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JUN 1 2 2006

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

KS State Board of Healing Arts

In the Matter of)	
)	Docket No. 06-HA- <u>00103</u>
Charles E. Emms, D.C.)	
Application for Licensure)	

CONSENT ORDER

COME NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Diane L. Bellquist, Associate Counsel (“Petitioner”), and Charles E. Emms, D.C. (“Applicant”), *pro se*, and move the Board for approval of a Consent Order as a condition to being granted a license to practice chiropractic in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant’s last known address to the Board is 228 Hidden Valley Circle, Lee’s Summit, Missouri 64064.
2. On or about December 7, 2005, Applicant submitted to the Board an application for a chiropractic license in Kansas.
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.
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. 65-2838. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board’s Final Order.

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5. The Kansas Healing Arts Act is constitutional on its face and as applied in this case.
6. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. Applicant voluntarily and knowingly waives his right to a hearing. Applicant voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit to rebuttal evidence, and to conduct cross-examination of witnesses. Applicant voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
8. 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. Applicant specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.
9. Applicant graduated from Cleveland Chiropractic College on August 13, 1993.
10. From about October 1993 to March 1998, Applicant practiced chiropractic for in private practice in Pietermaritzburg, South Africa.
11. Applicant has never held a license to practice chiropractic in any state or United States territory.
12. From about January 2000 – July 2001, Applicant worked as a chiropractic assistant at Trout Chiropractic College.

13. On or about June 13, 2001, while in the capacity as a chiropractic assistant at Trout Chiropractic College, Licensee assisted with the cervical manipulation of a patient who subsequently suffered an arterial dissection causing “Locked-In Syndrome.”
14. Applicant admits that he was named as a co-defendant, along with his supervising chiropractor, in a malpractice lawsuit brought by the patient who suffered the Locked-In Syndrome.
15. In or about August 2002, the malpractice lawsuit was resolved (confidential)
(confidential)
16. From about March 2001 through September 2005, Applicant passed Parts I-III of the National Board of Chiropractic Examiners examination.
17. After submitting his application for licensure in Kansas, Applicant agreed to complete the Special Purposes Examination for Chiropractors (“SPEC”).
Applicant successfully passed the SPEC in April 2006.
18. Applicant acknowledges that pursuant to K.S.A. 65-2836(w), the Board would have grounds to deny Applicant’s application in that Applicant had an adverse judgment award or settlement against him resulting from a malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action.
19. According to K.S.A.65-2838(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

20. In lieu of conducting formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following as conditions to being granted licensure:

MONITORING

- a. Applicant agrees to have a Board approved monitor review ten (10) patient charts or ALL of Applicant's patient charts, whichever is fewer, during each month period for the duration of at least six (6) months. The monitor will be an individual who is another Kansas-licensed chiropractor, who will review Applicant's patient charts to ensure compliance with community standards. Applicant shall bear all expenses associated with the practice monitor;
- b. The monitor must be approved by the Board or the Board's designee. On or before June 26, 2006, Applicant shall submit the curriculum vitae of the proposed monitor;
- c. The Board designates Gary Counselman, D.C. to review and approve/disapprove of the proposed monitor, and to terminate the Consent Order when the Applicant has fulfilled the monitoring terms herein;
- d. The monitor shall submit monthly reports to the Board on a form provided by Board staff. Such reports shall include a summary of whether Applicant is seeing patients, adequately documenting in the patient charts, and treating the patients in an appropriate manner. The reports are due on the 15th of the month following the month for which the monitor reviewed Applicant's patient charts. Applicant is responsible for ensuring that the

monitor's reports are submitted for each of the six (6) months to the Board;

- e. Applicant must at all times keep the Board informed of all practice locations, addresses, and telephone numbers; and
- f. For any period of time that Applicant is not actively practicing in Kansas this limitation/monitoring provision/requirement shall remain in effect but will be tolled. Any period of time in which Applicant is not actively practicing in Kansas shall not count towards reducing the number or months duration of the same.

21. Applicant's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.

22. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Healing Arts Act, or to investigate complaints received under the Risk Management Law, K.S.A. 64-4921 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 Healing Arts Act.

23. Applicant 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 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 or demands of every kind and nature that Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

24. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and shall be reported to CIN-BAD, the Federation of Chiropractic Licensing Board, and any other reporting entities authorized to receive disclosure of the Consent Order.
25. 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.
26. Applicant 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 Applicant is not present. Applicant 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.
27. Applicant, 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 proceedings on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

28. Applicant acknowledges that he has read this Consent Order and fully understands the contents.
29. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.
30. All correspondence or communication between Applicant and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Diane L. Bellquist, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
31. Applicant 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.
32. 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.
33. The Board may consider all aspects of this Consent Order in any future matter regarding Applicant.

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

IT IS FURTHER ORDERED that upon meeting all technical requirements for licensure, Applicant shall be granted a license.

IT IS FURTHER ORDERED that:

MONITORING

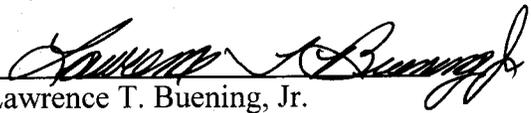
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- b. The monitor must be approved by the Board or the Board's designee. On or before June 26, 2006, Applicant shall submit the curriculum vitae of the proposed monitor;
- c. The Board designates Gary Counselman, D.C. to review and approve/disapprove of the proposed monitor, and to terminate the Consent Order when the Applicant has fulfilled the monitoring terms herein;
- d. The monitor shall submit monthly reports to the Board on a form provided by Board staff. Such reports shall include a summary of whether Applicant is seeing patients, adequately documenting in the patient charts,

and treating the patients in an appropriate manner. The reports are due on the 15th of the month following the month for which the monitor reviewed Applicant's patient charts. Applicant is responsible for ensuring that the monitor's reports are submitted for each of the six (6) months to the Board;

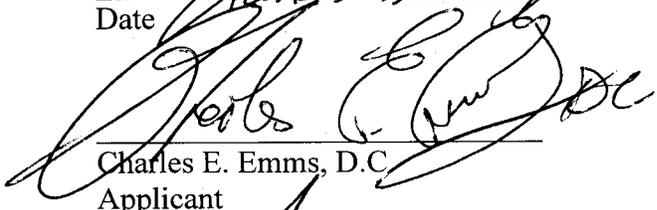
- e. Applicant must at all times keep the Board informed of all practice locations, addresses, and telephone numbers; and
- f. For any period of time that Applicant is not actively practicing in Kansas this limitation/monitoring provision/requirement shall remain in effect but will be tolled. Any period of time in which Applicant is not actively practicing in Kansas shall not count towards reducing the number or months duration of the same.

IT IS SO ORDERED on this 10th day of June, 2006.

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


Lawrence T. Buening, Jr.
Executive Director

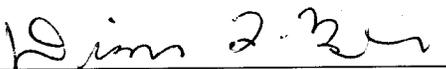
June 13, 2006
Date


Charles E. Emms, D.C.
Applicant

10th June 2006
Date

Charles E. Emms, D.C.
Consent Order

PREPARED AND APPROVED BY:



Diane L. Bellquist #20969
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961

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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 6th day of June, 2006, to the following:

Charles E. Emms, D.C.
228 Hidden Valley Circle
Lee's Summit, Missouri 64064

And the original was hand-delivered to:

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

And a copy was hand-delivered to:

Diane L. Bellquist
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

