

DEC 22 2011

KS State Board of Healing Arts

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

**In the Matter of**  
**Ronald J. Zoeller, D.C.**

**Kansas License No. 01-03285**

**KSBHA Docket No. 11-HA00085**

**FINAL ORDER FOLLOWING RECONSIDERATION**  
**(Pursuant to K.S.A. 77-501, *et seq.*)**

**NOW**, on this 2<sup>nd</sup> day of December, 2011, comes before the Kansas State Board of Healing Arts ("Board") the Petition for Reconsideration filed by Ronald J. Zoeller ("Licensee") in Docket Nos. 11-HA00085. Licensee appears in person and through counsel, Mark W. Stafford. Stacy R. Bond, Associate Litigation Counsel, appears for the Board.

Pursuant to the authority granted to the Board by the Kansas Healing Arts Act, 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 following Reconsideration in the above-captioned matters. Members of the Board serving on the Disciplinary Panel for these matters were recused from participation. Additionally, Board Members Ray Conley, Gary Counselman, and Frank Galbraith were recused and Kathleen Selzler Lippert, Executive Director, and Kelli Stevens, General Counsel, were also recused.

Reconsideration Exhibits 1-5 were previously offered by Licensee and admitted into evidence by the Board, over the objection of the Board's attorney.

After reviewing the file, hearing testimony of Licensee and arguments of the parties, and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

**I. Procedural History**

1. Licensee has been entitled to practice chiropractic in the State of Kansas, having been issued License No. 01-03285 on approximately June 15, 1973.
2. Licensee's last known mailing address provided to the Board is: 4525 SW 21<sup>st</sup> Street, Topeka, Kansas 66604.
3. On or about January 11, 2011, Licensee renewed his chiropractic license with an exempt designation. Thereafter, on or about February 16, 2011, Licensee submitted an application for change of license designation/type requesting a change to active designation.
4. On or about April 27, 2011, a disciplinary Petition was filed against Licensee on behalf of the Board and on or about April 28, 2011, the Board filed a Response in Opposition to Application for Change of Designation/Type to Practice Chiropractic.
5. On or about June 17, 2011, a Conference Hearing was held, before the Board, on the Licensee's Application for Change of License Designation/Type and also on the Petition for discipline.
6. On or about July 11, 2011, the Board entered a Final Order denying Licensee's application for change of license designation/type and revoking his license to practice chiropractic.

7. On or about July 29, 2011, Licensee filed a Petition for Reconsideration and Request for Hearing.
8. On or about August 4, 2011, the Board's Response to Licensee's Petition for Reconsideration and Request for Hearing was filed.
9. On or about August 16, 2011, an Order was filed granting Licensee's request for reconsideration.

## **II. Findings of Fact**

10. Licensee's present Petition requests that the Board consider mitigating factors and reconsider their revocation of Licensee's license.

11. confidential

12. The Board further found that Licensee's failure to comply with the terms of his confidential constituted a violation of K.S.A. 65-2836(k), in that the Licensee has violated any lawful order or directive of the board previously entered by the board, to wit: the Final Order, issued March 20, 2008, in KSBHA Docket No. 08-HA00148, and that revocation of Licensee's license to practice chiropractic was warranted.

13. Pursuant to the Board's Guidelines for the Imposition of Disciplinary Sanctions ("Guidelines"), a violation of K.S.A. 65-2836(k) falls under sanctioning grid categories, 2A and/or 2B. The presumed sanction as modified for prior board



actions, but prior to any adjustment for aggravating and/or mitigating factors, is revocation.

14. Records maintained by the Board and the agreed Stipulations of Fact, previously entered by the parties, show that Licensee has repeatedly violated the Healing Arts Act and has been the subject of prior Board actions.
15. The Guidelines do not have the force and effect of law, and they do not create binding precedent. Further, the Board does not limit itself to any form of disciplinary order and it may consider the entire range of its authority. The Board may depart from the Guidelines as it desires and without giving notice.
16. The Board has considered mitigating factors, as follows:
  - a. when Licensee's prior discipline occurred;
  - b. that Licensee's misconduct did not involve patient care;
  - c. that Licensee's misconduct was not motivated by criminal, immoral, dishonest or personal gain;
  - d. Licensee's personal circumstances, including financial difficulties.
17. The Board has also considered as aggravating factors the Licensee's past disciplinary record and his pattern of misconduct.
18. Aggravating and mitigating factors will not necessarily be given equal weight and the Board, in its discretion, may assign more or less weight to a factor.

### **III. Applicable Law**

- a. K.S.A. 77-501 *et seq.* – Kansas Administrative Procedure Act
- b. K.S.A. 65-2801 *et seq.* – Kansas Healing Arts Act

#### **IV. 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:

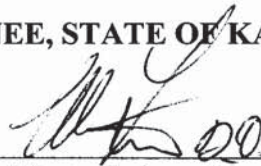
Recognizing that the practice of the healing arts is a privilege granted by legislative authority and is not a natural right of individuals, it is deemed necessary as a matter of policy in the interests of public health, safety and welfare, to provide laws and provisions covering the granting of that 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.

#### **V. Conclusions**

19. The factors presented in mitigation do not outweigh the aggravating factors to justify any modification of the Final Order revoking the Licensee's license to practice chiropractic.

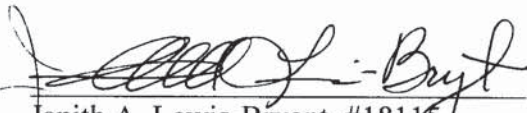
**IT IS THEREFORE ORDERED, BY THE KANSAS STATE BOARD OF HEALING ARTS** that Licensee's Petition for Reconsideration is hereby **DENIED**.

**IT IS SO ORDERED THIS 22 DAY OF DECEMBER, 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



M. Myron Leinwetter, D.O.  
Presiding Member  
Kansas State Board of Healing Arts

PREPARED AND APPROVED BY:



Janith A. Lewis-Bryant, #18116  
Acting as Special General Counsel  
Kansas State Board of Healing Arts

800 SW Jackson, Lower Level-Suite A  
Topeka, KS 66612

### **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, Kansas 66612.



**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing **Final Order Following Reconsideration** was served this 22nd day of December, 2011 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Ronald J. Zoeller, D.C.  
4525 SW 21<sup>st</sup> Street  
Topeka, KS 66604

Mark Stafford  
Attorney for Licensee  
Holbrook & Osborn, P.A.  
107 SW 6<sup>th</sup> Avenue, Suite 210  
Topeka, KS 66603

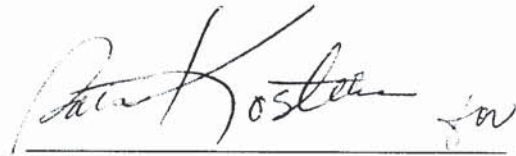
And a copy was hand-delivered to the following:

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

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

And the original was filed with:

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

  
Cathy Brown  
Executive Assistant