

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED

JUN 12 1992

IN THE MATTER

OF

DAVID L. WHARRAN, D.C.
Kansas License No. 3715

KANSAS STATE BOARD OF
HEALING ARTS

Case No. 92-00226

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (Board), and David L. Wharran, D.C., (Licensee) and stipulate and agree as follows:

1. The Board is the sole and exclusive regulatory agency in the State of Kansas regarding the practice of the healing arts, specifically the practice of chiropractic.

2. Licensee is currently licensed in the State of Kansas authorized to engage in the practice of chiropractic, haveing been issued License No. 3715, issued July 10, 1984.

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4. The Board has jurisdiction pursuant to K.S.A. 1991 Supp. 65-2838(a) to impose appropriate discipline if Licensee has violated any lawful Order of the Board or has committed an act in violation of the Healing Arts Act, confidential and for the jurisdiction reasons set forth in paragraph 3 above. Under the provisions of K.S.A. 1991 Supp. 65-2838(b), the Board has the authority to enter into this STIPULATION AND AGREEMENT and ENFORCEMENT ORDER.

5. It is the intent and purpose of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER to provide for settlement of all issues without the necessity of proceeding to a formal disciplinary hearing. The terms and conditions of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER are entered into between the undersigned parties and is submitted for the purpose of allowing those terms and conditions to become an Order of the Board.

This STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER shall not become binding on the Board until an authorized signature is affixed on the last page of this document. Upon signature by Licensee to this document it shall be deemed a unilateral contract and agreement and shall bind Licensee to all terms and conditions set forth in the STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER whether or not the Board signature is affixed to the document. Licensee acknowledges that counsel for the Board is not authorized to sign for nor bind the Board.

6. In consideration of the conditions, terms, covenants and promises contained herein, the parties agree as follows:

a. The Board is the duly authorized administrative agency in the State of Kansas with appropriate statutory authority to regulate the practice of the healing arts to include the practice of chiropractic.

b. Licensee admits that the form of the STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER and the filing of such document are in accordance with the requirements of law; that the Board has jurisdiction to consider the STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER and is lawfully constituted to consider this matter to include consideration of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER.

Licensee further acknowledges that the Kansas Healing Arts Act as set forth in the statute and as recited in the STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER is constitutional on its face and as applied in this case.

Licensee further acknowledges that the Board, acting in this matter, is not acting beyond the jurisdiction referred to it by any provision of law.

Licensee further acknowledges that the Board will decide the issue regarding resolution of this matter and acceptance of this STIPULATION AND AGREEMENT AND

ENFORCEMENT ORDER as it relates to the Kansas Healing Arts Act.

c. In lieu of presenting the investigative data to the Board, David L. Wharran, D.C. stipulates and agrees as follows:

i. There will be no findings as to the underlying allegations and there will be no admission of violation or liability on the part of David L. Wharran, D.C.

ii. Dr. Wharran shall, on or before May 4, 1992 voluntarily surrender his license to engage in the practice of chiropractic.

iii. Surrender of said license is made during a disciplinary investigation. Such surrender of Licensee's license will be treated as a surrender during a pending disciplinary investigation and for reporting purposes to any state or national medical federation, clearing house for disciplinary sanctions of health care providers and licensees, National Practitioner Data Bank or public inquiries.

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However, such application may be denied by the Board in compliance with Kansas law. There is no representation by the Board that an application for reinstatement of a medical license will be viewed as automatic nor that an unrestricted license to engage in the practice of medicine and surgery would be forthcoming and if any license is issued it will be done so after appropriate consideration of all matters and issues regarding Dr. Wharran and his participation in the aforementioned program.

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vii. The Kansas State Board of Healing Arts reserves

the right to modify any element of this STIPULATION
AND AGREEMENT AND ENFORCEMENT ORDER based on the
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d. Licensee does not admit as true the allegations contained in paragraph 3 of this STIPULATION. However, Licensee will not contest or dispute said allegations. It is the intent and purpose of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER to provide for settlement of all such issues without the necessity of proceeding to a formal disciplinary hearing.

e. Licensee further understands and agrees that by entering into this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER, he is waiving his right to a hearing. The Licensee voluntarily and knowingly waives his rights to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, to conduct such cross-examination of witnesses as may be desired and to waive any and all substantive and procedural motions and defenses that could be raised if an administrative hearing would be held.

7. Nothing in the agreement shall be construed to deny the Board jurisdiction to investigate the alleged violations of the Healing Arts Act that are unknown or that are not covered under

the conditions of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER or past acts which are unknown to the Board or subsequent acts.

8. This STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER 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; Kansas State Board of Healing Arts and David L. Wharran, D.C.

9. Licensee acknowledges that this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER has been entered into freely and voluntarily given.

10. Licensee hereby releases the Kansas State Board of Healing Arts, its employees and agents, from all claims to mean those damages, actions, liabilities and cause of actions, both administrative and civil including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions; K.S.A. 77-601 et seq. This release shall forever discharge the Board 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 or any description against the Board, its employers or agents, arising out of acts leading to the execution of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER or the content of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER.

11. Licensee acknowledges he has read or has had read to him all the numbered paragraphs above 1 through 10, that Licensee fully understands the contents and has received a copy of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER.

12. Upon execution of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER by the affixing of a Board authorized signature below, the provisions of this STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER shall become an Order of the Board and shall be deemed a proper and lawful ENFORCEMENT ORDER under K.S.A. 1991 Supp. 65-2838. This STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER shall constitute the Board's Order when filed with the Office of General Counsel for the Board and no further Order is required.

IN WITNESS WHEREOF the parties have executed this agreement on this 4th day of May, 1992.

KANSAS STATE BOARD OF HEALING ARTS


LAWRENCE T. BUENING, JR.
Executive Director

Date

June 12, 1992

LICENSEE


DAVID L. WHARRAN, D.C.

Date

05/04/92

PREPARED AND APPROVED BY:

Debra L. Billingsley
DEBRA L. BILLINGSLEY
Disciplinary Counsel
Kansas State Board of Healing Arts
235 South Topeka Boulevard
Topeka, Kansas 66603
(913) 296-7413

CERTIFICATE OF SERVICE

I, Debra L. Billingsley, hereby certify that a copy of the above and foregoing Stipulation and Agreement and Enforcement Order was hand delivered on the 4th day of May, 1992 to the following:

David L. Wharran, D.C.
511 S.W. 15th
Topeka, Kansas 66612

and a copy was mailed to:

Ron Pope, Esq.
1507 Topeka Blvd.
P.O. Box 6601
Topeka, Kansas 66612

Debra L. Billingsley
Debra L. Billingsley

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STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER
DAVID L. WHARRAN, D.C.