

**FILED**

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OCT 14 2010

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

**KS State Board of Healing Arts**

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

Docket No. 11-HA *00042*

**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts, (“Board”), by and through Janith A. Lewis, Associate Litigation Counsel (“Petitioner”), and Thomas C. Weaver, D.C. (“Licensee”), by and through his counsel, Thomas B. Diehl, and move the Board for approval of a Consent Order as a condition to reinstatement of 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)  
Altamont, Kansas 67330. This is Licensee’s current mailing and residential address.
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.
3. On May 14, 2009, the Board issued a Final Order suspending Licensee’s license for failure to abide by the terms of the Consent Order between Licensee and the Board in KSBHA Docket No. 08-HA00017. On June 5, 2009, Licensee filed a Petition for Reconsideration of the Final Order, requesting the Board stay the suspension of his license. The Board denied Licensee’s petition for

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reconsideration by Final Order issued on June 16, 2009. Thereafter, on June 11, 2009, Licensee filed a timely Petition for Judicial Review in Shawnee County, Kansas District Court.

4. While the District Court's review of the Board's action was pending, Licensee's license was cancelled for failure to renew in accordance with K.S.A. 65-2809(d). On June 11, 2010, Licensee filed an Application for Reinstatement of his license to practice chiropractic.
5. On June 25, 2010, the Court heard oral arguments on the Petition for Judicial Review and on August 17, 2010, the Court issued an Order vacating the Board's suspension of Licensee's license. The Court found that the Board had not provided notice and opportunity for a hearing prior to taking action against Licensee. The Court remanded the matter to the Board.
6. 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.
7. 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.
8. 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.

9. 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.
10. 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.
11. The Board has received information, investigated the same, and has reason to believe there are grounds pursuant to K.S.A. 65-2836, to take action with respect to Licensee's license under the Healing Arts Act, K.S.A. 65-2801, *et seq.*
12. Licensee violated K.S.A. 65-2836(k), in that Licensee violated any lawful rule and/or regulation promulgated by the Board or violated any lawful order or directive of the board previously entered by the Board. Specifically, Licensee failed to abide by the terms and conditions of the Consent Order in KSBHA Docket No. 08-HA00017.
13. Licensee waives his right to dispute or otherwise contest the allegations contained in the above paragraph in any further proceeding before this Board.

14. Pursuant to K.S.A. 65-2836 the Board has grounds to deny, revoke, suspend, limit, or censure Licensee's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Healing Arts Act.
15. 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.
16. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 21 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
17. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following non-disciplinary provisions as a condition to his license being reinstated to practice chiropractic:

**EDUCATION**

- a. Licensee shall attend and successfully complete a continuing education course for billing and a course for recordkeeping. These courses must be pre-approved by the Board or its designee. The courses will be at the Licensee's expense. Licensee shall provide proof of successful completion of the approved billing and recordkeeping courses prior to reinstatement of his license.
- b. Licensee shall attend and successfully complete a continuing education course for ethics. This course must be pre-approved by the Board or its designee. The course will be at the Licensee's expense. Licensee shall

provide proof of successful completion of the approved ethics course prior to reinstatement of his license.

- c. These continuing education hours shall be in addition to those hours ordinarily required for reinstatement and/or renewal of licensure.

### **MONITORING**

- d. Beginning with the first month in which Licensee is actively practicing chiropractic, Licensee agrees to submit 25 patient charts/records each month to Steven Buck, D.C. for review to ensure that proper medical documentation and appropriate billing codes are being utilized.
- e. Licensee shall provide a list of all patients seen by him monthly to Dr. Buck and Dr. Buck will randomly select the 25 charts for review from this list.
- f. If Licensee has less than 25 patients in any given month, Licensee shall submit 100% of his patient charts/records for that month to Dr. Buck for review.
- g. Licensee shall follow all documentation and/or billing recommendations made by Dr. Buck.
- h. Dr. Buck shall submit a quarterly report to the Board, due on the 15<sup>th</sup> of the respective month, detailing his review of Licensee's charts for the preceding three (3) month period.
- i. Licensee is responsible for ensuring that the monitor's reports are submitted to the Board by the deadlines.

- j. Any costs associated with Dr. Buck's review of Licensee's charts shall be at the Licensee's expense.
- k. All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

#### **MONITORING TIMEFRAME**

- l. The above monitoring provision is not self-terminating. After a period of one (1) year, Licensee may request 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.
18. Licensee's failure to comply with the provisions of this Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, and Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*
19. 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.
20. 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.

21. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.
22. 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.
23. 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.

24. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
25. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
26. 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: Janith A. Lewis, Associate Litigation Counsel, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
27. 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.
28. 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.
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:

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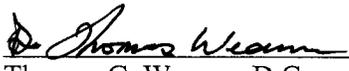
**IT IS FURTHER ORDERED** that upon meeting all technical requirements for reinstatement of licensure and meeting the conditions in paragraphs 17a, 17b and 17c, Licensee's license shall be reinstated.

**IT IS SO ORDERED** on this 13<sup>th</sup> day of October, 2010.

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

  
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ON BEHALF OF MRS. SELZLER  
Kathleen Selzler Lippert  
Executive Director  
LIPPERT

10/13/10  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Thomas C. Weaver, D.C.  
Licensee

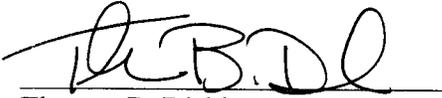
10-07-2010  
\_\_\_\_\_  
Date

PREPARED AND APPROVED BY:



Janith A. Lewis, #18115  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068  
785-368-7257

AGREED TO BY:



Thomas B. Diehl #231666  
Attorney for Licensee  
Ralston, Pope & Diehl, L.L.C.  
2913 SW Maupin Lane  
Topeka, Kansas 66614  
(785) 273-8002

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the above Consent Order by United States mail, postage prepaid, on this 14<sup>th</sup> day of October 2010, to the following:

Thomas C. Weaver, D.C.  
(confidential)  
Altamont, Kansas 67330

Thomas B. Diehl  
Ralston, Pope & Diehl, L.L.C.  
2913 SW Maupin Lane  
Topeka, Kansas 66614

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

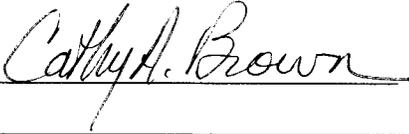
Kathleen Selzler Lippert  
Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

And copies were hand-delivered to:

Katy Lenahan  
Licensing Administrator  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

Melissa Massey  
Compliance Coordinator  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

Janith A. Lewis  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

  
\_\_\_\_\_

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