

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED 

MAR 03 2008

KS State Board of Healing Arts

In the Matter of)
THOMAS C. WEAVER, DC)
)
Kansas License No. 01-04717)
_____)

Docket No. 08-HA00017

FINAL ORDER

NOW ON THIS 23rd day of February, 2008, this matter comes on for review of Initial Order. Thomas C. Weaver, D.C. (“Licensee”) appears in person and by counsel, Ronald P. Pope, Topeka, Kansas. The Kansas State Board of Healing Arts (“Board”) appears by and through Kathleen Selzler Lippert, Associate Counsel.

Having the agency record before it, hearing the arguments of counsel, and being otherwise duly advised in the premises, the Board finds and concludes as follows:

1. On June 29, 2007, a Petition was filed in this matter praying that the Board make findings of fact and conclusions of law that Licensee violated the Kansas Healing Arts Act.
2. On October 3, 2007, an Initial Order issued by Presiding Officer Ray N. Conley, D.C. was filed.
3. On October 24, 2007, following review of the Initial Order by the Board as a whole, a Final Order Remanding for Further Proceedings was filed and directed that the matter be remanded to the Presiding Officer for further proceedings to make additional findings consistent with additional facts that were not available at the time the Initial Order was issued.
4. On November 6, 2007, a First Amended Petition was filed.

5. On January 18, 2008, counsel for both parties filed a joint Motion to Adopt Consent Order which was attached to the motion as the Initial Order.

6. By Initial Order filed January 30, 2008, Dr. Conley, as the Presiding Officer, approved and adopted the Consent Order as the Board's Initial Order and caused same to be filed in the official agency record in the above-captioned matter.

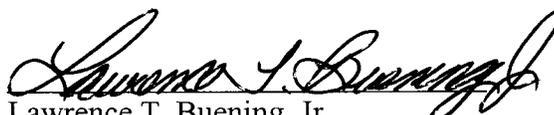
5. The Board now approves and adopts the Consent Order which is attached hereto and marked as "Attachment 1, in its entirety and without modification as the Final Order of the Board.

IT IS, THEREFORE, ORDERED that the Consent Order attached hereto as Attachment 1 is approved as the Final Order of the Board.

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 the Board's Executive Director at 235 SW. Topeka Blvd., Topeka, KS 66603.

DATED this 3rd day of March, 2008.

Kansas State Board of Healing Arts


Lawrence T. Buening, Jr.
Executive Director

Certificate of Service

I certify that a true copy of the foregoing Final Order was served this 4th day of March, 2008, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Thomas C. Weaver, D.C.
1531 Main, #B
Parsons, KS 67537

and

Ronald P. Pope
Ralston, Pope & Diehl, LLC
2913 SW Maupin Lane
Topeka, KS 66614

and a copy was hand-delivered to the office of

Kathleen Selzler Lippert
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Blvd.
Topeka, KS 66603

and the original was filed with the office of the Executive Director.



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

In the Matter of)	
)	Docket No. 08-HA-17
Thomas C. Weaver, D.C.)	
Kansas License No. 01-04717)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Kathleen Selzler Lippert, Associate Counsel (“Petitioner”), and Thomas C. Weaver, D.C. (“Licensee”), by and through Ronald P. Pope, 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: 1531 Main Suite B, Parsons, Kansas 67357.
2. Licensee is or has been entitled to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-04717 on approximately April 28, 2001. Licensee’s license is 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. 65-2838. Upon approval, these stipulations shall constitute

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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.
6. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
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. The Board has received information and investigated the same, and has reason to believe that Licensee has not complied with the requirements of his Consent Order in KBHA Docket No. 07-HA-25. Specifically, Licensee failed to provide

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monthly billing audit reports, monthly chart monitoring reports and failed to obtain the one-day individualized training as ordered.

10. Licensee made representations to the Presiding Officer and / or the Board regarding his compliance with his Consent Order. Licensee's representations to the tribunal and Board lacked candor.
11. 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 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.
12. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2836, as follows:
 - a. Licensee violated K.S.A. 65-2836(k), in that Licensee violated lawful rule(s) and regulations(s) promulgated by the Board or violated any lawful order(s) or directive(s) of the Board previously entered by the Board.
 - b. Licensee violated K.S.A. 65-2836(b), in that Licensee committed an act of unprofessional or dishonorable conduct in his representations to the tribunal and Board.
13. Pursuant to K.S.A. 65-2836 the Board has grounds to deny, revoke, suspend, limit, or censure Licensee's license.

14. According 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.
15. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action and limitations on his license to engage in the practice of chiropractic:

CENSURE

- a. Licensee is publicly censured for violating the Healing Arts Act.

SUSPENSION

- b. Licensee's license shall be suspended; however, the suspension of the license of Thomas C. Weaver, D.C. shall be stayed and continue to be stayed if he remains compliant with billing audit reports, chart monitoring reports and educational requirements as previously ordered.
- c. The Board may remove the stay of suspension upon notice and a finding that Licensee has failed to abide by Board Orders.

EDUCATION

- d. Licensee shall complete the one-day individualized billing education / training as previously ordered. The one-day training shall be completed by April 1, 2008. Further, Affiliated Monitors Inc. (AMI) or another as preapproved by the Presiding Officer and submitted by the Board is authorized to provide the one-day billing education.
- e. Licensee shall attend and successful complete a continuing education course for ethics. Licensee shall enroll in and successfully complete

Ethical Issues in Chiropractic Practice, a twelve (12) hour online educational program sponsored by Palmer College of Chiropractic.

- f. Licensee shall provide proof of successful completion by April 1, 2008.

LIMITATIONS

- g. Licensee shall not practice chiropractic unless he complies with the billing audit and chart monitoring of 25 charts each month, and all educational requirements as set forth in this Consent Order or as previously ordered.
- h. The billing audit and chart monitoring will be performed by AMI or another as pre-approved by the Presiding Officer.
- i. The monthly billing audit and chart monitoring shall begin for January 2008 records.
- j. Licensee is responsible for ensuring that the monitor's reports are submitted by the deadlines.
- k. All educational requirements, monthly billing auditing, and chart monitoring required by this Consent Order shall be at Licensee's own expense.
- l. All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Complaint Coordinator, 235 S.W. Topeka Blvd., Topeka, Kansas 66603-3068.

MONITORING AND LIMITATION TIMEFRAME

- m. The above monitoring provisions and limitations are not self-terminating. After a period of one (1) year, 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 and limitations will remain in effect but will be tolled and not counted towards reducing the one (1) year timeframe.

16. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Healing Arts Act.
17. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Healing Arts Act, or to investigate complaints received under the Risk Management Law, K.S.A. 64-4921 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 Healing Arts Act.
18. 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 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 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.

19. 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, CIN-BAD, and any other reporting entities authorized to receive disclosure of the Consent Order.
20. 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.
21. 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.
22. 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.

23. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
24. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
25. 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: Kathleen Selzler Lippert, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
26. 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.
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. This Consent Order constitutes disciplinary action.
29. 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:

CENSURE

- a. Licensee is publicly censured for violating the Healing Arts Act.

SUSPENSION

- b. Licensee's license shall be suspended; however, the suspension of the license of Thomas C. Weaver, D.C. shall be stayed and continue to be stayed if he remains compliant with billing audit reports, chart monitoring reports and educational requirements as previously ordered.
- c. The Board may remove the stay of suspension upon notice and a finding that Licensee has failed to abide by Board Orders.

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- j. Licensee is responsible for ensuring that the monitor's reports are submitted by the deadlines.
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- m. The above monitoring provisions and limitations are not self-terminating. After a period of one (1) year, 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 and limitations will remain in effect but will be tolled and not counted towards reducing the one (1) year timeframe.

IT IS SO ORDERED on this ___ day of February, 2008.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

Lawrence T. Buening, Jr.
Executive Director

Date

Thomas C. Weaver
Thomas C. Weaver, D.C.
Licensee

1-22-08
Date

PREPARED AND APPROVED BY:

Kathleen Selzer Lippert
Kathleen Selzer Lippert #17957

Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961

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APPROVED BY:

Ronald P. Pope, #
Ralston, Pope & Diehl, LLC
2913 S.W. Maupin Lane
Topeka, Kansas 66614

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 ____ day of February, 2008, to the following:

Thomas C. Weaver, D.C.
Licensee
1531 Main Suite B,
Parsons, Kansas 67357

Ronald P. Pope
Ralston, Pope & Diehl, LLC
2913 S.W. Maupin Lane
Topeka, Kansas 66614

And the original was hand-filed with:

Lawrence T. Buening, Jr.
Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Kathleen Selzler Lippert #17957
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

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