

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of )  
 ) Docket No. 10-HA00048  
Durwin K. Smith, D.C. )  
Kansas License No. 01-03570 )

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**AGREED FINAL ORDER FOR  
TERMINATION OF PROBATION**

NOW on this the 28<sup>th</sup> day of February, 2011, this matter comes on for hearing before the Kansas State Board of Healing Arts, ("Board"). Wherefore, the parties present this Agreed Order for Termination of Probation. The term of probation is set forth in the Consent Order filed October 19, 2009, in this matter. Petitioner appears through Lori D. Dougherty, Associate Litigation Counsel. Licensee appears through Eldon L. Boisseau, Law Offices of Eldon L. Boisseau, L.L.C.

After review and due consideration of the evidence and arguments presented, the Board hereby makes the following findings of act and conclusion of law as follows:

1. On or about October 19, 2009, a Consent Order was filed in the above captioned matter to resolve the Board's concerns about Licensee's advertisements and his practice of NeuroModulation Technique (NMT).

2. In the Consent Order, the parties agreed to discipline against Licensee's chiropractic license in the form of a term of probation for one (1) year. The probationary provisions include completion of an educational course in record-keeping; a requirement to cease and desist performing experimental treatments unless Licensee does so in compliance with applicable statutes and regulations; and payment of a \$2,500 fine.

3. The Consent Order provides that Licensee may request termination of the probation after one year.

4. Since entering into the Consent Order in October of 2009, Licensee has completed an approved record-keeping course entitled, "Clinical Documentation of Chiropractic," for 12 hours of continuing education credit. Licensee has also paid the \$2,500 fine. Compliance documentation submitted to the Board will be offered at the conference hearing as evidence of Licensee's fulfillment of the Consent Order's terms to date.

5. The Board has not received any additional complaints or other information which would indicate Licensee is practicing chiropractic by using experimental treatments.

6. On or about December 10, 2010, Licensee requested termination of the probation on his license.

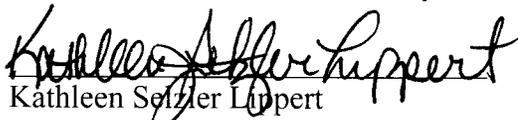
7. Licensee acknowledges his continued duty as a licensed practitioner of the healing arts to follow the provisions of the Kansas Healing Arts Act and corresponding regulations.

8. The Board's Disciplinary Panel #23 reviewed Licensee's request and authorized counsel for Petitioner to agree to the same.

**IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS:**

The probation placed upon Licensee's license is hereby **TERMINATED**.

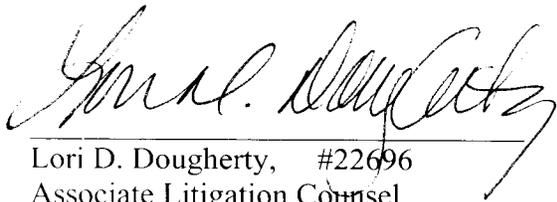
IT IS SO ORDERED on this 28 day of February, 2011.

  
Kathleen Selzler Lippert  
Executive Director  
Kansas State Board of Healing Arts

**NOTICE OF RIGHTS**

**PLEASE TAKE NOTICE** that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, et seq. Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Kathleen Selzler Lippert, the Board's Executive Director, at 235 SW Topeka Blvd., Topeka, KS 66603.

Prepared by:



Lori D. Dougherty, #22696  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level, Suite A  
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(785) 296-7413

Approved by:



Eldon L. Boisseau  
Law Offices of Eldon L. Boisseau, LLC  
River Park Place  
727 N. Waco, Suite 265  
Wichita, Kansas 67203  
(316) 613-2800

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the foregoing **AGREED FINAL ORDER FOR TERMINATION OF PROBATION** by United States mail, postage prepaid, on this 1<sup>st</sup> day of ~~February~~, 2011, to the following:  
*March*

Eldon L. Boisseau  
Law Offices of Eldon L. Boisseau, LLC  
River Park Place  
727 N. Waco, Suite 265  
Wichita, Kansas 67203

Durwin K. Smith, D.C.  
120 West 3<sup>rd</sup> Street  
Pratt, Kansas 67124

And a copy was hand-delivered to:

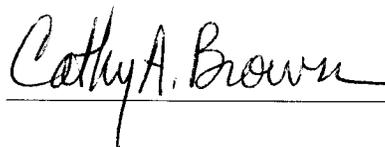
Lori D. Dogherty  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level, Suite A  
Topeka, Kansas 66612

And a courtesy copy was hand-delivered to:

Melissa Massey  
Compliance Coordinator  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level, Suite A  
Topeka, Kansas 66612

And the original was filed with the office of the Executive Director:

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

  
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