

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
David Matheny, DC)
)
Kansas License No. 01-03279)
_____)

KSBHA Docket No. 16-HA00018

FINAL ORDER TERMINATING CONSENT ORDER

NOW on this 10th day of February, 2017, comes before the Kansas State Board of Healing Arts (“Board”) the motion of David Matheny, D.C. (“Licensee”) to terminate his Consent Order filed on August 24, 2015. Licensee appears by and through Megan Mosely of Simpson, Logback, Lynch, Norris, P.A., and in person. Jane Weiler, Associate Litigation Counsel, appears on behalf of the agency.

Pursuant to the authority granted to Board by K.S.A. 65-2801 *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, the Board hereby enters this Final Order in the above-captioned matter. After reviewing the agency record, hearing the statements and arguments of the parties, receiving exhibits into evidence, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

1. Licensee is licensed to practice chiropractic in the State of Kansas, having been issued License No. 01-03279 in June of 1973.
2. On August 24, 2015, Licensee entered into a Consent Order to address concerns regarding Licensee’s record keeping and billing.
3. The Consent Order obligated Licensee to enter into and comply with a monitoring contract with Affiliated Monitors, Inc. (“AMI”). The contract required monthly visits from the AMI monitor to conduct a review of patient charts and billing for at least 10 patients. The AMI

monitor then submitted quarterly reports to the Board indicating any deficiencies in Licensee's practices. The Consent Order provided that after one year, Licensee could request termination of the Consent Order.

4. On December 21, 2016, Licensee filed a Motion to Terminate the Consent Order. The Motion asserted that Licensee fulfilled the Consent Order's requirements and that the quarterly reports reflect the improvements made by Licensee in all the areas addressed by the AMI monitor.

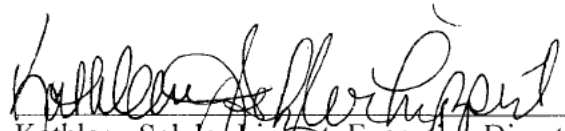
5. On January 10, 2017, Associate Litigation Counsel filed a response stating that AMI had not identified any concerns during the monitoring timeframe and also offered the AMI monitoring reports as evidence.

6. Upon consideration of the monitoring reports, the Board finds that, while the AMI's identified documentation and billing concerns were addressed by Licensee during the monitoring period, ongoing concern by AMI about the diagnostic quality of Licensee's x-rays was not adequately addressed by Licensee. Nevertheless, this issue was not raised by Associate Litigation Counsel and the Board notes that the quality of Licensee's x-rays was not a particular issue underlying the Consent Order.

7. The Board finds and concludes that Licensee has satisfactorily complied with the Consent Order and that termination is warranted under the circumstances. However, the Board urges Licensee to address the diagnostic quality of his x-rays so as to avoid the necessity for future investigation of this issue.

IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS that Licensee's request to terminate the Consent Order is hereby **GRANTED** and Licensee shall have no further obligation for compliance.

IT IS SO ORDERED THIS 20 DAY OF FEBRUARY, 2017, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert, Executive Director
Kansas State Board of Healing Arts

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service, and service of a Final Order is complete upon mailing. Pursuant to K.S.A. 77-529, Licensee may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, a party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court, as authorized by K.S.A. 77-601, *et seq.* Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within **30 days** following service of the Final Order. A copy of any petition for judicial review must be served upon Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **FINAL ORDER TERMINATING CONSENT ORDER** was served this 21st day of February, 2017 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

David Matheny, DC
PO Box 517
[REDACTED]
Gardner, KS 66030

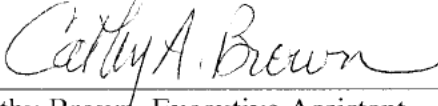
Megan Mosely
Simpson, Logback, Lynch, Norris, P.A
107 SW 6th Avenue, Suite 210
Topeka, Kansas 66603

And a copy was delivered to:

Jane Weiler, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

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



Cathy Brown, Executive Assistant