

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

**FILED** *CRB*

JUN 11 2007

KS State Board of Healing Arts

In the Matter of )  
 )  
**JACOB GILL, D.C.** )  
Kansas License No. 01-04697 )  
\_\_\_\_\_ )

Docket No. 07-HA- 00112

**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts (“Board”), by and through Kelli J. Stevens, Litigation Counsel (“Petitioner”), and Jacob D. Gill, 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 2240 N. Kent Rd., Hutchinson, Kansas 67502.
2. Licensee is or has been entitled to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-04697 on February 10, 2001. Licensee last renewed his license on January 1, 2007.
3. The Board is the sole 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. 65-2869.

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.

5. Licensee agrees that the Kansas Healing Arts Act is constitutional on its face as applied in this case and 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 possible 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 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 the document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.

8. On approximately February 19, April 2, May 7, June 11, July 23, August 13, October 8, and November 19, 2006, Licensee ran an advertisement in The Wichita Eagle newspaper for the purpose of inducing the purchase of his professional services.

9. Each of Licensee's advertisements on the above dates stated the following:

### **Fibromyalgia Syndrome**

Researched modeled diagnosis and treatment. Community Based Study shows dramatic results. After six months, fibromyalgia patients experienced:

- 50% Less Pain
- 70% Less Depression
- 50% More Energy
- 30% Less Stiffness

Free Information Packet Available 24 hrs/day at our toll-free Fibromyalgia Hotline at: 877-744-0144.

10. The above advertisement is misleading in that the advertisement fails to identify the Licensee's name and the branch of the healing arts for which he is licensed.

11. Licensee estimates that five-hundred (500) individuals responded to the advertisement, and subsequently were sent a three-page letter/report authored by Licensee.

12. The letter/report is titled, "Do You Know How to Stop The Suffering of Fibromyalgia?" The letter/report contains statements by Licensee about "the secrets of Fibromyalgia" and Licensee's professional services.

13. Licensee made representations in the letter/report for the purpose of inducing potential patients to purchase Licensee's professional services.

14. The letter/report represents that Licensee is "one of the areas leaders in the treatment of various internal disorders," and that what distinguishes him from other chiropractors is that Licensee utilizes " . . . special imaging techniques to treat the rare

disorders that plague so many people. Disorders just like the one you have, fibromyalgia.”

15. Petitioner alleges that Licensee’s statements in the letter/report imply that Licensee is professionally superior and/or that Licensee performs professional services in a superior manner.

16. In the letter/report, Licensee states, “Once you see the research, the actual papers and the medical doctors that conducted the studies, you will not be able to deny the results,” and “You have nothing to lose and everything to gain.” Licensee further states, “If you only have the strength and will-power to make one more Dr. appointment, make this your last. You will not be disappointed.”

17. Petitioner alleges that Licensee’s statements above imply a guarantee of his professional services.

18. Licensee states in the letter/report that there is secret research in his possession showing fibromyalgia can be reversed in a very short amount of time.

19. Petitioner alleges that Licensee’s statements imply that Licensee can reverse fibromyalgia

20. Without admitting any wrong-doing or liability, Licensee does not contest that if this matter proceeded to a hearing, the Board would present evidence that Licensee’s advertisements violate the Healing Arts Act pursuant to K.S.A. 65-2836(b), including but not limited to:

- a. K.S.A. 65-2837(b)(1), Solicitation of professional patronage through the use of fraudulent or false advertisements.

- b. K.S.A. 65-2837(b)(7), Advertising professional superiority or the performance of professional services in a superior manner;
- c. K.S.A. 65-2837(b)(8), Advertising to guarantee any professional service; and
- d. K.S.A. 65-2837(b)(13), Making false or misleading statement regarding his skills or the efficacy or value of a drug, treatment or remedy prescribed by licensee or the licensee's direction in the treatment of any disease or condition of the body and mind.

21. Pursuant to K.S.A. 65-2836, the Board has grounds to take disciplinary action against Licensee's license.

22. In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Licensee by signature affixed to this Consent Order, hereby voluntarily agrees to the following provisions regarding his license to engage in the practice of chiropractic:

- a. Licensee shall include his full name and the branch of the healing arts for which he is licensed to practice in all advertisements;
- b. Licensee agrees to follow all applicable Kansas healing arts act statutes and Board regulations regarding advertising; and
- c. Licensee is hereby FINED in the amount of \$5,000 for violating the Healing Arts Act. Such fine is due and payable to the Board of Healing Arts on or before August 30, 2007.

23. Licensee's failure to comply with the Consent Order may result in the Board taking disciplinary action as the Board deems appropriate in accordance with the Kansas Administrative Procedure Act.

24. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Healing Arts Act, or to investigative 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 Healing Arts Act.

25. Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* This release shall forever discharge the Board 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 to 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 the content of this Stipulation.

26. 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 authorized to receive disclosure of the Consent Order.

27. 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.

28. 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.

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

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

31. All payments, correspondence and/or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: **Complaint Coordinator**, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

32. 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.

33. 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.

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

**IT IS THEREFORE ORDERED** that the Consent Order and agreement of the parties contained herein is adopted by the Board, and is the Order of the Board.

**IT IS FURTHER ORDERED** that:

- a. Licensee shall include his full name and the branch of the healing arts for which he is licensed to practice in all advertisements;
- b. Licensee agrees to follow all applicable Kansas healing arts act statutes and Board regulations regarding advertising; and
- c. Licensee is hereby FINED in the amount of \$5,000 for violating the Healing Arts Act. Such fine is due and payable to the Board of Healing Arts on or before August 30, 2007.

**IT IS SO ORDERED** on this the 11 day of June, 2007.

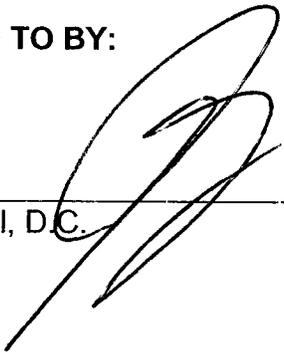
**FOR THE KANSAS STATE  
BOARD OF HEALING ARTS:**

  
Lawrence T. Buening, Jr.  
Executive Director

**PREPARED AND APPROVED BY:**

  
Kelli J. Stevens #16032  
Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3065  
(785) 296-7413  
*Attorney for Petitioner*

**AGREED TO BY:**

  
Jacob Gill, D.C.  
Licensee

Date June 1, 2007

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the  
**CONSENT ORDER** by United States mail, first class, postage prepaid, on this 11<sup>th</sup>  
day of June, 2007 to the following:

Jacob Gill, D.C.  
2240 N. Kent Rd.  
Hutchinson, Kansas 67502

and a copy was hand-delivered to:

Kelli J. Stevens  
Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3065

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

