

**FILED** CAB

OCT 10 2005

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

KS State Board of Healing Arts

In the Matter of )  
 )  
MICHAEL E. MARTIN, D.C. )  
Kansas License No. 1-04233 )  
\_\_\_\_\_ )

Docket No. 05-HA-41

**CONSENT ORDER**

COMES NOW the Kansas State Board of Healing Arts ("Petitioner"), by and through Diane L. Bellquist, and Michael E. Martin, D.C. ("Licensee"), by and through Janice Pauls, and move the Board for approval of a Consent Order affecting Licensee's license to practice as a chiropractor. The parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is 5839 SW Indian Hills Road, Topeka, Kansas 66610.
2. Licensee was issued License No. 1-04233 on approximately August 13, 1994. Licensee currently holds a license to engage in the practice of chiropractic care and treatment in the State of Kansas.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of chiropractic care and treatment.
4. This Consent Order and the filing of such document are in accordance with the applicable law and the Board may enter into an informal settlement of this matter as provided in K.S.A. 65-2838, without the necessity of proceeding to a formal hearing.
5. Upon approval, the provisions in this Consent Order shall constitute the

findings of the Board, and this Consent Order shall be the Board's Final Order.

6. The Kansas Healing Arts Act is constitutional on its face and as applied in this case.

7. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

8. 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.

9. The terms and conditions of the Consent Order are entered into between the undersigned parties that 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.

10. In or about August 2002, Licensee submitted false or misleading insurance claims for reimbursement. Such false or misleading claims for reimbursement included:

- (a) billing for a consultation requested by another physician or other appropriate referral source, when Licensee did not meet the requirements for billing the session as a consultation in accordance

with the CPT guidelines;

- (b) billing for a new patient code on two occasions when the patient did not meet the requirements according to the CPT guidelines for billing the visit as a new patient;
- (c) billing for manipulation of five (5) regions of the spine when Licensee's documentation reflects that manipulation of only three (3) areas of the spine occurred on August 5, 2002, and on each of three subsequent visits;
- (d) billing two separate claims for chiropractic manipulation and patient evaluation, when the CPT guidelines for chiropractic manipulation encompass patient evaluation and management;
- (e) billing an insurance claim for an ECG when Licensee did not meet the requirements to bill for an ECG in accordance with the CPT guidelines;

11. Patient #1's last visit with Licensee was on or about August 19, 2002. On or about September 10, 2002, Licensee sent a letter to patient #1 dated which contained unprofessional, false and/or misleading statements regarding the cessation of treatment. The letter included the statement, "I have the legal obligation to tell you that I think you are making a mistake." It also indicated that patient #1 would lose his insurance coverage, would suffer permanent damage, and insinuated that he would experience too much pain to bear.

12. On or about September 23, 2002, Licensee submitted all of his treatment records to patient #1's insurance carrier. On or about June 4, 2003, Licensee

submitted all of his treatment records for patient #1 to the Board. The treatment notes Licensee submitted to the Board were different notes, containing more detail than the notes Licensee submitted to patient #1's insurer, without any notation that there were late entries made or that they were prepared at a later date.

13. Pursuant to K.S.A. 65-2836, the Board has grounds to limit, suspend or revoke Licensee's license.

14. In lieu of conducting formal proceedings, Licensee, by his signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary measures regarding his license as a chiropractor:

- (a) Licensee shall be publicly censured for submitting false and/or misleading billing, for failing to keep accurate patient records, and for the unprofessional correspondence with patient #1.
- (b) Licensee shall attend and complete the ProBE ethics course by December 1, 2006. The ProBE ethics course will not be counted towards the continuing education credits required for Licensee to maintain an active Kansas chiropractic license.
- (c) Licensee shall notify the Board immediately upon actively practicing chiropractic in the state of Kansas. If Licensee actively practices in Kansas, Licensee shall not practice unless he is supervised, at his own expense, by a Board approved supervisor for at least one (1) year. The supervision shall encompass his billing practices. Licensee shall be responsible for having the supervisor submit quarterly reports to the Board. This limitation shall be in effect for

at least one (1) year and Licensee must petition the Board for modification or discontinuance of this limitation.

15. Licensee's failure to comply with this Consent Order will result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

16. 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.

17. Licensee hereby releases the Board, its individual members (in their official and personal capacities), 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 and 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.

18. Licensee further understands and agrees that upon signature by

Licensee, this document shall be deemed a public record and shall be reported to the National Practitioner Databank, CIN-BAD, and any other reporting entities requiring disclosure of the Consent Order.

19. 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.

20. 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 or settlement.

21. Licensee, 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 proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

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

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

24. All correspondence or communication between Licensee and the Board

relating to this Consent Order shall be sent by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Diane L. Bellquist, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

25. Licensee shall obey all federal, state and local laws and rules governing the chiropractic practice 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.

26. 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.

27. 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 as findings of fact and conclusions of law.

**IT IS FURTHER ORDERED** that in lieu of the conclusion of formal proceedings, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action with respect to his License to engage in the practice of chiropractic care and treatment:


- (a) Licensee shall be publicly censured for submitting false and/or misleading billing, for failing to keep accurate patient records, and

for the unprofessional correspondence with patient #1.

- (b) Licensee shall attend and complete the ProBE ethics course by December 1, 2006. The ProBE ethics course will not be counted towards the continuing education credits required for Licensee to maintain an active Kansas chiropractic license.
- (c) Licensee shall notify the Board immediately upon actively practicing chiropractic in the state of Kansas. If Licensee actively practices in Kansas, Licensee shall not practice unless he is supervised, at his own expense, by a Board approved supervisor for at least one (1) year. The supervision shall encompass his billing practices. Licensee shall be responsible for having the supervisor submit quarterly reports to the Board. This limitation shall be in effect for at least one (1) year and Licensee must petition the Board for modification or discontinuance of this limitation.

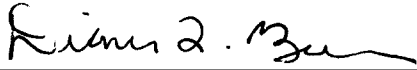
IT IS SO ORDERED on this 10<sup>th</sup> day of October, 2005.

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

  
Lawrence T. Buening, Jr.  
Executive Director



**PREPARED AND APPROVED BY:**



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Diane L. Bellquist #20969  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3065  
(785) 296-7413



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Janice Pauls #09236  
1634 N. Baker  
Hutchinson, KS 67501  
(620) 663-8961  
ATTORNEY FOR MICHAEL G. MARTIN, D.C.

**AGREED TO BY:**



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Michael E. Martin, D.C.  
Licensee

**CERTIFICATE OF SERVICE**

I, the undersigned individual, hereby certify that I served a true and correct copy of the above Consent Order by United States mail, postage prepaid, on this 16<sup>th</sup> day of October, 2005, to the following:

Janice Pauls  
1634 N. Baker  
Hutchinson, Kansas 67501

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

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

