

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

JUN 29 1994

**KANSAS STATE BOARD OF
HEALING ARTS**

In the Matter of)
)
F. JEROME DAVIS, D.C.)
Kansas License No. 1-03493)
_____)

Case No. 94-00134

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COMES NOW the Kansas State Board of Healing Arts ("Board") and F. Jerome Davis, D.C. ("Licensee") and stipulate and agree as follows:

1. 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. 65-2801 et seq.

2. Licensee has made application to the Board for a status change from exempt to active license to engage in the practice of chiropractic in the State of Kansas.

3. Licensee was originally licensed to practice chiropractic in the State of Kansas on June 16, 1989, and several status changes of said license were made with the last status change being from active to exempt on the application of Licensee on June 23, 1993 and has been on an exempt status from and since that time.

4. On February 2, 1994, the Board was notified that Licensee was allegedly actively engaging in the practice of chiropractic in the State of Kansas.

5. An investigation was conducted by the Board and it was determined that Licensee had signed and filed health insurance claim forms, making claim for chiropractic services

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rendered in the State of Kansas while Licensee's license has been exempt since June 23, 1993. Further, from and since June 23, 1993, Licensee has regularly engaged in the practice of chiropractic in this State and has held himself out to the public as being professionally engaged in such practice.

6. Pursuant to K.S.A. 65-2809(f), an exempt license status may be issued only to a person who is no longer regularly engaged in the practice of chiropractic and who does not hold oneself out to the public as being professionally engaged in such practice.

7. Based on the above information and contents of the record in this matter, probable cause exists to believe there may be grounds for denial of status change by the Board as follows:

(a) Licensee has committed fraud or misrepresentation in applying for an active status license in violation of K.S.A. 65-2836(a).

(b) Licensee has committed an act of unprofessional or dishonorable conduct in violation of K.S.A. 65-2836(b) as defined in K.S.A. 65-2837(b):

(4) the use of any letters, words, or terms, as an affix, on stationary, in advertisements, or otherwise indicating that such person is entitled to practice a branch of the healing arts for which such person is not licensed;

(12) conduct likely to deceive, defraud or harm the public; and

(18) obtaining any fee by fraud, deceit or misrepresentation.

(c) Licensee has willfully or repeatedly violated the Healing Arts Act or any rules and regulations adopted pursuant thereto in violation of K.S.A. 65-2836(f).

(d) Licensee has violated any lawful rule and regulation promulgated by the Board

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in violation of K.S.A. 65-2836(k):

- (1) K.A.R. 100-10a-4 provides that exempt licenses may be issued to applicants if the professional activities of the applicant are limited to administrative functions, gratuitous patient care services and services as a district coroner.
- (2) K.A.R. 100-10a-6 and 100-22-2 provide that the holder of an exempt license shall not engage in any professional activities relating to the healing arts as prohibited by rule and regulation, and any departure from such may constitute evidence of dishonorable conduct.

8. Under the provisions of K.S.A. 65-2838(b), the Board has authority to enter into this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER ("Stipulation")** in lieu of denying a license based upon the above-mentioned grounds.

9. 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 by the Kansas Administrative Procedure Act, K.S.A. 1993 Supp. 77-501 et seq.

10. 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.

11. Licensee agrees that the following conditions shall be placed upon his license to engage in the practice of chiropractic in the State of Kansas:

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(a) Licensee agrees to remit an administrative fine in the amount of \$1000.00 to the Board within 60 days of the date this **Stipulation** is filed in the Board office pursuant to K.S.A. 65-2863a(a). Such stipulated monetary penalty is deemed appropriate due to Licensee's continued practice as an active chiropractor after his license was converted to exempt status. Licensee agrees to remit such fine in lieu of the Board's denial of his application for status change.

(b) Licensee agrees to remit an administrative fine in the amount of \$1000.00 to the Board within 60 days of the date this **Stipulation** is filed in the Board office pursuant to K.S.A. 65-2863a(a). Such stipulated monetary penalty is deemed appropriate in response to Licensee's request to retroactively activate his license, and such stipulated administrative fine reflects a \$100.00 penalty for each month Licensee practiced as a chiropractor without being actively licensed by the Board.

12. Licensee's license to engage in the practice of chiropractic shall be retroactively modified to active status effective June 23, 1993, upon the remission of the above-noted fines to the Board and upon a showing by Licensee he has maintained continuous insurance coverage since that time.

13. Licensee's failure to comply with the provisions of this **Stipulation** may result in the Board taking disciplinary action in compliance with the Kansas Administrative Procedure Act. Licensee acknowledges that a violation of the terms and conditions of this **Stipulation** by Licensee may constitute evidence that a violation of the Healing Arts Act has occurred for which the Board may revoke, suspend or limit the license of Licensee pursuant to K.S.A. 65-2836(k).

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14. 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.

15. This **Stipulation** is entered into freely and voluntarily by the parties and Licensee agrees he has read and understands this **Stipulation**.

16. 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 parties of any claims they may have had at the time of this release or might have had, either known or unknown.

17. Licensee acknowledges this document shall be deemed a public record upon Licensee and a Board-authorized designee signing this **Stipulation**. Licensee further acknowledges this **Stipulation** shall be reported to the Federation of Chiropractic Licensing Boards, and any other reporting entity requiring disclosure of this **Stipulation**.

18. 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.

19. 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. Upon execution of this **Stipulation** by the affixing of a Board-authorized signature below

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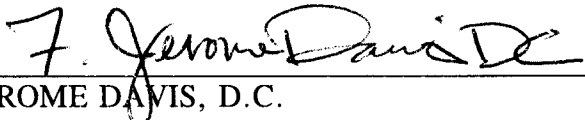
the provisions of this **Stipulation** shall become an Order of the Board and shall be deemed a proper and lawful Enforcement Order pursuant to K.S.A. 65-2838(b) without further order.

IN WITNESS WHEREOF the parties have executed this agreement on this 17th ~~14th~~ day of June, 1994.

KANSAS STATE BOARD OF HEALING ARTS

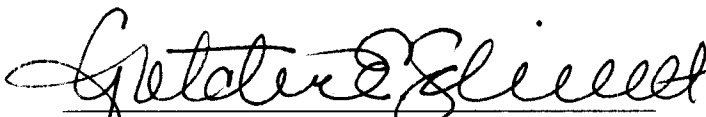

LAWRENCE T. BUENING, JR.
Executive Director

Date June 16, 1994


F. JEROME DAVIS, D.C.
Licensee

Date 6/14/94

Prepared and Approved By:



GRETCHEN E. SCHMIDT, No. 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, certify that on this 29th day of June, 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:

F. Jerome Davis, D.C.
400 E. Santa Fe
Olathe, Kansas 66061

and a copy was hand-delivered to:

Charlene K. Abbott
Licensing Administrator
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, Kansas 66603-3068

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

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