

FILED

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

FEB 28 1992

IN THE MATTER OF )  
 )  
DAVID LYNN WHARRAN, D.C. )  
Kansas License No. 3715 )  
\_\_\_\_\_ )

KANSAS STATE BOARD OF  
HEALING ARTS  
Case No. 91-00156

ENFORCEMENT ORDER

NOW, on this 8th day of February, 1992, this matter comes on for consideration before the Kansas State Board of Healing Arts (hereinafter referred to as "Board") and David Lynn Wharran, D.C., (hereinafter referred to as "Licensee") as a result of a Stipulation and Agreement having been entered into between the Board and the above-named Licensee on February 8, 1992.

After reviewing the files and being otherwise duly advised in the premises, the Board finds as follows:

1. That the Board and Licensee have entered into a Stipulation and Agreement, a true copy of which is attached hereto as "Exhibit A" and incorporated herein as if fully set forth.

2. That the attached Stipulation and Agreement should be approved and all conditions, terms and provisions set forth in the Stipulation and Agreement shall be adopted as Findings of Fact and Conclusions of Law and the order of the Board.

**IT IS THEREFORE BY THE BOARD ORDERED AS FOLLOWS:**

1. That the findings hereinabove made be and the same are made the order of the Board.

2. Licensee's Chiropractic license shall be restricted to limit and condition his practice only under the direct supervision

of another Doctor of Chiropractic approved and recognized by the Board.

3. During supervision of Licensee, the supervising Doctor of Chiropractic shall submit a report indicating Licensee's compliance or non-compliance with the Kansas Healing Arts Act and the type of delivery and quality of care delivered by Licensee in his professional Chiropractic contacts. Such report shall be due quarterly.

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6. All communication or correspondence between the Board and Licensee as specified in this Agreement shall be by certified mail to the Board at 235 S. Topeka Boulevard, Topeka, Kansas 66603 and to Licensee at his current resident address.

7. Licensee's failure to comply with the provisions of this Agreement including but not limited to failure to complete the above specified terms and conditions confidential may result in the Board or Board designee holding an informal investigative inquiry which Licensee now consents to for Licensee to show cause why Licensee shall not be held in violation of a breach of this Agreement and why a hearing on the merits of the non-compliance should not be held regarding a violation of one or more of the provisions of K.S.A. 1989 Supp. 65-2836 to include 65-2836(n). Upon determination that Licensee willfully breached or violated this Agreement and Enforcement Order or any conditions of confidential or that Licensee has elected not to comply with this Agreement or confidential provisions the Board will immediately take disciplinary action as the Board deems appropriate in compliance with the Kansas Administrative Procedure Act.

**IT IS SO ORDERED.**

KANSAS STATE BOARD OF HEALING ARTS

  
LAWRENCE T. BUENING, Jr., Exec. Director

  
Date

Prepared by:  
DEBRA L. BILLINGSLEY  
Disciplinary Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603  
(913) 296-7413

**CERTIFICATE OF SERVICE**

I, Lawrence T. Buening, Jr., hereby certify that on the 28th day of February, 1992, a copy of the above and foregoing Enforcement Order was deposited in the United States mail, postage prepaid, addressed to:

Ron Pope  
Attorney at Law  
2913 S.W. Maupin Lane  
Topeka, Kansas 66614

and a copy was hand-delivered to:

Debra L. Billingsley  
Disciplinary Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

  
Lawrence T. Buening, Jr.  
Executive Director

BEFORE THE BOARD OF HEALING ARTS  
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FEB 27 1992

KANSAS STATE BOARD OF  
HEALING ARTS

IN THE MATTER OF )  
 )  
DAVID L. WHARRAN, D.C. )  
Kansas License No. 03715 )

Case No. 91-00910

STIPULATION AND AGREEMENT

COMES NOW, the Kansas State Board of Healing Arts ("Board") by and through Debra L. Billingsley, Disciplinary Counsel and David L. Wharran, D.C. ("Licensee") and stipulate and agrees 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. In consideration of the Board granting Licensee a license to practice chiropractic in the State of Kansas, Licensee agrees to enter into this Stipulation and Agreement. Upon the signing of said Stipulation and Agreement, the Board shall issue Licensee, license number 03715.

3. On or around October 12, 1990, information was provided to the Litigation Counsel for the Board which indicated that Licensee had a possible inability to engage in the practice of chiropractic with an applicable standard of care as recognized in

Kansas,

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That Licensee did offer to surrender his license of chiropractic in the State of Kansas, which is evidenced by his voluntary surrender through his attorney, Mr. Ronald Pope, and his subsequent surrender of license to Mr. Steve Schwarm, Litigation Counsel for the Board, and a facsimile copy given by his attorney, Mr. Ronald Pope, to Mr. Steve Schwarm, indicating his desire to surrender his chiropractic license.

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6. Under the provisions of K.S.A. 65-2838(a), the Board has jurisdiction to impose appropriate discipline if Licensee has violated any of the provisions of K.S.A. 65-2836 and K.S.A. 65-2837. Under the provisions of K.S.A. 65-2838(b), the Board has the authority to enter into this Stipulation and Agreement.

7. It is the intent and purpose of this Stipulation and Agreement 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 are entered

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**STIPULATION AND AGREEMENT**

**David L. Wharran, D.C.**

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 Stipulation and Agreement shall not become binding on the Kansas Board of Healing Arts 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 shall bind Licensee to all terms and conditions set forth in this Stipulation and Agreement, whether or not the Board signature is affixed to the document.

8. 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 in the State of Kansas.

B. Licensee admits that this Stipulation and Agreement 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 is lawfully constituted to consider this matter to include consideration of this Stipulation and Agreement. Licensee further notes that the Kansas Healing Arts Act as set forth in the statute and as recited in the Stipulation and Agreement 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 as it relates to the Kansas Healing Arts Act and imposition of appropriate disciplinary sanctions regarding Licensee's license to engage in the practice of chiropractic in the State of Kansas.

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E. Licensee's license to engage in the practice of chiropractic in the State of Kansas is hereby conditioned and limited. Such limitation is set forth in the following paragraph:

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ii. The Kansas State Board of Healing Arts reserves the right to modify for additional conditions all elements of the Stipulation and Agreement

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iii. Licensee shall obey all federal, state and local

laws and rules governing the practices of chiropractic in the State of Kansas.

F. Licensee shall enter into a Kansas Healing Arts Compliance Monitoring Program with an accepted and authorized supervising chiropractor within 14 calendar days of the date of the Stipulation and Agreement and shall remain in such supervisory relationship for a period of not less than 365 days from the date of this agreement. The proposed supervisory agreement between Licensee and the supervising chiropractor shall be approved by the Board or Board designee. The supervisory period shall begin upon the approval of the supervisor and supervisory agreement by the Board or the Board designee. Prior approval must be obtained by the Board or the Board designee for any request of change in the supervisory agreement or designated supervisor. In the event not within the control of the Licensee regarding the change of supervisor, the Board or the Board designee shall be notified within 5 calendar days by Licensee. The focus of the supervisory relationship shall be a review of Licensee's ongoing professional practice in chiropractic in compliance with the Kansas Healing Arts Act. Supervisory reports from the supervising chiropractor shall be submitted to the Board or Board designee every quarter, due on the 10th calendar day of the month immediately following the quarterly period. Quarterly reports shall contain information to include the overall practice of Licensee and his compliance or noncompliance with all provisions of the Kansas Healing Arts Act.

Such supervisory agreement must be submitted to the Board or Board designee no later than the 14th calendar day after the signing of this Agreement for such to be approved by the Board or Board designee. Failure to submit such supervisory agreement to the Board or Board designee by the close of business on the 14th calendar day from the signing of this Agreement will be deemed Licensee's desire not to enter into such an agreement.

Licensee agrees to take responsibility for causing the above quarterly reports to be submitted to the Board or Board designee.

G. All correspondence and/or communication with the Board or Board designee as specified in this Stipulation and Agreement shall mean that Licensee must utilize certified mail, addressed to the Kansas State Board of Healing Arts at 235 S. Topeka Boulevard, Topeka, Kansas 66603. Licensee has an affirmative duty to notify the Board of changes in his personal or professional status which would inhibit the compliance with the above conditions of the Kansas Chiropractic Association Monitoring Contract or any conditions set forth separately by the Board in this Stipulation and Agreement or in subsequent Enforcement Order.

9. If Licensee fails to comply with the provisions of this Stipulation and Agreement or subsequent Enforcement Order, including but not limited to failure to complete the above specified terms of the Kansas Chiropractic Association Monitoring Contract and quarterly report submitted by the supervising chiropractor of the Kansas Board of Healing Arts Monitoring

Program, may result in the Board or Board designee holding an informal investigative inquiry which Licensee now consents to for Licensee to show cause why Licensee should not be held in violation of the breach of this Stipulation and Agreement and Enforcement Order, and why hearing on the merits of noncompliance should not be held regarding a violation of one or more provisions of K.S.A. 1991 Supp. 65-2836. Upon determination that Licensee willfully breached or violated the Stipulation and Agreement and Order, or  
confidential

confidential or that Licensee has elected not to comply with the Stipulation and Agreement or contract provisions, the Board will immediately take disciplinary action as the Board deems appropriate in compliance with the Kansas Administrative Procedures Act.

10. Licensee acknowledges that proof submitted to the Board by an affidavit or other form that Licensee has failed to meet the conditions of this Stipulation and Agreement or confidential  
confidential should be good and sufficient evidence to support the alleged violation in compliance of the Stipulation and Agreement and Order. It is further understood that if Licensee fails to fulfill any of the obligations under the Agreement, the Board will be released from its Stipulation and Agreement and Order and shall be free to take whatever steps it deems appropriate.

11. Nothing in this agreement shall be construed to deny the

Board jurisdiction to investigate the alleged violations of the Healing Arts Act that are unknown and are not covered under the conditions of this Stipulation or subsequent acts which are unknown to the Board.

12. This Stipulation and Agreement constitutes the entire agreement between the parties and may only be modified or amended by subsequent document executed in the same manner by the parties.

13. Licensee hereby releases the Kansas State Board of Healing Arts, its employees and agents, from all claims to mean those damages, actions, liabilities and causes of action, both administrative and civil. This release shall discharge the Board from any and all claims or demands of every kind and nature that the Licensee has claimed to have had at the time of this release or might have known and unknown, suspected and unsuspected, and Licensee shall not commence to prosecute, cause or permit to be prosecuted any action or proceeding of any description against the Board arising out of acts leading to the execution of this Agreement or the content of this Agreement.

14. Licensee acknowledges that the Stipulation and Agreement is entered into freely and is voluntarily given.

15. Licensee acknowledges that he has read or had read to him all the numbered paragraphs above, and has received a copy of this Stipulation and Agreement.

IN WITNESS WHEREOF the parties have executed this agreement

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STIPULATION AND AGREEMENT  
David L. Wharran, D.C.

on this 28th day of February, 1992.

KANSAS STATE BOARD OF HEALING ARTS

  
JOHN P. WHITE, D.O., President

2/28/92  
Date

  
DAVID L. WHARRAN, D.C.

2/8/92  
Date

STIPULATION AND AGREEMENT  
David L. Wharran, D.C.

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I, Lawrence T. Buening, Jr., hereby certify that on the 28th day of February, 1992, a copy of the above and foregoing Stipulation and Agreement was deposited in the United States mail, postage prepaid, addressed to:

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Lawrence T. Buening, Jr.  
Executive Director