

OCT 01 2007

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

KS State Board of Healing Arts

In the Matter of)
)
CHRISTOPHER SCHROEDER, D.C.)
Kansas License No. 01-04953)
_____)

Docket No. 07-HA-0002

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts ("Board"), by and through Kelli J. Stevens, Litigation Counsel, ("Petitioner") and Christopher Schroeder, D.C. ("Licensee"), by and through counsel, Cynthia Sheppard, of Weathers, Riley & Sheppard, L.L.P. and move the Board for approval of a Consent Order affecting Licensee's license to practice chiropractic in Kansas.

The parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is 1000 Texas Court, Hutchinson, KS 67502.
2. Licensee is or has been entitled to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-04953 on approximately February 12, 2005. Licensee has held a current license to engage in the practice of chiropractic in the State of Kansas, having last renewed his license on approximately January 1, 2007.
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 chiropractic.
4. This Consent Order and the filing of such document are in accordance with the applicable law and the Board may enter into an informal

settlement of this matter as provided in K.S.A. 65-2838, without the necessity of proceeding to a formal hearing.

5. Upon approval, the provisions in this Consent Order shall constitute the findings of the Board, and this Consent Order shall be the Board's Final Order.

6. The Kansas Healing Arts Act is constitutional on its face and as applied in this case.

7. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

8. Licensee voluntarily and knowingly waives his right to a hearing in this matter in that 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 in this matter were held.

9. The terms and conditions of the Consent Order are entered into between the undersigned parties that 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.

10. Petitioner has generally alleged that with respect to five (5) patients, Licensee's documentation of patient visits did not support his billing and that Licensee submitted inappropriate claims to insurance companies. The specific allegations are set forth in the Petition filed July 13, 2006.

11. Licensee's acts, if proven, are grounds for discipline pursuant to K.S.A. 65-2836(b), as further set forth in 65-2837(b)(12), committing conduct likely to deceive, defraud or harm the public; 65-2837(b)(17), the use of any false, fraudulent or deceptive statement in any document connected with the practice of the healing arts including the intentional falsifying or fraudulent altering of a patient or medical care facility record; 65-2837(b)(18), obtaining any fee by fraud, deceit or misrepresentation; and K.S.A. 65-2836(aa), knowingly submitting misleading, deceptive, untrue and/or fraudulent representations on claim forms, bills or statements.

12. Licensee does not admit the allegations as set forth in the Petition, but for the sole purpose of this Consent Order does not contest that his acts and conduct violated the healing arts act. Licensee further waives his right to dispute or otherwise contest the allegations contained in the Petition in any future proceedings before the Board.

13. Pursuant 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.

14. In lieu of concluding the pending formal hearing proceedings, Licensee, by his signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action and monitoring provisions with respect to his license to engage in the practice of chiropractic in Kansas:

PUBLIC CENSURE

- a. Licensee's license is hereby PUBLICALLY CENSURED for violating the healing arts act;

DOCUMENTATION AND BILLING REVIEWS

- b. On or before September 30, 2007, Licensee shall have all of his documentation and billing practices reviewed by a Board-approved documentation and coding specialist. Coding and Compliance Initiatives, Inc. (CCI) is hereby approved to serve in this capacity. The specialist shall prepare a report for Licensee and the Board indicating whether any aspect of Licensee's documentation and billing falls outside of accepted standards for the chiropractic profession. Such specialist shall then provide Licensee with recommendations for any modifications to his current practices. Licensee agrees to implement any such recommendations.
- c. Following the initial review, Licensee shall have his documentation and billing practices monitored by the specialist on a bi-monthly basis for at least ten (10) consecutive months. Such monitoring shall include randomly selected chart reviews of 5% of all Licensee's patients seen in each two-month period. The specialist shall submit bi-monthly monitoring reports to the Board on or before the 30th day of the subsequent month. The Board must receive five (5) total monitoring reports covering a ten (10) month period. Licensee shall bear all expenses associated with the initial review and bi-monthly monitoring;

- d. The monitoring requirement is not self-terminating. After five (5) consecutive monitoring reports have been received by the Board, Licensee may request that the Board terminate the documentation and billing review requirement;

EDUCATION

- e. Licensee shall successfully complete the Palmer College of Chiropractic online course entitled, "Ethical Issues in Chiropractic Practice." Such course shall be at Licensee's own expense. Licensee shall provide Board staff with a certificate of completion on or before December 15, 2007.

COSTS

- f. Licensee agrees to pay the costs incurred by the Board in this matter, in the amount of \$169.33. Licensee shall pay such costs in full to the Board on or before September 30, 2007.

15. Licensee's failure to comply with this Consent Order will result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

16. For any period(s) of time that Licensee is not actively practicing in Kansas, the documentation and billing review provisions of this Consent Order shall be tolled and not be counted in reducing the required timeframe for monitoring.

17. Licensee shall at all times keep Board staff informed of all of his current practice locations, addresses and phone numbers. Licensee shall

provide such information to the Board in writing within ten (10) days of any changes.

18. 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.

19. Licensee hereby releases the Board, its individual members (in their official and personal capacities), 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 and 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.

20. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to the National Practitioner Databank, the Official Actions Database of the

Federation of Chiropractic Licensing Boards (“CIN-BAD”) and any other reporting entities authorized to receive disclosure of the Consent Order.

21. 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.

22. 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 or settlement.

23. 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 proceeding on the basis that the Board member or General Counsel has received investigative information regarding the allegations contained in the Petition which otherwise may not be admissible or admitted as evidence.

24. Licensee acknowledges that he has read this Consent Order and fully understands the contents and that this Consent Order has been entered into freely and voluntarily.

25. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be sent by certified mail addressed to the Kansas State Board of Healing Arts, **Attn: Compliance Coordinator**, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

26. Licensee shall obey all federal, state and local laws and rules governing the practice of the healing arts 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.

27. 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.

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

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 in lieu of concluding the presently pending formal proceedings, Licensee, by his signature affixed to this Consent Order, voluntarily agrees to the following disciplinary action and monitoring provisions regarding his license to practice chiropractic in Kansas:

PUBLIC CENSURE

- a. Licensee's license is hereby PUBLICALLY CENSURED for violating the healing arts act;

DOCUMENTATION AND BILLING REVIEWS

- b. On or before September 30, 2007, Licensee shall have all of his documentation and billing practices reviewed by a Board-approved documentation and coding specialist. Coding and Compliance Initiatives, Inc. (CCI) is hereby approved to serve in this capacity. The specialist shall prepare a report for Licensee and the Board indicating whether any aspect of Licensee's documentation and billing falls outside of accepted standards for the chiropractic profession. Such specialist shall then provide Licensee with recommendations for any modifications to his current practices. Licensee agrees to implement any such recommendations.
- c. Following the initial review, Licensee shall have his documentation and billing practices monitored by the specialist on a bi-monthly basis for at least ten (10) consecutive months. Such monitoring shall include randomly selected chart reviews of 5% of all Licensee's patients seen in each two-month period. The specialist shall submit bi-monthly monitoring reports to the Board on or before the 30th day of the subsequent month. The Board must receive five (5) total monitoring reports covering a ten (10) month period. Licensee shall bear all expenses associated with the initial review and bi-monthly monitoring;

- d. The monitoring requirement is not self-terminating. After five (5) consecutive monitoring reports have been received by the Board, Licensee may request that the Board terminate the documentation and billing review requirement;

EDUCATION

- e. Licensee shall successfully complete the Palmer College of Chiropractic online course entitled, "Ethical Issues in Chiropractic Practice." Such course shall be at Licensee's own expense. Licensee shall provide Board staff with a certificate of completion on or before December 15, 2007.

COSTS

- f. Licensee agrees to pay the costs incurred by the Board in this matter, in the amount of \$169.33. Licensee shall pay such costs in full to the Board on or before September 30, 2007.

IT IS SO ORDERED.

by Mary J. Counselman DC
Lawrence J. Buening, Jr.
Executive Director

Christopher Schroeder D.C.
Christopher Schroeder, D.C.
Licensee

Date 10/1/07

Date 9/26/07

PREPARED AND APPROVED BY:

Kelli J. Stevens
Kelli J. Stevens, #16032
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

Attorney for Petitioner

APPROVED BY:

Cynthia J. Sheppard
Cynthia J. Sheppard, #42039
Weathers, Riley & Sheppard, L.L.P.
4848 SW 21st Street, Suite 202
P.O. Box 67209
Topeka, Kansas 66667-0209
(785) 273-2020

CERTIFICATE OF SERVICE

I, the undersigned hereby certify that I served a true and correct copy of the **CONSENT ORDER** by United States mail, first class postage pre-paid, on the 2nd day of October, 2007 to the following:

Cynthia Sheppard
Weathers, Riley & Sheppard, L.L.P.
P.O. Box 67209
Topeka, Kansas 66667-0209

and the original was hand-delivered for filing to:

Lawrence T. Buening, Jr.
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

