

AUG 22 2011

KS State Board of Healing Arts

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

**In the Matter of** )  
**Wasse Zafer, D.C.** )  
 )  
**Kansas License No. 01-04097** )  
\_\_\_\_\_ )

**KSBHA Docket No. 12-HA00013**

**FINAL ORDER LIFTING EMERGENCY ORDER OF SUSPENSION  
FOLLOWING CONFERENCE HEARING**

COMES NOW on this 12<sup>th</sup> day of August 2011, before the Kansas State Board of Healing Arts ("Board"), a hearing on an Emergency Order of Suspension filed against Wasse Zafer, D.C. (Licensee) on July 25, 2011 for Licensee's alleged failure to comply with the terms of a Consent Order filed in KSBHA Docket No. 09-HA00184 on December 6, 2010. Licensee appears in person, and by and through his attorney, N. Larry Bork of Goodell, Stratton, Edmonds & Palmer, L.L.P. Lori D. Dougherty appears on behalf of the Petitioner Board.

Pursuant to the authority granted to the 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. After reviewing the file, hearing the statements and arguments of both parties, and being otherwise duly advised in the premises, the Board makes the following findings of fact, conclusions and order:

**I. Findings of Fact**

1. Licensee maintains an active license to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-04097 on approximately February 8, 1992. Licensee's license is currently under probation pursuant to a Consent Order in KSBHA Docket No. 09-HA00184. The terms of such Consent Order are hereby incorporated by reference herein.

2. Licensee's last known mailing address provided to the Board is: 450 East Santa Fe, Olathe, Kansas 66061.

3. On or about July 25, 2011, Petitioner filed a Petition in this matter alleging that Licensee violated the terms of the Consent Order. The factual allegations in the Petition are hereby incorporated by reference herein.

4. Licensee was served with a copy of the Petition on or about July 25, 2011, by United States Mail, first-class postage prepaid. Petitioner attached an Ex Parte Motion to Suspend Licensee's license for violation of the Consent Order, as follows:

a. Licensee was not in compliance with all the terms of a monitoring agreement with Affiliated Monitors, Inc. (AMI); and, as a result, was not actively under practice monitoring; and,

b. Licensee had failed to provide each X-ray taken by him to a licensed chiropractic radiologist for review, as required by the terms of the Consent Order.

5. On or about July 25, 2011, Gary Counselman, D.C. was appointed as presiding officer over the Ex Parte Motion to Suspend Licensee's license.

6. On or about July 25, 2011, Dr. Counselman filed an Ex Parte Emergency Order Suspending Licensee's license for noncompliance with the Consent Order.

7. On or about July 25, 2011, Licensee was personally served with a copy of the Ex Parte Emergency Order of Suspension.

8. Licensee demonstrated to the Board that he has come into compliance with the requirements of the Consent Agreement, as follows:

a. Licensee has reached financial concessions with his monitoring group (AMI) and is paying the required fee for the monitoring contract, and the monitoring group has reinstated Licensee's monitoring contract.

b. Licensee has now sent for review by a licensed chiropractic radiologist, all X-rays that he was required to send for review but had not sent.

c. In the future, Licensee will send all X-rays he takes to a licensed chiropractic radiologist for review, as required by the terms of the Consent Order.

## **II. Applicable Law and Policy**

9. K.S.A. 77-501 et seq. – Kansas Administrative Procedure Act.

10. K.S.A. 65-2801 et seq. – Kansas Healing Arts Act.

11. 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.

## **III. Conclusions**

Based upon the findings of fact and the applicable law and policy set forth above, the Board hereby concludes that Licensee is currently in compliance with the requirements of the Consent Agreement in this matter.

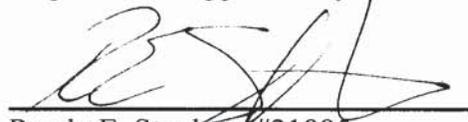
**IV. Order**

IT IS THEREFORE ORDERED BY THE KANSAS STATE BOARD OF HEALING ARTS that the Emergency Ex Parte Order of Suspension filed against Licensee in this matter should be lifted.

IT IS SO ORDERED THIS 19<sup>th</sup> DAY OF Aug, 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

  
Kathleen Selzler Lippert  
Executive Director  
Kansas State Board of Healing Arts

Prepared and Approved by:

  
Randy E. Stookey, #21885  
Associate General Counsel  
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, and service of a Final Order is complete upon mailing. Pursuant to K.S.A. 77-529, Licensee may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing **Final Order Lifting Emergency Order Of Suspension Following Conference Hearing** was served this 22<sup>nd</sup> day of August, 2011 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Wasse Zafer, D.C.  
450 E. Santa Fe  
Olathe, KS 66061

N. Larry Bork  
Goodell, Stratton, Edmonds & Palmer, L.L.P.  
515 S. Kansas Avenue  
Topeka, KS 66603  
*Attorney for Licensee*

And a copy was hand-delivered to the following:

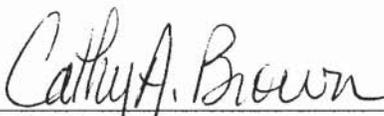
Stacy R. Bond, Associate Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

Katy Lenahan, Licensing Administrator  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

Melissa Massey, Compliance Coordinator  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

The original was filed with the office of:

Kathleen Selzler Lippert, Executive Director  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

  
Cathy Brown  
Executive Assistant