FILED
JUN 05 2020
KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	)	
	)	
Christopher P. Kauffman, D.C.	)	**KSBHA Docket No. 20-HA00031**
Kansas License No. 01-04075	)	
	)	

JOURNAL ENTRY OF SATISFACTION

The Kansas State Board of Healing Arts ("Board"), by its Acting Executive Director, Tucker L. Poling, a duly authorized representative of the Board, in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.,* as amended, and upon due consideration of the agency record, the applicable statutes and regulations, and being otherwise duly advised in the premises, makes the following determinations:

1. On October 14, 2019, a Consent Order was issued by the Board against the license of Christopher P. Kauffman, D.C. ("Licensee"), imposing requirements therein.
2. Licensee has satisfactorily met all requirements of the Consent Order and has no further obligations for compliance with the Consent Order.

IT IS SO ORDERED.

Dated this 5th day of June 2020.

KANSAS STATE BOARD OF HEALING ARTS

Tucker L. Poling
Acting Executive Director

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the above and foregoing **Journal Entry of Satisfaction**, by depositing the same in the United States mail, first class postage prepaid and emailed, on this 5th day of June 2020, addressed to:

Christopher P. Kauffman, D.C.
CONFIDENTIAL

Licensee

Kelly J. Trussell
Sloan, Eisenbarth, Glassman, McEntire & Jarboe L.L.C.
534 S. Kansas Avenue, Suite 1000
Topeka, Kansas 66603
KTrussell@sloanlawfirm.com
Attorney for Licensee

And a copy hand delivered to:

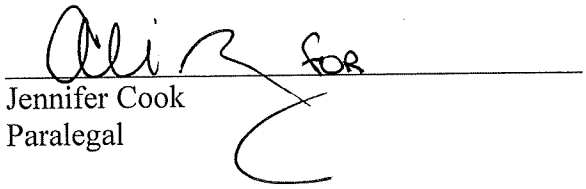
Compliance Coordinator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Licensing Coordinator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

J. Todd Hiatt
Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

and the original was filed with:

Tucker Poling, Acting Executive Director
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level - Suite A
Topeka, Kansas 66612



Jennifer Cook
Paralegal

FILED
OCT 14 2019
KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	)	
	)	Docket No. 20-HA 00031
Christopher P. Kauffman, D.C.	)	
Kansas License No. 01-04075	)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Susan R. Gering, Litigation Counsel ("Petitioner"), and Christopher P. Kauffman, D.C. ("Licensee"), 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: CONFIDENTIAL, CONFIDENTIAL.

2. Licensee is or has been entitled to engage in the practice of chiropractic in Kansas, having been issued License No. 01-04075 on or about December 13, 1991. Licensee's license is currently Active.

3. The Board is the sole and exclusive administrative agency in 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 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. 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 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 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. A protective order is hereby entered to protect all confidential information under 42 CFR Part II, K.S.A. 65-2898a, and K.S.A. 65-4925.

9. 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(b)(12), K.S.A. 65-2837(b)(24), K.S.A. 65-2837(b)(25), and K.A.R. 100-24-1, to take action with respect to Licensee's license under the Kansas Healing Arts Act K.S.A. 65-2801 *et seq.*

10. The facts supporting the allegations in this Consent Order are, but not limited, to the following:

a. On or about August 14, 2018, the Board received a complaint from CONFIDENTIAL, CONFIDENTIAL the Kansas Department of Health and Environment ("KDHE").

b. CONFIDENTIAL complaint reported a KDHE review of Licensee's images showed every image was underexposed. Specifically, out of the "10+ patient exams reviewed, which encompassed the entire spine, it was not possible to visualize the vertebrae on most of the lumbar spine x-rays and the lateral thoracic spine images."

c. Board Investigator Jennifer Burkdoll, RN contacted CONFIDENTIA on October 31, 2018, to request patient names from KDHE that were reviewed. CONFIDENTIA told Investigator Burkdoll that KDHE inspectors did not maintain/note patient names of charts reviewed due to HIPAA.

d. Licensee was requested to submit patient records, including treatment, billing, and x-rays, for five (5) patients who were reviewed during the KDHE inspection on July 11, 2018.

e. On or about October 30, 2018, Licensee initially submitted a response including forms labeled 'Adult Techniques Chart' (Chart) for five (5) patients.

f. Licensee also submitted a thumb drive containing five folders. Each folder on the thumb drive was labeled with the last name of one of the patients for whom Licensee submitted a Chart. Each folder contains a set of four (4) x-ray images. None of the images contain patient identification. Each image is dated October 22, 2018. The x-rays are not of diagnostic quality. (Four of the patient records submitted show the patient was treated prior to the date of the KDHE and may have been part of the July 11, 2018 KDHE

inspection. Patient CONFIDENTIAL (Z.C.) was not seen by Licensee until October 19, 2018 and could not have met the criteria established by the Board investigator in her request for records.)

g. All images are inadequately and inaccurately identified for the patient record. It is impossible to determine the identity of the patients whose images appear in the x-rays.

h. On November 13, 2018, Licensee submitted treatment and billing records upon a second request from the investigator for the five (5) patients for whom he had previously submitted the Charts.

i. A review of the billing records for each of the five (5) patients show none of them were billed for x-rays on October 22, 2018. The date each patient was billed for x-rays corresponds to the date on the Chart submitted by Licensee. No x-ray reports are found in any of the patient records submitted.

j. Licensee's billing and chart documentation contain discrepancies. For example:

i. CONFIDENTIAL (K.W.) presented on June 4, 2018 for an initial evaluation. Her primary complaint was of her right great toe, caused by an unspecified event on June 3, 2018.

ii. K.W. did not mark headaches as an issue in her Review of Symptoms. (On his Consultation Notes, Licensee documented the Primary Complaint was the patient's right first toe, "front kick").

iii. Licensee failed to document an examination or x-ray of the right great toe. On the Treatment Plan, Licensee noted K.W.'s primary complaint was right hip pain and secondary complaint was headaches. Licensee failed to include the

right toe in his treatment plan. On his Minimum Daily Visit Note, Licensee appears to have documented a finding of subluxation of the right wrist and right toe but did not document an extremity adjustment. Licensee billed for an extremity adjustment on June 4, 2018.

iv. Multiple instances of discrepancies between what Licensee documented as adjusting and what was billed were found in K.W.'s records.

k. Additional discrepancies can be found in other patient records. For example, Licensee documented treating patient CONFIDENTIAL (A.S.) on August 27, 2018. No billing for that date appears on A.S.'s billing statement.

11. The Board has taken previous action against Licensee's license. Specifically, Licensee entered into a Consent Order to resolve a Petition alleging billing and record keeping issues in KSBHA Docket No. 04-HA-48. (*See* Agency Record, In the Matter of Christopher P. Kauffman, D.C., KSBHA Docket No. 04-HA-48).

12. 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.

13. Licensee violated K.S.A. 65-2836(b), in that Licensee committed an act of unprofessional or dishonorable conduct or professional incompetency.

14. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), in that Licensee committed conduct likely to harm the public.

15. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(24), in that Licensee had a repeated failure to practice healing arts with the level of care, skill and treatment that is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

16. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(25), in that Licensee failed to keep written medical records which accurately describe the services rendered to K.S., including patient histories, pertinent findings, examination results and test results.

17. Licensee violated K.S.A 65-2836(k), in that Licensee violated a lawful rule and regulation promulgated by the Board. Specifically, Licensee violated K.A.R. 100-24-1 in that Licensee failed to keep accurate records including the treatment performed or recommended and failing to authenticate each entry.

18. 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. 65-2863(a), the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.

19. 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.

20. All pending investigation materials in CONFIDENTIAL regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 34 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

21. 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.*

22. 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.

23. 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.

24. 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.

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. 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.

27. 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.

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

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

30. 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.

31. 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.

32. This Consent Order constitutes **public disciplinary action**.

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

34. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action on his license to engage in the practice of chiropractic:

LIMITATION

35. Upon the date of approval of this Consent Order, Licensee and/or his office practice staff may not perform, take, and/or develop x-rays in the office for a period of six (6) months. Instead, all x-rays shall be performed, taken, and/or developed by and independent third party, who is not associated with or located at Licensee's practice.

36. The above limitation provision is not self-terminating. At the end of the six (6) month limitation period, Licensee must request any modification or termination of the limitation

provision by making a written request to the Board or its designee. The burden will be on Licensee to show clear and convincing evidence on why this limitation shall be lifted.

EDUCATION: RECORD KEEPING

37. Licensee shall attend and successfully complete "Got Documentation" seminar put on by Dr. Gregg Friedman, D.C. on or before January 31, 2020, unless otherwise approved. Scheduling of said seminar may be found at:

http://www.gotdocumentation.com/Seminars.html

38. Licensee shall provide proof of successful completion of the "Got Documentation" seminar to the Compliance Coordinator within thirty (30) days of successfully completing the program.

39. All costs associated with the course(s)/seminar(s) shall be at Licensee's expense, and include, but are not limited to, the cost of the course(s)/seminar(s), the cost of travel to and from the course(s), and the cost of accommodations while attending the course(s)/seminar(s).

40. These hours shall be in addition to those continuing education hours required for renewal of licensure.

41. Proof of successful completion of the approved course(s)/seminar(s) shall be submitted by sending the same to:

Kansas Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

EDUCATION: X-RAYS

42. Licensee shall attend and successfully complete at least eight (8) continuing education hours on how to perform/take/develop x-rays on or before January 31, 2020, unless otherwise approved.

43. On or before October 1, 2019, Licensee shall submit his proposed course(s) that will be reviewed and subject to approval by the Disciplinary Panel's appointed member prior to Licensee taking the course(s).

44. On or before October 15, 2019, Licensee shall notify the Compliance Coordinator in writing that Licensee has registered to attend the approved course(s) pertaining to proper x-ray practices.

45. Licensee shall provide proof of successful completion of the approved course(s) to the Compliance Coordinator within thirty (30) days of successfully completing the course(s).

46. All costs associated with the course(s) shall be at Licensee's expense, and include, but are not limited to, the cost of the course(s), the cost of travel to and from the course(s), and the cost of accommodations while attending the course.

47. These hours shall be in addition to those continuing education hours required for renewal of licensure.

48. Proof of successful completion of the approved course(s)/seminar(s) shall be submitted by sending the same to:

Kansas Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

TIMEFRAME

49. This Consent Order is not self-terminating. After a period of six (6) months, Licensee may request modification or termination of the provisions. For any period that Licensee is not actively practicing chiropractic in Kansas, the provisions will remain in effect but will be tolled and not counted towards reducing the six (6) month timeframe.

IT IS SO ORDERED on this 14th day of October, 2019.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

#23266, for the Board

Kathleen Selzler Lippert
Executive Director

10/14/19
Date

D.C.

Christopher P. Kauffman, D.C.
Licensee

8-8-19
Date

PREPARED AND APPROVED BY:

Susan R. Gering, #25582
Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level Ste A
Topeka, Kansas 66612
Phone: 785-368-8212
Fax: 785-368-8210
Email: susan.gering@ks.gov

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 14th day of October, 2019, to the following:

Christopher P. Kauffman, D.C.
Licensee
CONFIDENTIAL

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 hand-delivered to:

Susan R. Gering, 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

Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Susan Tile