

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

**In the Matter of
Charles Weintz, D.O.
License No. 05-31005**

FILED
JUL 09 2010
KS State Board of Healing Arts

Docket No. 10-HA00114

FINAL ORDER
(Pursuant to K.S.A. 77-501 et seq.)

Pursuant to the authority granted to the Kansas State Board of Healing Arts ("Board) by K.S.A. 65-2801 et seq. and in accordance with the provisions of the Kansas Administrative Procedure Act K.S.A. 77-501 et seq., the Board hereby enters this Final Order in the above-captioned matter. Members of the Board serving on the Disciplinary Panel for this matter were recused from participation.

I. Findings of Fact

The Board has been shown the following facts:

1. Dr. Charles Howard Weintz, D.O. ("Licensee"), 1307 Washington Circle, Hays, Kansas 67601, is actively licensed to practice osteopathic surgery and medicine in the State of Kansas, License No. 05-31005, and has been so licensed since October 16, 2004.
2. On or about February 26, 2010, Licensee's license was suspended by the Board pursuant to an Ex Parte Emergency Order of Suspension issued by Dr. Carolina Soria, D.O. acting as Hearing Officer on behalf of the Board.

3. (confidential)
(confidential) Licensee's license was suspended pending a formal hearing held on June 21, 2010, before the Office of Administrative Hearings.

4.

(confidential)

5. On April 12,2010, Licensee filed a Motion to Set Aside the Ex Parte Emergency Order of Suspension and reinstate the License Pending the Formal Hearing.

6. On June 9, 2010, the Licensee's Motion was denied by Presiding Officer Tracy Diel.

7.

(confidential)

8. On June 17,2010, Licensee and the Petitioner negotiated a Consent Order.

9. On June 24,2010, Licensee and the Petitioner filed a Joint Motion for Initial Order Lifting Emergency Suspension. The Joint Motion requested the Presiding Officer issue an Initial Order lifting the emergency suspension pursuant to the terms of the settlement agreement contained within the Consent Order.

10. On June 30, 2010, the Presiding Officer issued an Initial Order stating the parties had negotiated a Consent Order and incorporating the complete terms of the Consent Order into the Initial Order by reference as if they were fully set forth within the Initial Order.

11. The Presiding Officer ordered the terms and conditions of the Consent Order shall apply to the Licensee and the Board for the agreed upon term.

II. Applicable Law

The applicable law includes, but is not limited to the following:

K.S.A. 65-2801 states:

Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

K.S.A. 65-2836 states, in pertinent part:

A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

- (i) The licensee has the inability to practice the healing arts with reasonable skill and safety to patients by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances..."
- (s) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility, a governmental agency or department or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

K.S.A. 65-2838 states, in pertinent part:

- (a) The board shall have jurisdiction of proceedings to take disciplinary action authorized by K.S.A. 65-2836 and amendments thereto against any licensee practicing under this act. Any such action shall be taken in accordance with the provisions of the Kansas administrative procedure act.

K.S.A. 77-505 states, in pertinent part:

Nothing in the Kansas administrative procedure act shall preclude parties from settling a matter at any time. In addition, nothing in the Kansas administrative procedure act shall preclude use of alternative dispute resolution, with consent of the agency and all parties.

III. Public Policy Statement

The public policy of regulating the practice of healing arts in the State of Kansas is set forth in K.S.A. 65-2801:

Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by persons licensed to practice under this act.

IV. Conclusions of Law

Based upon the Findings of Fact enumerated in Paragraphs #1 through #11, the Applicable Law and the Public Policy Statement set forth above:

THE BOARD HEREBY CONCLUDES AS FOLLOWS:

12. The terms of the Consent Order were incorporated by reference, in their entirety, into the Initial Order issued by the Presiding Officer.
13. The Consent Order and the terms contained therein, as incorporated into the Initial Order, is hereby incorporated into this Final Order in its entirety, by reference, as if they were fully set forth herein.
14. The terms of the Consent Order properly protect the public from unprofessional, improper, unauthorized and unqualified practice of the healing arts and from unprofessional conduct by the Licensee.

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

- 15 The Initial Order ~~is~~ hereby **ADOPTED** as the Final Order in this matter pursuant to the terms of the Initial Order and Consent Order
- 16 Pursuant to the herein adopted Initial Order, the emergency suspension of Licensee's license is hereby **TERMINATED**
- 17 The Board shall maintain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

IT IS SO ORDERED THIS 9 DAY OF July, 2010, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

Dr. Carolina Soria, D.O.
Hearing Officer
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.

CERTIFICATE OF SERVICE

I, hereby certify that a true copy of the foregoing Final Order was served this 9th day of July 2010 by depositing the same in the United States Mail, first-class postage prepaid and addressed to:

Patricia M. Dengler
Attorney at Law
Two Brittany Place
1938 N. Woodlawn
Wichita, KS 67208

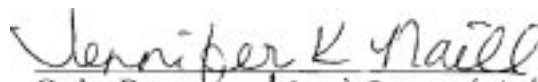
Charles Weintz, D.O.
1307 Washington Circle
L-lays, Kansas 67601

And a copy was hand delivered to the office of:

Lori D. Dougherty
Associate Litigation Counsel
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, Kansas 66603

The original filed with:

Kathleen Selzler Lippert, Executive Director
Kansas State Board of Healing Arts
235 SW Topeka Blvd.
Topeka, KS 66603


~~Cathy Brown~~ Jennifer K. Nail
Executive Assistant Legal Assistant

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED
JUL 27 2011
KCS State Board of Healing Arts
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In the Matter of

CHARLES HOWARD WEINTZ, D.O.
Kansas License No. 05-31005

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Docket No.: 10-HA00114

CONSENT ORDER

COMES NOW the Kansas State Board of Healing Arts, ("Board"), by and through Lori D. Dougherty, Associate Litigation Counsel ("Petitioner"), and Charles H. Weintz, D.O., ("Licensee"), by and through his counsel, Patricia Dengler of Brown, Dengler & O'Brien, L.L.C., and move the Board for approval of a Consent Order affecting Licensee's license to practice osteopathic medicine and surgery in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is 2509 Canterbury Drive, Hays, Kansas 67601.
2. Licensee is or has been entitled to engage in the practice of medicine and surgery in the State of Kansas, having been issued License No. 05-31005 on approximately October 16, 2004, and having last renewed such license on approximately September 9, 2009.
3. On February 26, 2010, a Petition was filed with the Board *In the Matter of Charles Howard Weintz, D.O., Kansas License No. 05-31005*. Additionally, a Motion for Emergency *Ex Parte* Suspension was filed with the Board on this same date.
4. On February 26, 2010, Dr. Carolina Soria, D.O. was appointed as Presiding Officer and entered an Order for Emergency *Ex Parte* Suspension.

5. Licensee's license is currently suspended under the February 26, 2010 Order of Emergency *Ex Parte* Suspension.
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 osteopathic medicine and surgery. K.S.A. 65-2801 *et seq.* and K.S.A. 65-2869.
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 that there are be grounds (confidential) to take action with respect to Licensee's license under the Healing Arts Act, K.S.A. 65-2801, *et seq.*

12.

(confidential)

14.

15. At the time of this incident, Licensee was employed by Hays Medical Center, Inc. and practiced at Hays Medical Group/Hays Family Medicine. He had been employed since July 2006. Licensee had hospital privileges at Hays Medical Center.

16. Licensee was notified on February 24, 2010, that his employment and privileges at Hays Medical Center were suspended (confidential) Licensee was notified on March 1, 2010, that his employment contract was terminated effective May 30, 2010. Licensee voluntarily surrendered his hospital privileges at Hays Medical Center on March 2, 2010.

17.

18.

(confidential)

19.

Licensee admits that his actions on that day were in violation of the Kansas Healing Arts Act, (confidential) .

20. 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 Petition in any further proceeding before this Board.

21. A protective order is hereby entered to protect all confidential information under (confidential) (confidential) , 65-2839a(d), and K.S.A. 65-2898a.

22. Licensee has violated K.S.A. 65-2836(i), to wit: On or about February 24, 2010, Licensee had an inability to practice the healing arts with reasonable skill and safety (confidential) (confidential) and is in violation of the Kansas Healing Arts Act.

23. Licensee has violated K.S.A. 65-2836(s), to wit: On or about February 24, 2010, Licensee had disciplinary action taken against the licensee by a peer review committee

and health care facility acts for conduct similar to acts or conduct which would constitute grounds for disciplinary action under the Kansas Healing Arts Act.

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 Healing Arts Act.

25. 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.

26. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 24 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

27. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following nondisciplinary action with respect to his license to engage in the practice of osteopathic medicine and surgery.

MONITORING

a.

(confidential)

b.

c.

d.

(confidential)

e.

f.

(confidential)

g.

h. Licensee shall immediately notify the Board or its designee of any citation, arrest or charge filed against him or of any conviction for traffic or criminal offenses.

i. Licensee shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.

j.

(confidential)

MONITORING TIMEFRAME

- k. The above monitoring provisions are not self-terminating. After a period of five (5) years, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing osteopathic medicine and surgery in Kansas, the monitoring provisions will remain in effect but will be tolled and not counted towards reducing the five (5) year timeframe.
28. 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.
29. 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.
30. 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.

31. 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.
32. 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.
33. 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.
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, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
37. Licensee shall obey all federal, state and local laws and rules governing the practice of osteopathic medicine and surgery 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. 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 the emergency suspension of Licensee's license is hereby terminated.

IT IS FURTHER ORDERED that:

MONITORING

a.

(confidential)

b.

c.

d.

(confidential)

e.

f.

g.

(confidential)

h. Licensee shall immediately notify the Board or its designee of any citation, arrest or charge filed against him or of any conviction for traffic or criminal offenses.

i. Licensee shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.

j.

(confidential)

MONITORING TIMEFRAME

k. The above monitoring provisions are not self-terminating. After a period of five (5) years, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing osteopathic

medicine and surgery in Kansas, the monitoring provisions will remain in effect but will be tolled and not counted towards reducing the five (5) year timeframe.

IT IS SO ORDERED on this 17th day of July, 2010.

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

DE. CAROLINA M. SORIA, D.O., MS
DE. CAROLINA M. SORIA, D.O., MS
PRESIDING OFFICER

7-17-10
Date

Charles Howard Weintz
Charles Howard Weintz, D.O.
Licensee

6-17-10
Date

PREPARED AND APPROVED BY:

Lori D. Dougherty
Lori D. Dougherty #22696
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-368-8212

AGREED TO BY:

Patricia Dengler
Patricia Dengler #11033
Attorney for Licensee
Brown, Dengler & O'Brien, LLC
Two Brittany Place
1938 N. Woodlawn, Suite 405
Wichita, KS 67208
316-260-9720

CERTIFICATE OF SERVICE

I, Jennifer Naill, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 9th day of July, 2010, to the following:

Charles Howard Weintz, D.O.
Licensee
1307 Washington Circle
Hays, Kansas 67601

Patricia Dengler #11033
Attorney for Licensee
Brown, Dengler & O'Brien, LLC
Two Brittany Place
1938 N. Woodlawn, Suite 405
Wichita, KS 67208
Telephone 316-260-9720

And the original was hand-filed with:

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

And a copy was hand-delivered to:

Lori D. Dougherty
Associate Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Melissa Massey
Compliance Coordinator
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Jennifer K. Naill