

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
)
DENNIS R. SCHARENBERG, D.C.) Docket No. 22-HA 20044
Kansas License No. 01-03282)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board), by and through Ruslan Ivanov, Associate Litigation Counsel ("Petitioner"), and Dennis Scharenberg, D.C. ("Licensee), *pro se*, and move the Board for approval of a Consent Order affecting Licensee's license to practice in Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is: **CONFIDENTIAL** ,
CONFIDENTIAL. Licensee's last known e-mail address is: **CONFIDENTIAL** .
2. Licensee has been entitled to engage in the practice of chiropractic in Kansas, having been issued original license number 01-03282 on June 15, 1973. Licensee's current license status is Active, having last renewed such license on or about December 08, 2021.
3. The Board is the sole and exclusive administrative agency in Kansas authorized to regulate the practice of the healing arts, and 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

Consent Order
Dennis R. Scharenberg, D.C.
Kansas License No. 01-03282

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.

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 was 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 **CONFIDENTIAL** has reason to believe there may be grounds under K.S.A. 65-2836(b), K.S.A. 65-2837(a)(2), and K.S.A. 65-2837(b)(25) to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

9. At all times relevant to the facts set forth in this Consent Order, Licensee held an Active License to practice chiropractic in the State of Kansas.

Consent Order
Dennis R. Scharenberg, D.C.
Kansas License No. 01-03282

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

11. **CONFIDENTIAL** :

- a. On or about February 9, 2017, Licensee applied diathermy to nine (9)-year-old Patient H.F. to regions for which there are known contraindications. As diathermy was applied for acute sinusitis, it is likely that the effects of diathermy would have occurred over the peri-orbital regions and/or over areas where the growth plates have not closed.
- b. Licensee applied manipulation to five spinal regions to Patient H.F. without appropriate evaluation of these regions and without appropriate documentation of subjective complaints or clinical rationale as to the reason for why those areas needed to be manipulated.
- c. The Board has received medical records for Patient H.F.'s treatment by Licensee and has reviewed the same.
- d. Licensee failed to maintain adequate and/or accurate medical records for Patient H.F.

12. **CONFIDENTIAL** :

- a. On or about April 26, 2017, April 27, 2017, and on May 2, 2017, Licensee applied diathermy treatment to five (5)-year-old male Patient J.W.'s ears. Because diathermy was applied to the ears, it is likely that the effects of diathermy would

have occurred around the periorbital regions and/or over areas where the growth plates have not closed.

- b. The Board has received medical records for Patient J.W.'s treatment by Licensee and has reviewed the same.
- c. Licensee failed to maintain adequate and/or accurate medical records for Patient J.W.

13. CONFIDENTIAL

- a. On or about September 19, 2017 through about December 19, 2017, Licensee applied diathermy treatment to two (2)-month old Patient E.L.'s head and chest on at least ten (10) occasions. Applying diathermy to this patient could have had a significant adverse effect on an epiphyseal center.
- b. The Board has received medical records for Patient E.L.'s treatment by Licensee and has reviewed the same.
- c. Licensee failed to maintain adequate and/or accurate medical records for Patient E.L.

14. CONFIDENTIAL

- a. On or about February 3, 2017, Licensee applied diathermy treatment to the head and chest of fourteen (14)-year-old female Patient L.H.
- b. Diathermy was applied to regions and for conditions for which there are known contraindications. The effects of diathermy would have likely occurred over the peri-orbital regions and/or over areas where the growth plates have not closed.

- c. The Board has received medical records for Patient L.H.'s treatment by Licensee and has reviewed the same.
- d. Licensee failed to maintain adequate and/or accurate medical records for Patient L.H.

15. 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 proceedings before the Board.

16. Licensee violated K.S.A. 65-2836(b) in that Licensee has committed professional incompetency as defined by K.S.A. 65-2837(a)(2). Specifically, Licensee committed repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the Board.

17. Licensee violated K.S.A. 65-2837(b)(25) in that Licensee has committed acts of unprofessional conduct, as defined by K.S.A. 65-2837(b), K.S.A. 65-2837(b)(25) and K.A.R. 100-24-1(b). Specifically, Licensee failed to maintain accurate and adequate medical records for multiple patients.

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

19. 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.

20. All **CONFIDENTIAL** materials **CONFIDENTIAL** **CONFIDENTIAL** regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 35 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

21. 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 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.*

22. 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.

23. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as "Releases", 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.

24. 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.

25. 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.

26. 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.

Consent Order
Dennis R. Scharenberg, D.C.
Kansas License No. 01-03282

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.

27. 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.

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

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

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

31. 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.

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

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

Consent Order
Dennis R. Scharenberg, D.C.
Kansas License No. 01-03282

34. 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.

PUBLIC CENSURE

35. Licensee is hereby **publicly censured** for violating the Kansas Healing Arts Act.

EDUCATION: MEDICAL RECORD KEEPING

36. Licensee shall attend and successfully complete the **Medical Record Keeping Seminar** hosted by the Center for Personalized Education for Physicians (“CPEP”) or a substantially similar program as approved by the Board. Licensee shall have (6) months from the date of execution of this consent order to complete this course(s). Registration for and other information regarding the **CPEP Medical Record Keeping Seminar** course may be found at: <https://www.cpepdoc.org/courses/category/medical-record-keeping/>

37. Licensee shall provide proof of successful enrollment in the **CPEP Medical Record Keeping Seminar** or a substantially similar program as approved by the Board to the Compliance Coordinator within ten (10) days of enrollment in the course.

38. Licensee shall provide proof of successful completion of the **CPEP Medical Record Keeping Seminar** or a substantially similar program, as approved by the Board, to the Compliance Coordinator within thirty (30) days of successfully completing the course.

39. All costs associated with the above course shall be at Licensee’s own expense, including but not limited to: the cost of registration for the course, the cost of travel to and from the course, and the cost of accommodations while attending the course.

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

41. Proof of successful completion of the education requirements shall be submitted by sending the same to:

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

42. Licensee shall sign any and all releases necessary to allow CPEP to communicate with the Board. Licensee shall provide a copy of such releases to the Board's Compliance Coordinator and any failure to execute such a release, failure to provide copies to the Board, or any premature revocation of such release constitutes a violation of this consent order.

EDUCATION: CHIROPRACTIC CONTINUING EDUCATION

43. Licensee shall attend and successfully complete a minimum of twelve (12) hours of continuing education for pediatric chiropractic treatment and care, as approved by the Board. Licensee shall have six (6) months from the date of execution of this consent order to complete this requirement.

44. Licensee must submit a course for approval, by sending complete documentation including: the entity or individual sponsoring the program, the identity of the presenter(s), the course syllabus, and any other course details to aid in the review and evaluation of the proposed course.

45. Licensee shall provide proof of successful enrollment into the continuing chiropractic education course(s) to the Compliance Coordinator within ten (10) days of enrollment.
46. Licensee shall provide proof of successful completion of the twelve (12) hours of continuing chiropractic education for pediatric chiropractic treatment and care to the Compliance Coordinator within thirty (30) days of successfully completing the requirement.
47. All costs associated with the above course(s) shall be at Licensee's own expense, including but not limited to: the cost of registration for the course(s), the cost of travel to and from the course(s), and the cost of accommodations while attending the course(s).
48. The hours shall be in addition to those continuing education hours for renewal of licensure.
49. Proof of successful completion of the education requirements shall be submitted by sending the same to:

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

LIMITATION ON LICENSE: DIATHERMY

50. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby agrees not to perform diathermy in Kansas or keep/maintain diathermy-related equipment or technology in his practice. Licensee agrees not to delegate diathermy to any other persons in his practice.
51. Any request for termination or modification of this provision shall require consideration by the full Board upon the filing of a proper motion by Licensee.

Consent Order
Dennis R. Scharenberg, D.C.
Kansas License No. 01-03282

MONITORING

52. Within **thirty calendar days** of the execution of this Consent Order, Licensee shall enter into and comply with all terms and conditions of a monitoring contract with Affiliated Monitors, Inc. ("AMI"), or some other substantially similar program as approved by Disciplinary Panel #35. Licensee shall provide a copy of this contract to the Board within fifteen (15) days of signing the contract.

53. Affiliated Monitors Inc. ("AMI") may be contacted at:

Affiliated Monitors Inc.
P.O. Box 961791
Boston, MA 02196
Info@AffiliatedMonitors.com
Phone: 617-275-0620
Toll Free: 866-201-0903
Fax: 617-345-0102

54. Licensee further agrees to immediately notify the Board of any revisions to the contract and to immediately provide a copy of such revised contract to the Board.

55. Any monitor proposed by AMI must be approved by the Board prior to the beginning of monitoring process. The Board designates Disciplinary Panel #35 to approve any proposed monitor.

56. The monitor shall conduct their first review within **thirty calendar days** of the Board's approval of the monitor.

57. Monitoring shall include:

- a. Review of patient charts of patients under the age of five (5) treated by Licensee.

- b. Licensee shall provide a list of twenty (20) patients under the age of five (5) treated during the previous 30-day period, from which the monitor will randomly select no more than ten (10) charts to review. Additional patient reviews may be mandated by AMI or some other substantially similar program,
- c. Monitoring reports shall be due quarterly to the Board. Licensee shall be responsible for ensuring the Board timely receives the monitor's reports.
- d. The method of review, including (but not limited to) the method of the submission of records, and whether such review can be done remotely, shall be at the sole discretion of AMI.
- e. The period of monitoring shall be for at least one (1) calendar year. Licensee shall enter into a one (1)-year monitoring contract with AMI and at the end of that year, AMI shall determine whether Licensee needs to continue monitoring and whether he must sign a new contract to continue monitoring.
- f. Licensee shall take any and all actions deemed necessary by the monitor and/or AMI to correct any deficiencies identified in any of the monitor's reviews.

58. All costs associated with monitoring shall be at Licensee's own expense.

59. All reports required pursuant to this Consent Order shall be submitted to:

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

TIMEFRAME

60. This Consent Order shall be terminated upon completion and satisfaction of all terms and conditions contained above.

IT IS HEREBY 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 15th day of June, 2022.

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

Susan Hill

Executive Director

6/15/22
Date

Dennis Scharenberg

Dennis Scharenberg, D.C.
Licensee

4-13-22
Date

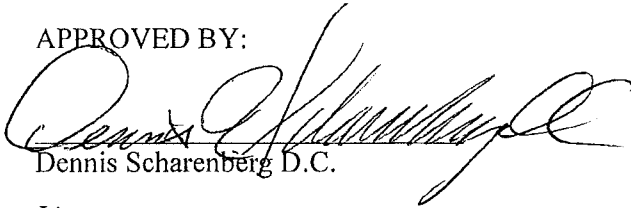
Consent Order
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Kansas License No. 01-03282

PREPARED AND APPROVED BY:



Ruslan Ivanov, #26902
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APPROVED BY:



Dennis Scharenberg D.C.

Licensee

Consent Order
Dennis R. Scharenberg, D.C.
Kansas License No. 01-03282

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 15th day of June, 2022, to the following:

Dennis R. Scharenberg, D.C.
Licensee

CONFIDENTIAL

Dennis R. Scharenberg, D.C.
Licensee

CONFIDENTIAL

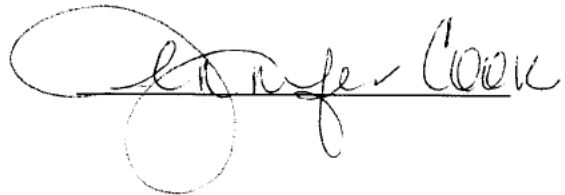
And the original was hand-filed with:

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

And a copy was hand-delivered to:

Ruslan Ivanov
Associate 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



Consent Order
Dennis R. Scharenberg, D.C.
Kansas License No. 01-03282