

FILED

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

APR 29 1993

**KANSAS STATE BOARD OF
HEALING ARTS**

IN THE MATTER OF)
DAVID L. WHARRAN, D.C.)
Kansas License No. 3715)
_____)

Case No. 93-00150

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:

WITNESSETH:

WHEREAS, the Board is the sole and exclusive regulatory agency in the State of Kansas regarding the practice of the healing arts, specifically chiropractic; and

WHEREAS, Licensee was originally licensed in the State of Kansas to engage in the practice of chiropractic on July 10, 1984 having been issued License No. 3715; and

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WHEREAS, such acts or conduct as set forth above would constitute grounds to revoke Licensee's license to practice chiropractic pursuant to K.S.A. 65-2836(i) and for non-compliance with the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** entered into on December 11, 1992; and

WHEREAS, in lieu of formal administrative proceedings required by K.S.A. 77-511, the parties are desirous of entering into this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**.

NOW THEREFORE, in consideration of the conditions, terms, covenants and promises contained herein, the parties agree as follows:

1. 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.

2. This **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** shall

not become binding on the Board until an authorized signature is affixed to 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. Upon signature by the Licensee, this document shall be deemed a public record. Licensee acknowledges that counsel for the Board is not authorized to bind the Board.

3. The Licensee hereby voluntarily stipulates and agrees to the following:

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 this **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 this matter to include consideration of this **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**.

c) 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.

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

e) Licensee further acknowledges that the Board will decide the issue regarding resolution of this matter and acceptance of the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** as it relates to the Kansas Healing Arts Act.

f) Licensee further understands and agrees that by entering into this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** that he is waiving his right to a hearing. The Licensee voluntarily and knowingly waives his right 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.

g) Licensee hereby agrees to voluntarily surrender his license to practice chiropractic in the State of Kansas.

h) Licensee understands that said surrender will be treated as a revocation of licensure for reporting purposes and that he shall be unable to apply for reinstatement for a period of three years from the date of the filing of this document.

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4. 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.

5. Licensee acknowledges that the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** has been entered into freely and voluntarily given.

6. Licensee hereby releases the Kansas State Board of Healing Arts, its employees or agents, from all claims to mean those damages, actions, liabilities and causes of action, 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 of any description against the Board, its employees or agents, arising out of acts leading to the execution of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** or the

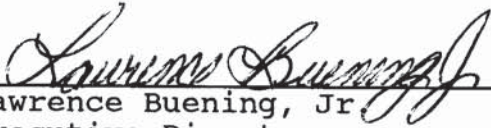
content of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**.

6. Licensee acknowledges that he has read or has had read to him all of the numbered paragraphs above, 1 through 5, that Licensee fully understands the contents and has received a copy of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER**.

7. Upon execution of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** by affixing of a Board authorized signature below, the provisions of this **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** shall become an Order of the Board pursuant to K.S.A. 65-2838. This **STIPULATION AND AGREEMENT AND ENFORCEMENT 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.

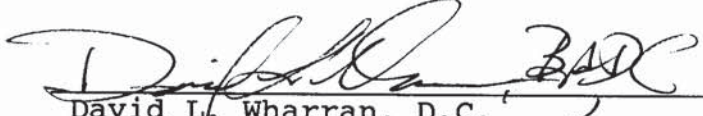
IN WITNESS WHEREOF the parties have executed this agreement on this 29th day of April, 1993.

KANSAS STATE BOARD OF HEALING ARTS



Lawrence Buening, Jr.
Executive Director

April 29, 1993
Date



David L. Wharran, D.C.
Licensee

Date

STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER
David L. Wharran

Prepared and approved by:

Debra L. Billingsley
Debra L. Billingsley
Disciplinary Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
(913)296-7413

CERTIFICATE OF SERVICE

I, Debra L. Billingsley, hereby certify that a true and correct copy of the **STIPULATION AND AGREEMENT AND ENFORCEMENT ORDER** was mailed on the 29 day of April, 1993, by United States mail, postage prepaid, first class to the following persons:

David Wharran, D.C.
505 N. Tyler, #1002
Wichita, Kansas 67212

Etta Williams
Professional Advisory Services, Inc.
6005 Martway, Suite 100
Mission, Kansas 66202