

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

**KS State Board of Healing Arts**

**In the Matter of** )  
**Matthew L. Kounkel, D.C.** )  
 )  
**Kansas License No. 01-04792** )  
\_\_\_\_\_ )

**Docket No. 09-HA** 00083

**SUMMARY ORDER**

**NOW ON THIS** 3<sup>rd</sup> day of December, 2008, this matter comes before John (Jack) Confer, Acting Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A. 77-537. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law and order are made for and on behalf of the Board:

**Findings of Fact**

1. Matthew L. Kounkel, D.C. ("Licensee") was originally issued license number 01-04792 to practice as a chiropractic doctor in the state of Kansas August 17, 2002. Licensee's license is active, having last been renewed on or about January 1, 2008.
2. Licensee's last known mailing address as provided to the Board at the time of his renewal is 5608 SW 98<sup>th</sup> Place, Overland Park, Kansas 66207.
3. On or about October 21, 2006, a complaint was made to the Board concerning a newspaper advertisement that was placed in the Kansas City Star in either September or October of

2006.

4. This advertisement was entitled “New Hope for Carpal Tunnel Symptoms”. This advertisement offered an amazing, new, free 12 page report on why cold laser therapy has carpal tunnel sufferers jumping for joy. The ad simply stated to call 1-866-541-2046 (Toll-Free, 24 hr. recorded message). The newspaper advertisement failed to identify the practitioner, the profession or the office.

5. Upon calling the number listed in the newspaper advertisement, the pre-recorded message identified the name of the practitioner, but failed to identify the profession. A mailer was then sent after a message was left.

6. The mailer again failed to identify the profession of the practitioner.

7. Additionally the mailer stated “The laser does not produce heat and is painless.” Indicating the treatment was painless.

8. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board’s Disciplinary Panel. The Disciplinary Panel authorized and directed the issuance of this Summary Order and the specific disciplinary sanctions pursuant to Board Guidelines.

#### **Applicable Law**

9. K.S.A. 65-2836 states, in pertinent part: A licensee’s license may be revoked, suspended, or limited or the licensee may be publicly or privately censured, or an application for license or for reinstatement of a license may be denied upon finding of the existence of any of the following grounds:

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.

(f) The licensee has willfully or repeatedly violated this act . . . .

10. K.S.A. 65-2837(b) “Unprofessional” conduct means:
  - (8) Advertising to guarantee any professional service or to perform any operation painlessly.
11. K.S.A. 65-2873(e) states, in pertinent part: No person licensed to practice and actively engaged in the practice of the healing arts shall attach to such person’s name any title, or any word or abbreviation indicating that such person is a doctor of any branch of the healing arts other than the branch of the healing arts in which such person holds a license but shall attach to such person’s name the degree or degrees to which such person is entitled by reason of such person’s diploma.

**Conclusions of Law**

12. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

13. Licensee’s failure to identify his name and profession in the newspaper advertisement placed in the Kansas City Star and failure to identify his profession in his mailer constitutes a violation of K.S.A. 65-2873(e).

14. The statement “The laser does not produce heat and is painless” contained in Licensee’s mailer is a violation of K.S.A. 65-2837(b)(8) in that Licensee by use of this language is advertising painless treatment.

15. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee, Matthew L. Kounkel, D.C.

**IT IS, THEREFORE, ORDERED** that Licensee is hereby **PUBLICLY CENSURED** and

**FINED \$500** for violating the Healing Arts Act. Said fine is due and payable to the Kansas Board of Healing Arts within 30 days of the effective date of this order.

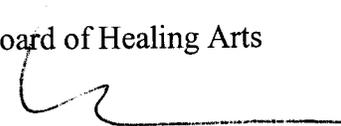
**NOTICE AND OPPORTUNITY FOR HEARING**

**PLEASE TAKE NOTICE** that this is a Summary Order. A party to whom a Summary Order is issued may file a written request for a hearing pursuant to K.S.A. 77-542 within 15 days following service of the Summary Order. Such written request shall also state the legal and/or factual basis upon which the party opposes this Order. If a hearing is not requested, the Summary Order shall become effective as a Final Order of the Board upon expiration of the time for requesting a hearing. A written request for hearing must be addressed and mailed to Jack Confer, Executive Director, Kansas State Board of Healing Arts, 235 S. Topeka Blvd., Topeka, KS 66603.

**PLEASE TAKE NOTICE** that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

**Dated this 22<sup>nd</sup> day of December 2008.**

Kansas State Board of Healing Arts

  
\_\_\_\_\_  
Jack Confer  
Executive Director

**Certificate of Service**

I certify that the foregoing Summary Order was served this 4<sup>th</sup> day of December, 2008, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Matthew L. Kounkel, D.C.

5608 W. 98<sup>th</sup> Place  
Overland Park, Kansas 66207

and a copy was hand-delivered to:

Melissa Massey  
Compliance Coordinator  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

Stacy R. Bond  
Associate Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

and the original was filed with the office of the Executive Director:

Jack Confer  
Acting Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

  
\_\_\_\_\_  
Cathy Brown  
Executive Assistant

**FILED**

*CPB*

DEC 29 2008

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

**KS State Board of Healing Arts**

**In the Matter of** )  
**MATTHEW L. KOUNKEL, D.C.** )  
 )  
**Kansas License No. 01-04792** )  
\_\_\_\_\_ )

**Docket No. 09-HA00083**

**FINAL ORDER**

**NOW ON THIS** 29<sup>th</sup> day of December, 2008, the above-entitled matter comes on before

John (Jack) Confer, Executive Director of the Kansas State Board of Healing Arts. After reviewing the file and being duly advised in the premises, the Executive Director makes the following determinations.

1. On December 3, 2008, the Acting Executive Director issued a Summary Order publicly censuring the license of Matthew L. Kounkel, M.D. (Licensee) to practice as a medical doctor in the state of Kansas. The Summary Order also contained a provision for a civil fine in the amount of \$500 due and payable within 30 days of the effective date of the Summary Order.

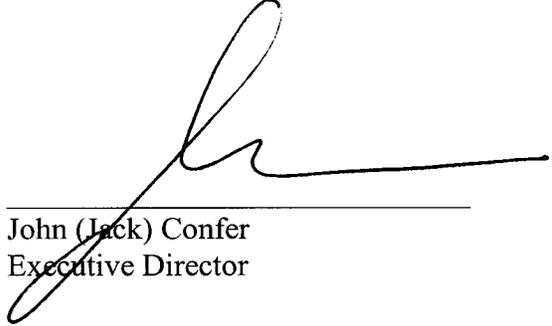
2. The Summary Order contained a notice that a written request for hearing could be filed within 15 days following service, but if no hearing is requested, the Summary Order would be come effective as a final order of the Board upon expiration of the time for requesting a hearing.

3. No hearing has been requested by any party; therefore the Summary Order became effective as a final order on December 22, 2008.

**IT IS SO ORDERED.**

**Dated this** 29<sup>th</sup> **day of December 2008.**

Kansas State Board of Healing Arts



---

John (Jack) Confer  
Executive Director

**Certificate of Service**

I certify that the foregoing Final Order was served this 29<sup>th</sup> day of December, 2008, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Matthew L. Kounkel, D.C.  
5608 W. 98<sup>th</sup> Place  
Overland Park, KS 66207

and a copy was hand-delivered to:

Katy Lenahan  
Licensing Administrator  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

Stacy R. Bond  
Associate Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

Melissa Massey  
Compliance Coordinator  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

And the original was filed with the office of the Executive Director:

John (Jack) Confer  
Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603



---

Cathy Brown  
Executive Assistant

**FILED**

*CAO*

JAN 05 2009

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

**KS State Board of Healing Arts**

**In the Matter of**

)  
)  
)  
)  
)  
)

**MATTHEW L. KOUNKEL, D.C.  
Kansas License No. 01-04792**

**Docket No. 09-HA00083**

**JOURNAL ENTRY OF SATISFACTION  
OF REQUIREMENTS OF FINAL ORDER**

NOW on this 5<sup>th</sup> day of ~~December~~ <sup>JANUARY, 2009</sup>, 2008, this matter comes before John (Jack) Confer, Executive Director, Kansas Board of Healing Arts ("Board"), concerning Licensee's satisfaction of all requirements contained in the Final Order which was filed on December 29, 2008.

Wherefore, the Board finds as follows:

1. On or about December 29, 2008, the Board issued a Final Order to address concerns about Licensee's advertisements and failure to designate the branch of healing arts which Licensee was licensed to practice. The Final Order contained a provision publicly censuring Licensee and for Licensee to pay a fine in the amount of \$500 which shall be due and payable within 30 days of the effective date of the Summary Order. The Summary Order became a Final Order on December 22, 2008.
2. Licensee paid the \$500 fine on December 18, 2008.
3. Licensee has satisfied all requirements of the Final Order and has no further obligation for compliance.

**IT IS THEREFORE ORDERED** that Licensee is hereby discharged from the requirements of the Final Order filed on December 29, 2008.

**IT IS SO ORDERED.**

**KANSAS BOARD OF HEALING ARTS**



John (Jack) Confer  
Executive Director

1-5-09

Date

**CERTIFICATE OF SERVICE**

I, hereby certify that a true and correct copy of the foregoing **Journal Entry of Satisfaction** was served on the 6 day of ~~December~~ <sup>January</sup> 2008<sup>9</sup> by United States mail, first-class postage pre-paid and addressed to:

Matthew L. Kounkel, D.C.  
5608 West 98<sup>th</sup> Place  
Overland Park, KS 66207

and a copy was hand-delivered to:

Stacy R. Bond  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, KS 66603

Melissa Massey  
Compliance Coordinator  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3065

and the original was hand-delivered for filing with the office of the Executive Director:

John (Jack) Confer  
Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068



Cathy Brown  
Executive Assistant