

FILED

SEP 14 2016

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

KS State Board of Healing Arts

In the Matter of	)	
	)	Docket No. 17-HA- <u>00012</u>
Krystin J. Provo, D.C.	)	
Kansas License No. 01-05533	)	

**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts, ("Board"), by and through Tracy Fredley, Associate Litigation Counsel ("Petitioner"), and Krystin J. Provo, D.C. ("Applicant"), by and through his attorney Terri Z. Austenfeld, Sanders, Warren & Russell L.L.P, and move the Board for approval of a Consent Order affecting Applicant's license to practice chiropractic in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant's last known mailing address to the Board is: 9241 Main Street, Kansas City, Missouri 64114.
2. On or about February 18, 2016, Applicant submitted to the Board an application for reinstatement of licensure to practice chiropractic. Such application was deemed complete and filed with the Board on February 3, 2016.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate 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 65-2838. Upon approval, these stipulations shall

Consent Order  
Krystin J. Provo, D.C.

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. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. Applicant voluntarily and knowingly waives his right to a hearing. Applicant 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. Applicant 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. Applicant specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.
8. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-2803(a) and K.S.A. 65-2836(f), and K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), to take action with respect to Applicant's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. On or about January 31, 2016, Applicant's license cancelled by operation of law for failure to renew.
10. Records show that Applicant treated approximately one hundred fourteen (114) patients at Max Life Health and Laser Center, in Overland Park, in between January 31, 2016, and February 16, 2016.
11. Applicant's employer, Max Life Health and Laser Center, provided patient records for patients whom Applicant treated in the aforementioned timeframe, which includes the following:
  - a. Patient 1: On February 3, 2016, Applicant adjusted the patient's cervical spine, lumbar spine, sacral and Bilateral shoulder, "to correct subluxations, reduce muscle spasms, improve nervous system, reduce pain, increase range of motion, restore spinal biomech, increase mobility and speed healing process." Applicant also provided Mechanical Traction, Therapeutic Exercises, and Manual Therapy.
  - b. Patient 2: On February 10, 2016, Applicant adjusted the patient's cervical spine, lumbar spine, sacral and Bilateral shoulder, "to correct subluxations, reduce muscle spasms, improve nervous system, reduce pain, increase range of motion, restore spinal biomech, increase mobility and speed healing process." Applicant also provided Mechanical Traction, Therapeutic Exercises, and Manual Therapy.
  - c. Patient 3: On February 8, 2016, Applicant adjusted the patient's cervical spine, lumbar spine, sacral and Bilateral shoulder, "to correct subluxations, reduce muscle spasms, improve nervous system, reduce pain, increase range

of motion, restore spinal biomech, increase mobility and speed healing process.” Applicant also provided Mechanical Traction, Therapeutic Exercises, and Manual Therapy.

d. Patient 4: On February 4, 2016, Applicant adjusted the patient’s cervical spine, lumbar spine, sacral and Bilateral shoulder, “to correct subluxations, reduce muscle spasms, improve nervous system, reduce pain, increase range of motion, restore spinal biomech, increase mobility and speed healing process.” Applicant also provided Mechanical Traction, Therapeutic Exercises, and Manual Therapy.

e. Patient 5: On February 8, 2016, the patient’s cervical spine, lumbar spine, sacral and Bilateral shoulder, “to correct subluxations, reduce muscle spasms, improve nervous system, reduce pain, increase range of motion, restore spinal biomech, increase mobility and speed healing process.” Applicant also provided Mechanical Traction, Therapeutic Exercises, and Manual Therapy.

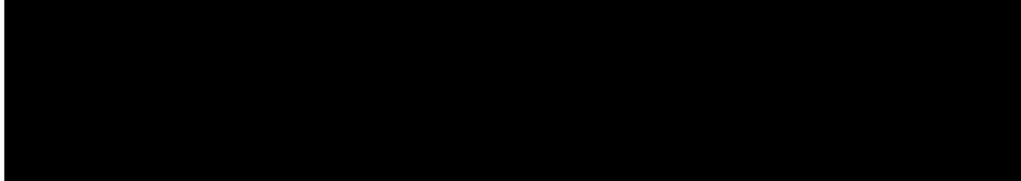
12. Applicant stated that he ceased practicing chiropractic on February 16, 2016.

13. In his application for reinstatement, Applicant also disclosed that he was arrested by the Overland Park Police Department for Driving Under the Influence (“DUI”) on or about August 15, 2015.

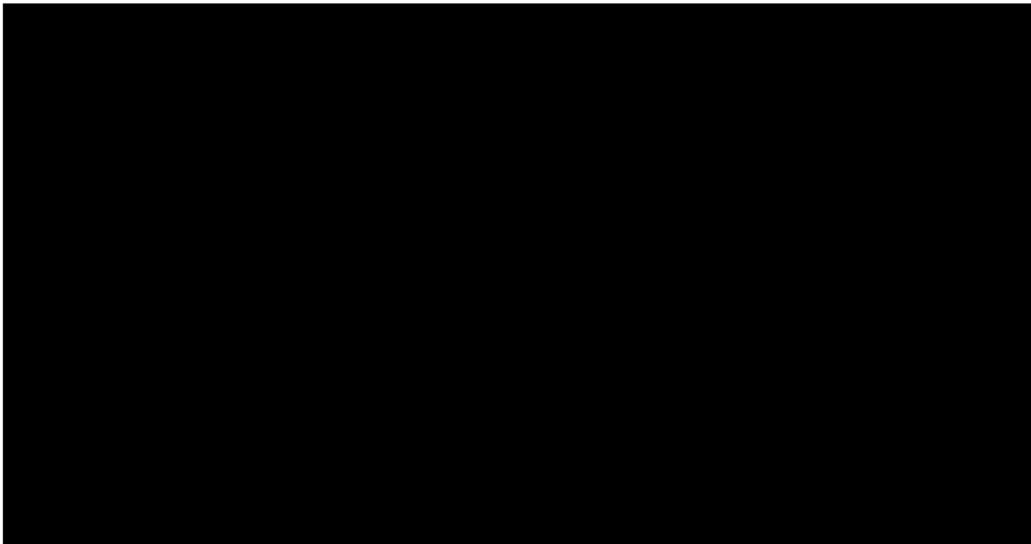
14. On or about March 22, 2016, Applicant entered into a diversion agreement for the duration of one (1) year, that requires him to obtain an Alcohol Drug and Safety Program evaluation, attend the DUI Impact Panel class, and complete Level 1 Alcohol/Drug Information School.

15. In this case, a police officer conducted a traffic stop on Applicant's vehicle for failure to maintain a single lane. Open alcoholic containers were found in the vehicle, in both the glove compartment and truck bed.

16.



17.



18.



19. Applicant acknowledges that, if formal hearing proceedings were conducted and Applicant presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Applicant has violated the Kansas Healing Arts Act with respect to the above allegations. Applicant further waives

his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

20. Applicant repeatedly violated K.S.A. 65-2803(a) and K.S.A. 65-2836(f) by engaging in the practice of chiropractic in Kansas, when he was not licensed as a chiropractor in this state. Specifically, Applicant treated at least one hundred fourteen (114) patients when he was not licensed.
21. Additionally, Applicant violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), when Applicant was arrested for DUI after he failed to maintain a single lane, putting the public at risk for harm.
22. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, privately or publicly censure or place under probationary conditions Applicant's license.
23. 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.
24. Disciplinary Panel No. 31 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
25. Applicant further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Applicant 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 Applicant's license to practice chiropractic in the State of Kansas. Applicant hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Applicant 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, Applicant 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.*

26. 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.

27. Applicant 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 Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

28. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.
29. 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.
30. Applicant 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 Applicant is not present. Applicant 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.
31. Applicant, 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.
32. Applicant acknowledges that he has read this Consent Order and fully understands the contents.
33. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.

34. Applicant 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.
35. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final 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.
36. This Consent Order constitutes **public disciplinary action**.
37. The Board may consider all aspects of this Consent Order in any future matter regarding Applicant.
38. Applicant understands that a Temporary License shall be issued based upon Applicant signing this Consent Order, paying the temporary license fee, and abiding by the terms of this Consent Order. Applicant further understands that the Temporary License is only effective until a conference hearing is held by the Board on ratification of this Consent Order and that if the Board fails to ratify this Consent Order, the Temporary License shall immediately expire at the conclusion of such hearing. If the Board ratifies this Consent Order, Applicant shall be issued a permanent license under the terms of this Consent Order.
39. In lieu of conducting a formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against his license to engage in the practice of chiropractic:

**CENSURE**

40. Upon Applicant being granted an Active License to practice chiropractic in accordance with this Consent Order, Applicant is hereby **Publicly Censured** for practicing as a chiropractor in the State of Kansas when he did not have an active license to practice chiropractic in the State of Kansas, in violation of K.S.A. 65-2803(a) and K.S.A. 65-2836(f).

**FINE**

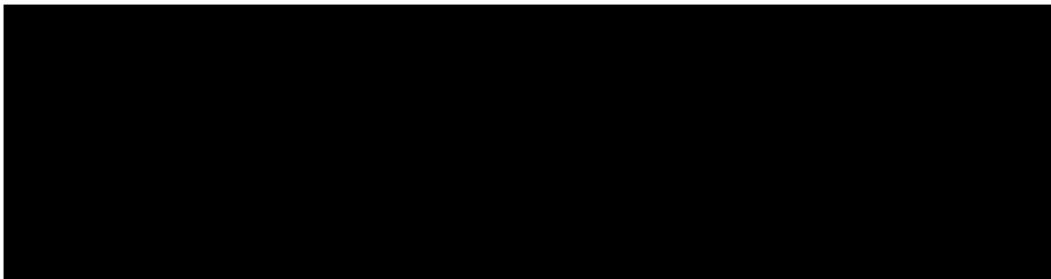
41. Applicant is hereby ordered to pay a CIVIL FINE pursuant to K.S.A. 65-2863(a) in the amount of \$2,500.00. The total amount of \$2,500.00 shall be paid, in full, to the Board on or before December 30, 2016.

42. In the event that the Board does not receive a payment due and owing, the total amount of the levied CIVIL FINE still due and owing shall become immediately due and payable in full upon written notice by the Board to Applicant stating that payment has not been received.

43. Applicant shall make all payments in the form of a cashier's check or money order payable to the Kansas State Board of Healing Arts and send all payments to the attention of: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

**MONITORING**

44.



[Redacted]

45.

[Redacted]

46.

[Redacted]

47.

[Redacted]

48.

[Redacted]

[REDACTED]

49.

[REDACTED]

50.

[REDACTED]

51.

[REDACTED]

52.

[REDACTED]

53.

[REDACTED]

54. Applicant will furnish a copy of this Consent Order to each and every state in which he holds licensure or applies for licensure and to an appropriate work site supervisor or personnel [REDACTED]

55. [REDACTED]

56. Applicant shall immediately notify the Board or its designee of any citation, arrest or charge filed against him or of any conviction for any traffic or criminal offenses.

57. Applicant shall immediately, within five (5) calendar days, notify the Board or its designee of any complaint filed, or investigation opened, by the proper licensing authority of another state, territory, District of Columbia, or other country, or by a peer review body, a health care facility, a professional association or society, or by a governmental agency.

58. Applicant shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Applicant shall provide the above information in writing to the Board within ten (10) days of any such change.

59. All correspondence or communication between Applicant and the Board relating to her compliance or noncompliance with the Consent Order shall be by certified mail addressed to:

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

### MONITORING TIMEFRAME

60. The above monitoring provisions are not self-terminating. After a period of five (5) years, Applicant may appear before the Board to request modification or termination of the provisions. For any period of time that Applicant is not actively practicing as a chiropractor in Kansas, the monitoring provisions and limitations will remain in effect but will be tolled and not counted towards reducing the five (5) year timeframe. Furthermore, if Applicant obtains a temporary license as outlined above, Applicant acknowledges that the monitoring period will not start until the Board ratifies the Consent Order.

61. Any and all requests for termination and/or modification of this Consent Order will be made in writing and submitted to the Board by certified mail addressed to:

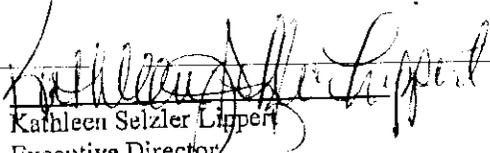
Kansas State Board of Healing Arts  
Attn: Executive Director  
800 SW Jackson Lower Level Suite A

**IT IS THEREFORE ORDERED** that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

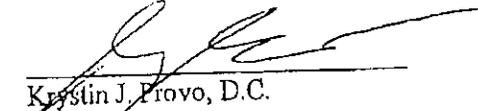
**IT IS FURTHER ORDERED** that upon meeting all technical requirements for licensure, Applicant shall be granted a license, pursuant to the conditions above.

**IT IS SO ORDERED** on this 14 day of Sept, 2016.

FOR THE KANSAS STATE  
BOARD OF HEALING ARTS:

  
Kathleen Selzler Lippert  
Executive Director

9/14/2016  
Date

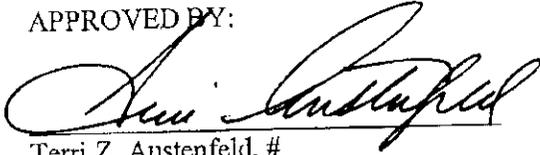
  
Krystin J. Provo, D.C.  
Applicant

9/11/16  
Date

PREPARED AND APPROVED BY:

  
Tracy Fredley, #25467  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
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APPROVED BY:



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9401 Indian Creek Parkway, Suite #1250  
Overland Park, KS 66210  
P: 913-234-6112  
t.austenfeld@swrllp.com  
Attorney for Applicant

**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 14 day of September, 2016, to the following:

Terri Z. Austenfeld  
Sanders, Warren & Russell LLP  
9401 Indian Creek Parkway, Suite #1250  
Overland Park, KS 66210

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:

Tracy Fredley  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

General Counsel's Office  
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

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

