

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, to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*
9. In August of 2011, Licensee was employed by the Anders Chiropractic Clinic in Wellington, Kansas.

10. On or about August 9, 2011, Patient 1 presented to Licensee with complaints of back pain. This appointment was the first and only time Patient 1 received chiropractic care and treatment from Licensee.
11. Patient 1 reported back pain for approximately one (1) month preceding her appointment. Patient 1 also reported that the back pain started after she fell from a stepladder.
12. Licensee evaluated Patient 1 and determined that she would benefit from manipulation of her spine to address her areas of pain and muscle spasms.
13. As part of the examination, Licensee took inappropriate x-rays of Patient 1; there are artifacts in the x-rays due to the patient wearing earrings, underwire bra, clothing with a zipper, and glasses.
14. Licensee's x-rays of Patient 1 were not performed appropriately by Licensee causing them to be diagnostically inadequate; and therefore, caused Patient 1 to be exposed to needless radiation.
15. Licensee did not create a report for the x-rays that were taken of Patient 1.
16. Licensee's patient record for Patient 1 was illegible in places and did not accurately describe the services rendered to Patient 1.
17. Licensee is no longer employed by Anders Chiropractic Clinic and is currently employed by Wellness One located in Wichita, Kansas. At his new place of employment, he no longer personally takes x-rays of patients; but rather, when a patient needs to be x-rayed, he now refers the patient to a provider who performs x-rays for the x-rays to be performed.

18. 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.
19. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836.
20. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(a)(3) by taking x-rays inappropriately and allowing Patient 1 to wear clothing and jewelry items that would show to be artifacts in the x-ray.
21. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(12) by exposing Patient 1, a member of the public, to needless radiation that was likely to harm her.
22. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(25) by failing to keep written medical records which accurately describe the services rendered to the patient.
23. Licensee violated K.S.A. 65-2836(k), in that Licensee violated a lawful regulation promulgated by the Board. Specifically, Licensee violated K.A.R. 100-24-1 by failing to maintain an adequate patient record for Patient 1.
24. 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.

25. 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.
26. All pending investigation materials in KSBHA Investigation number 13-00007 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 27. Disciplinary Panel No. 27 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
27. 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.*

28. 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.
29. 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.
30. 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.
31. 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.

32. 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.
33. 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.
34. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
35. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
36. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.
37. 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.

38. 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.
39. This Consent Order constitutes disciplinary action.
40. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
41. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against his license to engage in the practice of chiropractic:

CENSURE

42. Licensee is publicly censured for violating the Kansas Healing Arts Act.

EDUCATION

43. Licensee shall attend and successfully complete the continuing education course entitled Radiology Positioning and Procedures Training, by Dr. Steven J. Gould, D.C., D.A.C.B.R., at his own expense. Licensee shall provide proof of successful completion within thirty (30) days of completion of the course.
44. These hours shall be in addition to those hours required for renewal of licensure.
45. Within ten (10) days of the approval of the Consent Order, Licensee shall contact the Kansas Chiropractic Association at 785-233-0697 to enroll in the next

available Radiology Positioning and Procedures Training, by Dr. Steven J. Gould, D.C., D.A.C.B.R. Once enrolled, Licensee shall provide the Board written communication that advises the Board of Licensee's scheduled date of attendance to the above course.

46. Licensee shall travel to the location where the course is being held and complete the course as scheduled at his own expense.

MONITORING

47. Licensee does not currently perform x-rays on patients and refers any patients out to another provider to take x-rays when needed.

48. Licensee may not personally administer x-rays to patients unless he does the following:

- a. Provide the Board written notice of the intent to personally perform x-rays on patients thirty (30) days prior to performing any x-rays.
- b. Licensee agrees to have his patient x-rays reviewed for quality and appropriateness by Dr. Steven Gould, D.C., D.A.C.B.R. and to follow all recommendations of Dr. Gould.
- c. Within five (5) days of notifying the Board that Licensee will begin to personally take x-rays of patients, Licensee shall contact Dr. Gould to coordinate his review of Licensee's x-rays.
- d. For each x-ray taken by Licensee, Licensee shall document the reason for the x-ray in the patient chart and in a separate log to be maintained for each patient. Such log shall be on a form provided by Board staff to

Licensee. The log shall serve as a reference to determine all patients who received x-rays each month.

e. At the end of each month, Dr. Gould shall review all patient charts for every patient for whom Licensee took an x-ray of during that month. Dr. Gould shall then submit a monthly report to the Board which shall be due on the 30th day of the following month. For the month of February, the report shall be due on the 27th day. The report shall be on a form provided by Board staff and shall include the number of patient charts reviewed, a brief summary of Licensee's x-raying activity during the month and an opinion as to whether Licensee is performing his x-rays within the standard of care. Dr. Gould must immediately notify Board staff if he believes Licensee is taking x-rays in an inappropriate and dangerous manner that is placing his patients at risk of harm. Dr. Gould shall review Licensee's x-rays in the following manner:

- i. 100% of all patient x-rays taken by Licensee each month until Dr. Gould determines there is significant improvement.
- ii. Once Dr. Gould has determined there has been significant improvement in Licensee's x-ray taking technique; then, Dr. Gould will review 50% of all patient x-rays taken by Licensee each month until Dr. Gould determines there is further improvement.
- iii. Once Dr. Gould has determined there has been further improvement in Licensee's x-ray taking technique; then Dr. Gould will review 25% of all patient x-rays taken by Licensee each

month until Dr. Gould determines there is no further need to review Licensee's x-rays or for a total of twelve (12) months, whichever is longer.

- f. Licensee shall ensure Dr. Gould submits the written monthly evaluation of Licensee's patient x-rays he reviewed that month. The written report shall include, but is not limited to, information regarding whether Licensee is properly taking x-rays, any areas of needed improvement, and any recommendations for Licensee's practice.
- g. Licensee agrees to follow all recommendations of Dr. Gould and is responsible for ensuring timely submission of Dr. Gould's reports.
- h. Licensee shall bear all expenses associated with the review of his patient x-rays.
- i. The above monitoring provisions are not self-terminating. After a period of one (1) year from the initiation of monitoring, Licensee may request modification or termination of the provisions. 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 one (1) year timeframe.

49. All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Compliance Coordinator, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

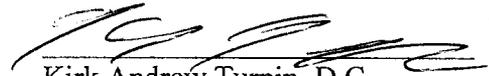
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 16 day of Aug, 2013.

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

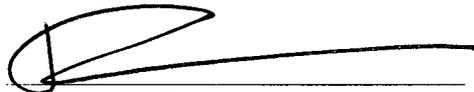

Kathleen Selzler Lippert
Executive Director

8/16/13
Date


Kirk Andrew Turpin, D.C.
Licensee

8-17-13
Date

PREPARED AND APPROVED BY:



Reese Hays, #22700
Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
785-296-0961

Consent Order
Kirk Andrew Turpin, D.C.

AGREED TO BY:

Roger W. Sleed

Roger W. Sleed # 13574
Attorney for Licensee
Horn, Aylward, & Bandy, LLC
2600 Grand Boulevard, Suite 1100
Kansas City, MO 64108
816-421-0700

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 19th day of August, 2013, to the following:

Kirk Andrew Turpin, D.C.
Licensee
CONFIDENTIAL
Wichita, KS 67206

Roger W. Slead
Attorney for Licensee
Horn, Aylward, & Bandy, LLC
2600 Grand Boulevard, Suite 1100
Kansas City, MO 64108
816-421-0700

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:

Reese Hays
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

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


Cathy A. Brown

Consent Order
Kirk Andrew Turpin, D.C.