these grounds for this disciplinary action in any future proceeding before this Board.

13. Licensee admits he failed to identify which branch of the healing

arts he was licensed to practice in a document entitled "Letter of Medical Necessity" for Patient #2 and in a document entitled "Physician Orders" for Patient #2.

14. Licensee admits he failed to maintain adequate treatment records for Patient #1 and Patient #2.

15. Pursuant to K.S.A. 65-2836, the Board has grounds to limit, suspend or revoke Licensee's license.

16. In lieu of conducting formal evidentiary proceedings, Licensee, by his signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary measures regarding his license:

### **SUSPENSION**

- a. Licensee's chiropractic license shall be suspended effective upon the filing of this Consent Order with the Board for at least eighteen (18) months from the date of this Consent Order is filed. After January 1, 2007, Respondent may file a Petition requesting the Board consider termination of the suspension.
- b. If Licensee allows his license to be canceled for failure to renew or at his request during the suspension period, the remaining suspension timeframe shall be tolled. Such period of suspension shall immediately resume upon reinstatement of Licensee's license.
- c. Prior to petitioning the Board to terminate the suspension of his license, Licensee must be current in his continuing education

credits as would be required for his license prior to the suspension.

d. Upon termination of the suspension, Licensee's license shall have additional requirements and limitations, including but not limited to the following:

- (1) Licensee shall complete additional chiropractic continuing education as shall be determined by the Board;
- (2) Licensee's scope of practice shall conform to standards of chiropractic practice as shall be determined by the Board;
- (3) Licensee shall only practice chiropractic under the supervision of another Board-approved chiropractor, at Licensee's own expense, for at least six (6) months in a manner to be determined by the Board. After six (6) months of supervised practice have occurred, Licensee may request termination of such limitation; and
- (4) Following the period of supervised practice, Licensee's practice shall be monitored by another Board-approved chiropractor, at Licensee's own expense, for at least one (1) year, in a manner to be determined by the

Board. After one (1) year of monitored practice has occurred, Respondent may request termination of such limitation.

### **LIMITATIONS**

- e. Licensee is prohibited from treating patients with a voice command medallion.
- f. Licensee is prohibited from treating patients with sound wave therapy, unless otherwise approved by the Board.
- g. Licensee is prohibited from treating patients with colored light therapy, unless otherwise approved by the Board.

### **COSTS**

- h. Licensee agrees to pay a portion of the Board's costs incurred in the formal proceedings of this action in the amount of one-thousand five-hundred dollars (\$1,500.00). Such fine is payable to the "Kansas State Board of Healing Arts" in monthly payments of one-hundred dollars (\$100.00) for fifteen (15) months. The initial payment is due on or before October 1, 2005, with the remainder of the monthly payments due on or before the first day of each month thereafter. In the event that the Board does not receive a payment due and owing, the fine shall become immediately due and payable in full upon written notice by the Board to Licensee stating that payment has not been received.

17. Licensee's failure to comply with this Consent Order will result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

18. 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 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.

19. Licensee hereby releases the Board, its individual members (in their official and personal capacities), 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 Act for Judicial Review and Civil Enforcement of Agency Actions, 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 and 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.

20. Licensee further understands and agrees that upon signature by

Licensee, this document shall be deemed a public record and shall be reported to CIN-BAD and any other reporting entities requiring disclosure of the Consent Order.

21. 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.

22. 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 or settlement.

23. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

24. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

25. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

26. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be sent by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Diane Bellquist, Associate Counsel, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068

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

28. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an 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.

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

**IT IS THEREFORE ORDERED** that:

**SUSPENSION**

- a. Licensee's chiropractic license shall be suspended effective upon the filing of this Consent Order with the Board for at least eighteen (18) months from the date of this Consent Order is filed. After January 1, 2007, Respondent may file a Petition requesting the Board consider termination of the suspension.

- b. If Licensee allows his license to be canceled for failure to renew or at his request during the suspension period, the remaining suspension timeframe shall be tolled. Such period of suspension shall immediately resume upon reinstatement of Licensee's license.
- c. Prior to petitioning the Board to terminate the suspension of his license, Licensee must be current in his continuing education credits as would be required for his license prior to the suspension.
- d. Upon termination of the suspension, Licensee's license shall have additional requirements and limitations, including but not limited to the following:
  - (1) Licensee shall complete additional chiropractic continuing education as shall be determined by the Board;
  - (2) Licensee's scope of practice shall conform to standards of chiropractic practice as shall be determined by the Board;
  - (3) Licensee shall only practice chiropractic under the supervision of another Board-approved chiropractor, at Licensee's own expense, for at least six (6) months in a manner to be determined by the Board. After six (6) months of

- supervised practice have occurred, Licensee may request termination of such limitation; and
- (4) Following the period of supervised practice, Licensee's practice shall be monitored by another Board-approved chiropractor, at Licensee's own expense, for at least one (1) year, in a manner to be determined by the Board. After one (1) year of monitored practice has occurred, Respondent may request termination of such limitation.

#### **LIMITATIONS**

- e. Licensee is prohibited from treating patients with a voice command medallion.
- f. Licensee is prohibited from treating patients with sound wave therapy, unless otherwise approved by the Board.
- g. Licensee is prohibited from treating patients with colored light therapy, unless otherwise approved by the Board.

#### **COSTS**

- h. Licensee agrees to pay a portion of the Board's costs incurred in the formal proceedings of this action in the amount of one-thousand five-hundred dollars (\$1,500.00). Such fine is payable to the "Kansas State Board of Healing Arts" in monthly payments of one-hundred dollars (\$100.00) for fifteen (15)

months. The initial payment is due on or before October 1, 2005, with the remainder of the monthly payments due on or before the first day of each month thereafter. In the event that the Board does not receive a payment due and owing, the fine shall become immediately due and payable in full upon written notice by the Board to Licensee stating that payment has not been received.

**IT IS SO ORDERED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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

\_\_\_\_\_  
Lawrence T. Buening, Jr.  
Executive Director

**PREPARED AND APPROVED BY:**

\_\_\_\_\_  
/s/ Diane Bellquist  
Kelli J. Benintendi #16032  
Litigation Counsel  
Diane Bellquist #20969  
Associate Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3065  
(785) 296-7413

\_\_\_\_\_/s/\_\_\_\_\_  
Ben Swinnen #18919  
Ronald Pope #11913  
2913 S.W. Maupin Lane  
Topeka, Kansas 66614

**AGREED TO BY:**

\_\_\_\_\_/s/\_\_\_\_\_  
Daniel P. Cullum, D.C.  
Licensee

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the foregoing CONSENT ORDER was served on the \_\_\_\_\_ day of \_\_\_\_\_, 2005 by United States mail, first-class postage prepaid and addressed to:

Ben Swinnen  
Ronald Pope  
2913 SW Maupin Lane  
Topeka, KS 66614

and a copy was hand delivered to:

Diane Bellquist, Associate Counsel  
Kansas Board of Healing Arts  
235 South Topeka Boulevard  
Topeka, KS 66603

and the original was hand-delivered for filing to:

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

---