

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED
APR 12 2016
KS State Board of Healing Arts

In the Matter of)
)
KYLE M. SHEAHON, D.C.) Docket No. 16-HA00047
Kansas License No. 01-05701)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Jane E. Weiler, Associate Litigation Counsel, (“Petitioner”), and Kyle M. Sheahon, D.C., (“Licensee”), by and through his counsel, Diane L. Bellquist of Joseph, Hollander & Craft, LLC,, 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: **Confidential** Salina, Kansas 67401.
2. Licensee is or has been entitled to practice chiropractic in the State of Kansas, having been issued License No. 01-05701 on approximately April 10, 2015. Licensee’s current license is active, and having last renewed such license on approximately January 28, 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

Consent Order
Kyle M. Sheahon, D.C.

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 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(k), and K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(12), to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*

9. On or about February 10, 2015, Licensee entered into a settlement agreement in the form of a Consent Order *In the Matter of Kyle M. Sheahon, D.C.*, in KSBHA Docket No. 15-HA00063 (“2015 Consent Order”). On or about April 15, 2015, the Board accepted and ratified this Consent Order. The 2015 Consent Order constituted a lawful order of the Board and constituted non-disciplinary public action against Licensee’s license to practice chiropractic in the State of Kansas. This Consent Order has not been modified, terminated or rescinded by the Board and is still in effect.

10. Pursuant to the 2015 Consent Order, Licensee was required to comply with all of the terms and conditions of the Consent Order, which included, in pertinent part:

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- f. The aforementioned monitoring provisions were not self-terminating, and after a period of three (3) years, Licensee could request modification or termination of the provisions.

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19. Licensee's acts, if proven, constitute violations of the Kansas Healing Arts Practice Act as set forth in K.S.A. 65-2836.

20. Licensee violated K.S.A. 65-2836(k), in that he violated a lawful order of the Board previously entered into by the Board in Docket No. 15- HA00063 when

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21. Licensee further violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(12), in that Licensee has committed conduct likely to deceive, defraud or harm the public when Confidential in violation of his 2015 Consent Order in violation of his Consent Order and agreement Confidential
22. 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. 65-2863a the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
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. All of the materials in KSBHA Investigative Case Number 16-00338 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 29. Disciplinary Panel No. 29 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
25. 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.*

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. 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.

28. 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.
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 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.
31. 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.
32. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

33. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
34. All correspondence or communication between Licensee and the Compliance Coordinator relating to 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
35. Licensee shall obey all federal, state and local laws and rules governing the practice as 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 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.
37. This Consent Order constitutes public disciplinary action.
38. A protective order is hereby entered to protect all confidential information under 42 CFR Part II and K.S.A. 65-4925.
39. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

40. Upon approval by the Board, this Consent Order will supersede and replace the requirements upon Licensee that were contained within Licensee's 2015 Consent Order.

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

SUSPENSION

42. Licensee's license shall be suspended for a period of fourteen (14) calendar days with said suspension to begin on April 8, 2016 and to end on April 22, 2016.

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52. Licensee shall immediately notify the Board or its designee of any citation, arrest or charge filed against his or of any conviction for any traffic or criminal offenses, excluding minor traffic infractions.

53. Licensee 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.

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

55. Licensee agrees to pay all of the costs incurred for the performance of his monitoring, evaluation, and treatment.

EDUCATION

56. Licensee shall complete a professional course in ethics within one (1) year from the date of the approval of this Consent Order. Licensee shall complete one (1) of the following courses:

- a. Licensee shall enter into, complete, and pass all five (5) topic areas of the EBAS Essay Examination that is put on by Ethics and Boundaries Assessment Services, LLC.
 - b. Licensee shall attend and successfully complete the Ethics and Boundaries Course (ProBE) Program presented by The Center for Personalized Education for Physicians (CPEP) on or before March 1, 2017, unless otherwise approved by the Board.
57. On or before December 31, 2016, Licensee shall notify the Compliance Coordinator in writing of the course and the date Licensee has registered to attend.
58. All foreseen and unforeseen expenses to complete the aforementioned program including travel, lodging, program fee, meals, etc., shall be at Licensee's own expense.
59. These hours shall be in addition to those continuing education hours required for renewal of licensure.

TIMEFRAME

60. The above monitoring provision are not self-terminating. After a period of five (5) years from the commencement of Confidential dated January 15, 2016, Licensee may request modification or termination of the provisions.
61. For any period of time that Licensee is not actively practicing chiropractic in Kansas, the monitoring provisions will remain in effect but will be tolled and not counted towards reducing the five (5) year timeframe.

62. 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
Topeka, Kansas 66612

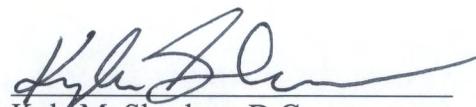
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 12 day of April, 2016.

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

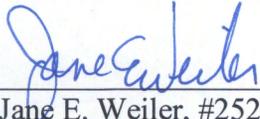

Kathleen Selzler Lippert
Executive Director

4/12/16
Date


Kyle M. Sheahon, D.C.
Licensee

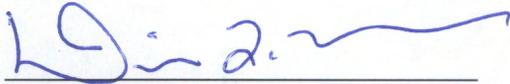
3/9/16
Date

PREPARED AND APPROVED BY:



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dbellquist@josephhollander.com

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 12th day of April, 2016, to the following:

Kyle M. Sheahon, D.C.
Licensee
Confidential
Salina, Kansas 67401

Diane Bellquist
Attorney for Licensee
1508 SW Topeka Boulevard
Topeka, Kansas 66612

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:

Jane E. Weiler, 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

Debra Albright