

FILED CAB

APR 20 2010

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
)
Craig A. Rogers, D.C.) Docket No. 10-HA 00133
Kansas License No. 01-04691)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Stacy R. Bond, Associate Litigation Counsel ("Petitioner"), and Craig A. Rogers, D.C. ("Licensee/Applicant"), *pro se*, and move the Board for approval of a Consent Order affecting Licensee/Applicant's license to practice chiropractic in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee/Applicant's last known mailing address to the Board is: 115 E. Warren, Gardner, Kansas 66030.
2. Licensee/Applicant is or has been entitled to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-04691 on approximately December 9, 2000. Licensee/Applicant's license is cancelled for failure to renew on February 1, 2005. On or about January 27, 2010, Licensee/Applicant submitted to the Board an application for reinstatement of licensure in chiropractic. Such application was deemed complete on March 5, 2010.
3. The Board is the sole and exclusive administrative agency in the State of 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.

Consent Order
Craig A. Rogers, D.C.

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 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/Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. Licensee/Applicant voluntarily and knowingly waives his right to a hearing. Licensee/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. Licensee/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. Licensee/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 (confidential) to take action

with respect to Licensee/Applicant's license under the Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. In 2005, Licensee/Applicant submitted an application for reinstatement of his license to practice chiropractic. Board counsel at that time was directed to file a Response in Opposition to the application for reinstatement. The matter was scheduled to be heard before the Board on October 8, 2005. Licensee/Applicant failed to appear for that hearing and a proposed default order denying licensure was filed. Licensee/Applicant failed to file a motion to vacate and the order denying licensure became a final order.
10. At the time of the 2005 request for reinstatement, Licensee/Applicant's drivers license had been suspended (confidential)

(confidential)

11. It was determined that although Licensee/Applicant's license had been cancelled for failure to renew on February 1, 2005, that Licensee/Applicant continued to practice chiropractic until May 21, 2005.
12. On January 5, 2009, Licensee/Applicant submitted an application for reinstatement of licensure to practice chiropractic. Licensee/Applicant was requesting that his license be issued as inactive. Licensee/Applicant's license was last active on February 1, 2005, when it was cancelled for failure to renew.

13.

(confidential)

14.

(confidential)

15.

(confidential)

16. Licensee/Applicant acknowledges that if formal hearing proceedings were conducted and Licensee/Applicant presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Licensee/Applicant has violated the Healing Arts Act with respect to the above allegations. Licensee /Applicant further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

17. A protective order is hereby entered to protect all confidential information under
(confidential) and K.S.A. 65-2836 (confidential)
18. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A.
65-2836.
19. Licensee violated K.S.A. 65-2836, in that Licensee practiced the healing arts
while not licensed to engage in the practice of the healing arts, contrary to K.S.A.
65-2803(a), 65-2867(a) and/or 65-2836(k).
20. Licensee violated K.S.A. 65-2836(b) as further defined by 65-2837(b)(12), in that
Licensee practiced the healing arts while not licensed to engage in the practice of
the healing arts; such conduct is likely to deceive, defraud or harm the public.
21. Pursuant to K.S.A. 65-2836, as amended by HB 2620 on July 1, 2008, the Board
may revoke, suspend, limit, censure or place under probationary conditions
Licensee/Applicant's license and pursuant to K.S.A. 65-2863a the Board has the
authority to impose administrative fines for violations of the Healing Arts Act.
22. According to K.S.A.65-2838(b), the Board has authority to enter into this Consent
Order without the necessity of proceeding to a formal hearing.
23. All pending investigation materials regarding Licensee/Applicant were fully
reviewed and considered by the Board member(s) who serve on the Board's
Disciplinary Panel. Disciplinary Panel No. 23 authorized and directed Board
counsel to seek settlement of this matter with the provisions contained in this
Consent Order.

24. In lieu of conducting a formal proceeding, Licensee/Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following as a condition to being granted an inactive to engage in the practice of chiropractic:

MONITORING

a.

(confidential)

b.

c.

d.

e.

(confidential)

f.

g.

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

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

OTHER

- j. Licensee/Applicant is hereby advised that he must take and pass the Special Purpose Examination for Chiropractic (SPEC) prior to an application for change of status from inactive to active to be considered by the Board.
- k. That upon successful completion of the SPEC examination, Licensee/Applicant would be required to provide to the Board the results of the SPEC examination along with a written practice plan.
- l. Upon receipt of the results of the SPEC examination and written practice plan, Licensee/Applicant would be required to appear before the Board for determination of any additional supervision/monitoring terms with regards to Licensee/Applicant's active practice of the healing arts.

TIMEFRAME

- m. The above monitoring provisions are not self-terminating. After a period of five (5) years, Licensee/Applicant may request modification or termination of the provisions. For any period of time that Licensee /Applicant is not actively practicing chiropractic 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.

25. Licensee/Applicant's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.
26. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the 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 Healing Arts Act.
27. Licensee/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 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 or demands of every kind and nature that Licensee/Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Licensee/Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

28. Licensee/Applicant further understands and agrees that upon signature by Licensee/Applicant, this document shall be deemed a public record and shall be reported to any reporting 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. Licensee/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 Licensee/Applicant is not present. Licensee /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. Licensee/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. Licensee/Applicant acknowledges that he has read this Consent Order and fully understands the contents.

33. Licensee/Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.
34. All correspondence or communication between Licensee/Applicant and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
35. Licensee/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.
36. 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.
37. This Consent Order constitutes non-disciplinary action.
38. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee/Applicant.

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 upon meeting all technical requirements for licensure, Applicant shall be granted an inactive license.

IT IS FURTHER ORDERED that:

MONITORING

a.

(confidential)

b.

c.

d.

e.

(confidential)

f.

g.

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

i. Licensee/Applicant shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee

/Applicant shall provide the above information in writing to the Board within ten (10) days of any such change.

OTHER

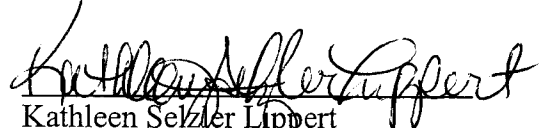
- j. Licensee/Applicant is hereby advised that he must take and pass the Special Purpose Examination for Chiropractic (SPEC) prior to an application for change of status from inactive to active to be considered by the Board.
- k. That upon successful completion of the SPEC examination, Licensee/Applicant would be required to provide to the Board the results of the SPEC examination along with a written practice plan.
- l. Upon receipt of the results of the SPEC examination and written practice plan, Licensee/Applicant would be required to appear before the Board for determination of any additional supervision/monitoring terms with regards to Licensee/Applicant's active practice of the healing arts.

TIMEFRAME

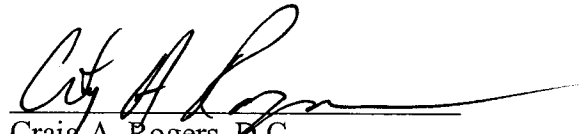
- m. The above monitoring provisions are not self-terminating. After a period of five (5) years, Licensee/Applicant may request modification or termination of the provisions. For any period of time that Licensee /Applicant is not actively practicing chiropractic in Kansas, the monitoring provisions and limitations will remain in effect but will be tolled and not counted towards reducing the five (5) year timeframe.

IT IS SO ORDERED on this 19 day of April, 2010.

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

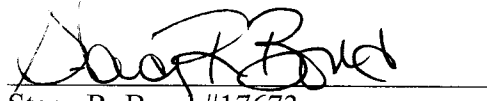

Kathleen Selzer Lippert
Acting Executive Director

4/19/10
Date


Craig A. Rogers, D.C.
Licensee/Applicant

4-16-10
Date

PREPARED AND APPROVED BY:


Stacy R. Bond #17673
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961

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 20th day of April, 2010, to the following:

Craig A. Rogers, D.C.
Licensee/Applicant
115 E. Warren
Gardner, Kansas 66030

And the original was hand-filed with:

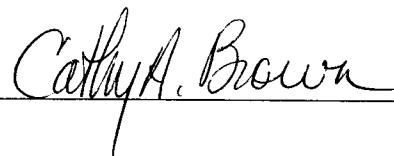
Kathleen Selzler Lippert
Acting Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Stacy R. Bond
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Melissa Massey
Compliance Coordinator
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

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



Consent Order
Craig A. Rogers, D.C.