

FILED

JUL 07 2020

KS State Board of Healing Arts

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

In the Matter of)
)
Timothy Warren, D.C.)
Kansas License No. 01-04242)
_____)

KSBHA Docket No. 19-HA00075

Journal Entry of Satisfaction

The Kansas State Board of Healing Arts ("Board"), by its Acting Executive Director, Tucker L. Poling, a duly authorized representative of the Board, in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, as amended, and upon due consideration of the agency record, the applicable statutes and regulations, and being otherwise duly advised in the premises, makes the following determinations:

1. On December 17, 2019, Timothy Warren, D.C., ("Licensee") entered into a Consent Order with the Board, imposing requirements therein.
2. Licensee has satisfactorily met all requirements of the Consent Order and has no further obligations for compliance with the Consent Order.

IT IS SO ORDERED.

Dated this 7th day of July 2020.

Journal Entry of Satisfaction
In the Matter of Timothy Warren, D.C.
KSBHA Docket No. 19-HA00075

KANSAS STATE BOARD OF HEALING ARTS



Tucker L. Poling, Acting Executive Director
Kansas State Board of Healing Arts

Journal Entry of Satisfaction
In the Matter of Timothy Warren, D.C.
KSBHA Docket No. 19-HA00075

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the above and foregoing **Journal Entry of Satisfaction**, by depositing the same in the United States mail, first class postage prepaid and emailed, on this 7th day of July 2020, addressed to:

Mackenzie M. Baxter
Dan D. Gribble, II
Hite, Fanning & Honeyman, L.L.P.
100 N. Broadway, Ste. 950
Wichita, Kansas 67202
baxter@hitefanning.com
gribble@hitefanning.com
Attorneys for Licensee

Timothy Warren, D.C.
CONFIDENTIAL

Licensee

And a copy hand delivered to:

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

And the original was filed with:

Tucker L. Poling, Acting Executive Director
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level - Suite A
Topeka, Kansas 66612



Jennifer Cook, Paralegal

Journal Entry of Satisfaction
In the Matter of Timothy Warren, D.C.
KSBHA Docket No. 19-HA00075

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
Timothy Warren, D.C.) Docket No. 19-HA00075
)
Kansas License No. 01-04242)

CONSENT ORDER

COMES NOW, Petitioner, the Kansas State Board of Healing Arts (“Board”), by and through M. Katie Baylie, Associate Litigation Counsel, and Timothy Warren, D.C. (“Licensee”), by and through his attorneys, Don D. Gribble and Mackenzie M. Baxter of Hite, Fanning & Honeyman, LLP (collectively, the “Parties”), 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: **CONFIDENTIAL**

CONFIDENTIAL

2. Licensee is entitled to practice chiropractic in Kansas, having been issued License No. 01-04242 on approximately August 13, 1994. Licensee’s license is currently Active.

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

6. A Protective Order is hereby entered to protect all confidential information under 42 CFR Part II, K.S.A. 65-2898a, and K.S.A. 65-4925.

7. 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.

8. 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.

9. This Consent Order incorporates herein by reference the facts as stated in the Petition filed on April 3, 2019. (*See Agency Record, Petition, In the Matter of Timothy Warren, D.C., KSBHA Docket No. 19-HA00075*).

10. Licensee is a chiropractor based in Wichita, Kansas who graduated with honors from Cleveland Chiropractic College-Kansas City campus in 1993.

11. Licensee is the sole owner of Titan Medical Center located at 1415 W. 31st, Wichita, Kansas 67217.

12. The Consent Order resolves a complaint which was opened based on a Groupon Advertisement involving Body by Design Laser Lipo services (“Laser Lipo”) with Infrared Sauna or Body Wrap. The Laser Lipo services used a Non-invasive Semiconductor Laser System, Mode:KM-L-U100 (a low-intensity laser emitting wavelengths between 635-660nm) for fat reduction purposes. These services were continued after the enactment of KSBHA Board Policy 13-01. Licensee advertised that the procedure was performed by himself, Dr. Grammar, or trained staff. Licensee advertised the mechanism for fat reduction and that the procedure could be performed without pain associated with the procedure.

13. Licensee did not fully cooperate with the Board’s investigation. On or about February 21, 2019, a Board Investigator sent a letter to Licensee requesting additional information regarding the Laser Lipo unit. Licensee failed to respond to the Board’s request for information.

14. Licensee has agreed to stop offering and providing use of the Laser Lipo services.

15. Licensee acknowledges that if formal hearing proceedings were conducted, 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 and incorporated Petition in any further proceeding before this Board.

16. The Board has received information and investigated the same, and has reason to believe there may be grounds under K.S.A. 65-2836(b), K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(1), K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(8), K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), K.S.A. 65-2836(d), K.S.A. 65-2836(r), and K.S.A. 65-2836(k), as further defined by K.A.R. 100-27-1 to take action on Licensee’s license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*

17. The aforesaid acts, if proven, violated K.S.A. 65-2836(b) in that Licensee committed an act or acts of unprofessional and/or dishonorable conduct, in that Licensee failed to respond to the February 21, 2019, Board request for information.
18. The aforesaid acts, if proven, violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(1), in that Licensee solicited professional patronage through the use of fraudulent or false advertisements.
19. The aforesaid acts, if proven, violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(8), in that Licensee advertised to guarantee any professional service or to perform any operation painlessly.
20. The aforesaid acts, if proven, violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(12), in that Licensee committed conduct likely to deceive, defraud, or harm the public.
21. The aforesaid acts, if proven, violated K.S.A. 65-2836(d), in that Licensee used fraudulent or false advertisements when advertising his Laser Lipo procedures to patients.
22. The aforesaid acts, if proven, violated K.S.A. 65-2836(k), in that Licensee has violated any lawful rule and regulation promulgated by the Board or violated any lawful order or directive of the Board previously entered by the Board, as further defined in K.A.R. 100-27-1.
23. The aforesaid acts, if proven, violated K.S.A. 65-2836(r), in that Licensee failed to furnish to the board, or its investigators or representatives, any information legally requested by the board when he failed to respond to the Board Investigator's letter requesting information, dated February 21, 2019.
24. Under K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license, and under 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 Investigative Case Number 18-00653 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 34 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 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.*

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 arising out of KSBHA Investigation Number 18-00653, 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 investigations 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, arising out of KSBHA Investigation Number 18-00653, 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 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 he has read this Consent Order and fully understands the contents.

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

36. 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.

37. 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.

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

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

40. 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:

PUBLIC CENSURE

41. Licensee is hereby issued a **public censure** for violation of the Kansas Healing Arts Act.

FINE

42. Licensee is hereby ordered to pay a FINE in the amount of **ONE THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS, (\$1,500.00)** for violations of the Kansas Healing Arts Act.

43. Such fine shall be paid in full, to the Board on or before **May 15, 2020**, in the form of a Cashier's Check or Money Order to the "Kansas State Board of Healing Arts."

44. All monetary payments to the Board relating to this Consent Order shall be mailed to the Board by certified mail addressed to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level – Suite A
Topeka, Kansas 66612

EDUCATION: ETHICS COURSE

45. Licensee shall enter into, complete, and pass all five (5) topic areas of the Essay Examination, put on by Ethics and Boundaries Assessment Services, LLC ("EBAS"), on or before **May 15, 2020**, unless otherwise approved by the Disciplinary Panel.

46. On or about February 14, 2020, Licensee shall notify the Compliance Coordinator in writing of the exam date Licensee has registered to attend.

47. All costs associated with such exam and/or course shall be at Licensee's own expense to include, but not be limited to, the cost of the exam, the cost of travel to and from the exam, and the cost of accommodations while attending the exam.

48. Any continuing education offered for successful completion of the EBAS Essay Examination shall be in addition to those continuing education hours required for renewal of licensure.

49. The score report of any and all examination attempts by Licensee, regardless of Licensee receiving a passing or failing score, shall be provided to the Board by Licensee within ten (10) business days of Licensee receiving the test result. The result shall be sent to:

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

EDUCATION: RECORD KEEPING COURSE

50. Licensee shall attend in person and successfully complete the “Got Documentation?” seminar put on by Dr. Gregg Friedman, D.C. on or before **May 15, 2020**, unless otherwise approved by the Board. Scheduling of said seminar may be found at:

<http://www.gotdocumentation.com/Seminars.html>

51. Licensee shall provide proof of successful completion of the “Got Documentation?” seminar to the Compliance Coordinator within thirty (30) days of successfully completing the program.

52. All costs associated with the above shall be at Licensee’s own expense to include, but not limited to, the cost of the course(s)/program(s), the cost of travel to and from the course(s)/program(s), and the cost of accommodations while attending the course(s)/program(s). These hours shall be in addition to those continuing education hours required for renewal of licensure.

53. Proof of successful completion of the approved seminar shall be submitted by sending the same to:

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

KSBHA_ComplianceCoordinator@ks.gov

EDUCATION: ETHICAL ADVERTISING COURSE

54. Licensee shall attend and successfully complete a total of eight (8) hours of board approved continuing education with an emphasis in ethical advertising.
55. On or before **May 15, 2020**, Licensee must propose a course(s) that will be reviewed and subject to approval by the appointed Disciplinary Panel member prior to taking the course(s).
56. On or before **May 15, 2020**, Licensee shall notify the Compliance Coordinator in writing, that Licensee has registered to attend the approved course(s) pertaining to ethical advertising.
57. Licensee shall attend and successfully complete the course(s) pertaining to ethical advertising by no later than **May 15, 2020**.
58. Licensee shall provide proof of successful completion of the course(s) to the Compliance Coordinator within thirty (30) days following completion of the course(s).
59. All costs associated with the course(s) shall be at Licensee's expense, and include, but are not limited to, the cost of the course(s), the cost of travel to and from the course(s), and the cost of accommodations while attending the course(s).
60. These hours shall be in addition to those continuing education hours required for renewal of licensure.
61. Proof of successful completion of the approved course(s) shall be submitted by sending the same to:

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

ADVERTISING CHANGES

62. Licensee agrees and shall remove all advertising for Laser Lipo services and “Body by Design Lipo” for his practice and within his control from the internet. This includes the Groupon advertisements and Titan Medical Center website advertisements.

63. Such removal shall occur within 30 days of approval of the Consent Order, unless otherwise requested and approved.

64. Licensee shall provide written confirmation and/or proof of his advertising changes by sending the information to:

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

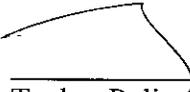
TIMEFRAME

66. This Consent Order is self-terminating. Once Licensee has successfully completed all of the previously mentioned conditions, a Journal Entry shall be entered terminating the Consent Order.

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 17th day of December, 2019.

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



Tucker Poling
Interim Executive Director

12/13/19

Date



Timothy Warren, D.C.
Licensee

12-13-19

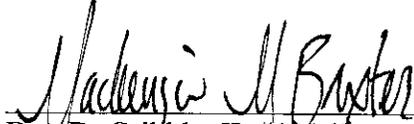
Date

PREPARED AND APPROVED BY:



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APPROVED BY:



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Fax: 316-267-7803
gribble@hitefanning.com
baxter@hitefanning.com
Attorneys for Licensee

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 17th day of November, 2019, to the following:

Mackenzie M. Baxter
Don D. Gribble, II
Hite, Fanning & Honeyman, L.L.P.
100 N. Broadway, Ste. 950
Wichita, KS 67202
Attorneys for Licensee

Timothy Warren, D.C.
CONFIDENTIAL

Licensee

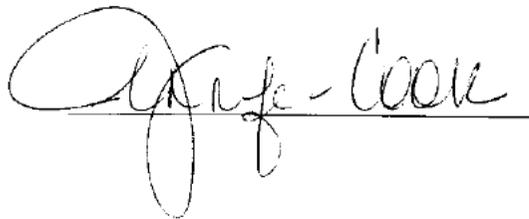
And the original was hand-filed with:

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

And a copy was hand-delivered to:

M. Katie Baylie
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



George Cook