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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)
)
Rudy C. Sasina, D.C.) Docket No. 19-HA 00077
Kansas License No. 01-04866)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Susan R. Gering, Deputy Litigation Counsel (“Petitioner”), and Rudy C. Sasina, D.C. (“Licensee”), and move the Board for approval of a Consent Order affecting Licensee’s license to practice chiropractic in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is [REDACTED] Kingman, Kansas 67068.
2. Licensee is or has been entitled to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-04866 on or about December 6, 2003. Licensee license is currently Active.
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.
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 K.S.A. 65-2838. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board’s Final Order.

Consent Order
Rudy C. Sasina, D.C.

5. The Kansas Healing Arts Act is constitutional on its face and as applied in the case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

6. 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.

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 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. 65-2836(b), K.S.A. 65-2836(k), K.S.A. 65-2837(b)(12), K.S.A. 65-2837(b)(25), and K.A.R. 100-24-1, to take action with respect to Licensee's license under the Kansas Healing Arts Act K.S.A. 65-2801 *et seq.*

9. The facts supporting the allegations in this Consent Order are, but not limited to the following:

- a. On or about December 19, 2016, Patient [REDACTED] presented to Licensee for treatment of her low back pain that was affecting her at night. Patient [REDACTED] was two (2) months pregnant during the date of this service.

- b. At the December 19, 2016, visit, Licensee diagnosed Patient [REDACTED] with low back pain, segmental and somatic dysfunction of lumbar region, and muscle spasm of back. Licensee recommended Patient [REDACTED] receive chiropractic adjustment to her low back and also that electric muscle stimulation to the low back occur for the next six (6) visits.
- c. Licensee provided care and treatment to pregnant Patient, [REDACTED] that included manipulative treatments and electrical muscle stimulation on or about December 20, 2016, January 5, 2017, January 9, 2017, and January 27, 2017.
- d. On or about February 20, 2017, at approximately four (4) months pregnant, Licensee reevaluated [REDACTED] based on a new complaint that she was having mid back pain. Licensee diagnosed [REDACTED] with pain in thoracic spine, segmental and somatic dysfunction of thoracic region and other muscle spasm, he added mechanical traction in addition to the manipulative and electrical muscle stimulation treatments to [REDACTED] treatment plan for the next few visits.
- e. On or about March 27, 2017, Licensee reevaluated [REDACTED] based on complaints she was experiencing sharp pain while sitting after falling backwards and landing on her tailbone. Licensee diagnosed [REDACTED] with low back pain, segmental and somatic dysfunction of sacral region and myalgia.
- f. Based on Licensee's March 27, 2017 examination, he added ultrasound to the treatment plan in addition to the manipulative and mechanical traction treatments for the next four (4) visits. [REDACTED] was treated with ultrasound at "70% pulse mode to the sacrum for 10 minutes to reduce inflammation and edema" that same day.

g. On or about May 1, 2017, May 15, 2017, and June 7, 2017, [REDACTED] presented to Licensee for chiropractic adjustments and ultrasound that was applied at “70% pulse mode” to her low back and sacrum.

h. On or about June 30, 2017, Licensee reevaluated [REDACTED] who was now six (6) months pregnant, and diagnosed her with cervicgia, segmental and somatic dysfunction of the cervical region and myalgia.

i. Based on the June 30, 2017, examination, Licensee and use electrical simulation and hot/cold packs for treatment.

j. On or about January 10, 2018, the Board received [REDACTED] [REDACTED] for his use of electrical stimulation and ultrasound to treat pregnant patient [REDACTED]

k. In response to the Board Investigation, Licensee provided a response on or about May 29, 2018, regarding his care and treatment of [REDACTED] stating, in part:

[REDACTED]

vii. Blue Cross and Blue Shield sent him a reference sheet showing contraindications for use of ultrasound in pregnancy and other conditions; however, Licensee said, “this does not mean you can’t perform ultrasound on someone with eyes, it just means do not perform over their eyes, pacemaker, joint replacement, and pregnancy.”

10. Licensee’s records for [REDACTED] are often vague and overall do not meet the requirements set forth in K.S.A. 65-2837(b)(25) and/or K.A.R. 100-24-1. For example, Licensee within his records did not distinguish what type of traction he used on [REDACTED] how long it was used, the purpose, and the goals for this treatment.

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

12. Licensee violated K.S.A. 65-2836(b), in that Licensee committed an act of unprofessional or dishonorable conduct or professional incompetency.

13. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), in that Licensee committed conduct likely to harm the public.

14. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(25), in that Licensee failed to keep written medical records which accurately describe the services rendered to K.S., including patient histories, pertinent findings, examination results and test results.

15. Licensee violated K.S.A 65-2836(k), in that Licensee violated a lawful rule and regulation promulgated by the Board. Specifically, Licensee violated K.A.R. 100-24-1 in that Licensee failed

to keep accurate records including the treatment performed or recommended, and failing to authenticate each entry.

16. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license, and pursuant to K.S.A. 65-2863(a) the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.

17. 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.

18. All pending investigation materials in KSBHA Investigation No. 18-00822 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 33 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

19. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee 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 Licensee's license to practice chiropractic in the State of Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee 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, Licensee 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.*

20. 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.

21. Licensee 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 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.

22. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.

23. 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.

24. 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 of settlement.

25. Licensee, 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.

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

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

28. Licensee 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.

29. 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.

30. This Consent Order constitutes **public disciplinary action**.

31. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

32. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action on his license to engage in the practice of chiropractic:

LIMITATION

33. Upon the date of approval of this Consent Order, Licensee shall not provide ultrasound treatment or electrical stimulation on patients he knows are pregnant. It shall be the duty of the Licensee to inquire into whether a patient is pregnant as it may affect his overall treatment and care plan.

34. The above limitation provision is not self-terminating. Licensee must request any modification or termination of the limitation provision by making a written request to the Board or its designee. The burden will be on Licensee to show clear and convincing evidence on why this limitation shall be lifted.

EDUCATION: RECORD KEEPING

35. Licensee shall attend and successfully complete “Got Documentation” seminar put on by Dr. Gregg Friedman, D.C. on or before July 31, 2019, unless otherwise approved. Scheduling of said seminar may be found at:

<http://www.gotdocumentation.com/Seminars.html>

36. Licensee shall provide proof of successful completion of the “Got Documentation” seminar to the Compliance Coordinator within thirty (30) days of successfully completing the program.

37. All costs associated with the course(s)/seminar(s) shall be at Licensee's expense, and include, but are not limited to, the cost of the course(s)/seminar(s), the cost of travel to and from the course(s), and the cost of accommodations while attending the course(s)/seminar(s).

38. These hours shall be in addition to those continuing education hours required for renewal of licensure.

39. Proof of successful completion of the approved course(s)/seminar(s) shall be submitted by sending the same to:

Kansas Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

EDUCATION: RESEARCH PAPER

40. On or before June 1, 2019, Licensee shall write a detailed research paper of at least 800 words for submission to the Board for review. This paper shall discuss all physical therapy modalities that are used in Licensee's practice and billed to patients/third party payors. The physical therapy modalities must be listed with their CPT codes. Licensee shall research and provide analysis regarding all contraindications that exist for each physical therapy modality. Each modality must have an explanation for how Licensee uses the modality in his practice. For example, Licensee within his records did not distinguish what type of traction he used on K.S. Licensee needs to thoroughly explain what type of traction was used, how long it was used, the purpose, and the goals for this treatment.

41. All research shall be cited throughout Licensee's paper and shall include the following sources in addition to Licensee's own research:

- a. *Rennie S. Electro physical Agents – Contraindications and Precautions: An Evidence-Based Approach To Clinical Decision Making In Physical Therapy. Physiother Can. 2010 Fall; 62(5): 1-80;*
- b. *Guidelines For the Safe Use of Ultrasound, Canadian Dept. of Environmental Workplace Health, Updated 9/19/2006; and*
- c. *Belanger AY. Physiological evidence for an endogenous opiate-related pain-modulating system and its relevance to TENS: a review. Physiother Can. 1985; 37:163-8.*

42. Finally, Licensee's research paper shall detail what he has learned from his research and analysis of contraindications to physical therapy modalities as required under the terms of this provision. Further, he will discuss how he has implemented or how he will implement what he has learned into his practice.

43. A copy of any and all materials cited in Licensee's research shall be provided with Licensee's paper to the Compliance Coordinator on or before the June 1, 2019.

44. This paper shall be reviewed by the Board. If there are continued concerns regarding Licensee's ability to practice chiropractic safely, this Consent Order shall not preclude the Board for opening and investigating any concerns regarding Licensee's competency to practice.


45. The paper shall be submitted by sending the same to:

Kansas Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

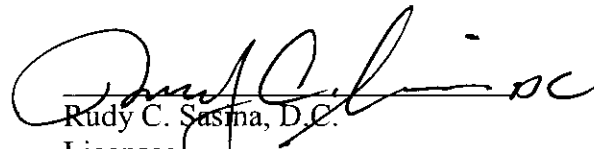
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 16 day of April, 2019.

FOR THE KANSAS STATE BOARD OF
HEALING ARTS:



Kathleen Selzler Dippert
Executive Director

4/16/19
Date


Rudy C. Sasina, D.C.
Licensee

12-17-18
Date

PREPARED AND APPROVED BY:


Susan R. Gering, #25582
Deputy Litigation Counsel
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Consent Order
Rudy C. Sasina, D.C.

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 16th day of Apr., 2019, to the following:

Rudy C. Sasina, D.C.
Licensee
[REDACTED]
Kingman, Kansas 67068

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:

Susan R. Gering, Deputy Litigation Counsel
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

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

