

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

KS State Board of Healing Arts

In the Matter of)	
)	Docket No. 15-HA00028
Jeffrey T. Lefkovitz, D.C.)	
Kansas License No. 01-04989)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Jessica A. Bryson, Associate Litigation Counsel, and Susan R. Gering, Associate Litigation Counsel (“Respondent”), and Jeffrey T. Lefkovitz, D.C. (“Licensee”), by and through counsel, Matthew Merrill, Brown & Ruprecht, P.C., and move the Board for approval of a Consent Order affecting Licensee’s license to practice chiropractic in the State of Kansas.

The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: **Confidential**
Overland Park, Kansas 66221.
2. Licensee is or has been entitled to engage in the practice of chiropractic in the State of Kansas, having been issued License No. 01-04989 on August 13, 2005. On or about January 1, 2008, Licensee placed his license in inactive status. Licensee’s license is currently inactive.
3. On or about May 8, 2014, Licensee submitted to the Board an application for change of designation/type for a license to practice chiropractic in the State of Kansas. Such application was deemed complete and filed with the Board on September 8, 2014.

4. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts, specifically the practice of chiropractic. K.S.A. 65-2801 *et seq.* and K.S.A. 65-2871.
5. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Consent Order as provided by K.S.A. 77-505 and 65-2838. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.
6. The Kansas Healing Arts Act is constitutional on its face and as applied in the case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
8. The terms and conditions of the Consent Order are entered 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 Consent Order shall not be binding on the Board until an authorized signature is affixed at the end of this document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.

9. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-2836 to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*
10. This Consent Order incorporates herein by reference the facts and allegations as stated in the Response in Opposition to Application for Change of Designation/Type to Practice Chiropractic filed on September 15, 2014.
11. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Kansas Healing Arts Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.
12. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(4), by using any letters, words, or terms, as an affix, on stationary, in advertisements, or otherwise indicating that he is entitled to practice chiropractic when he is not licensed to do so.
13. Licensee violated K.S.A. 65-2836(b), as set forth in K.S.A. 65-2837(b)(12), in that Licensee practiced the healing arts while not licensed to engage in the practice of the healing arts contrary to K.S.A. 65-2803(a), 65-2867(a), and 65-2836(k); such conduct is likely to deceive, defraud or harm the public.
14. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(18), by obtaining any fee by misrepresentation.

15. Licensee violated K.S.A. 65-2836(k) in that Licensee violated any lawful rule and/or regulation promulgated by the Board. Specifically, Licensee violated K.A.R. 100-24-1 by failing to keep adequate patient records.
16. Pursuant to K.S.A. 65-2836, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license, and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Kansas Healing Arts Act.
17. According to K.S.A.65-2838(b) and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
18. All pending investigation materials in KSBHA Investigative Case Numbers 14-00532 and 14-00678 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 29. Disciplinary Panel No. 29, through its Appointed Member, authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
19. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice chiropractic in the State of Kansas. Applicant hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing,

Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Healing Arts Act, K.S.A. 65-2801 *et seq.*

20. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Healing Arts Act, or to investigate complaints received under the Risk Management Law, K.S.A. 65-4921 *et seq.*, that are known or unknown and are not covered under this Consent Order, or to initiate formal proceedings based upon known or unknown allegations of violations of the Kansas Healing Arts Act.

21. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as "Releasees", from any and all claims, including but not limited to those alleged damages, actions, liabilities, both administrative and civil, including the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.* arising out of the investigation and acts leading to the execution of this Consent Order. This release shall forever discharge the Releasees 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 Releasees.

22. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.
23. This Consent Order, when signed by both parties, 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.
24. Licensee agrees that all information maintained by the Board pertaining to the nature and result of any complaint and/or investigation may be fully disclosed to and considered by the Board in conjunction with the presentation of any offer of settlement, even if Licensee is not present. Licensee further acknowledges that the Board may conduct further inquiry as it deems necessary before the complete or partial acceptance or rejection of any offer of settlement.
25. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel and General Counsel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member or General Counsel in any future proceedings on the basis that the Board member or General Counsel has received investigative information from any source which otherwise may not be admissible or admitted as evidence. Because Dr. R. Jerry DeGrado D.C. was the retained expert for this matter for the Board prior to his appointment as a member of this Board, Licensee objects to the participation of Dr. R. Jerry DeGrado, D.C., and Dr. DeGrado is recused from participating in the Board's consideration of this Consent Order.

26. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
27. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
28. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to:
- Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson Lower Level-Suite A
Topeka, Kansas 66612
29. Licensee shall obey all federal, state and local laws and rules governing the practice of chiropractic in the State of Kansas that may be in place at the time of execution of the Consent Order or may become effective subsequent to the execution of this document.
30. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order under K.S.A. 65-2838. This Consent 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.
31. This Consent Order constitutes public disciplinary action.
32. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

33. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public disciplinary action on his license to engage in the practice of chiropractic:

CENSURE

34. Licensee is publicly censured for violating the Kansas Healing Arts Act.

SUSPENSION

35. Licensee's license shall be suspended for a period of six (6) months. Such suspension will be in effect from June 12, 2015, through and including December 11, 2015.

36. The suspension is self-terminating.

PROBATION

37. Licensee shall be immediately placed upon Probation to include the following terms and for a duration of time specified below:

I. Probation: Education

- a. Licensee will successfully complete the National Board of Chiropractic Examiners' (NBCE) Special Purposes Examination for Chiropractic (SPEC) prior to his license being returned to active status. All costs associated with completing SPEC will be at Licensee's own expense to include, but not be limited to, the cost of the examination, the cost of travel to and from the examination, and the cost of accommodations while attending the examination.
- b. Licensee will successfully complete the NBCE's Part IV examination prior to his license being returned to active status. All costs associated with

completing Part IV will be at Licensee's own expense to include, but not be limited to, the cost of the examination, the cost of travel to and from the examination, and the cost of accommodations while attending the examination.

- c. Licensee will take and successfully complete all five (5) topic areas of the Ethics and Boundaries Assessment Services, LLC's (EBAS) Essay Examination by December 30, 2016. The EBAS Application Form may be accessed at: <http://www.ebas.org>. All costs associated with completing the examination will be at Licensee's own expense to include, but not be limited to, the cost of the examination, the cost of travel to and from the examination, and the cost of accommodations while attending the examination.
- d. Licensee will attend and successfully complete the continuing education course titled "Medical Record Keeping Seminar" provided by The Center for Personalized Education for Physicians (CPEP) at his own expense prior to his license being returned to active status. All costs associated with such program shall be at Licensee's own expense to include, but not be limited to, the cost of the program, the cost of travel to and from the program, and the cost of accommodations while attending the program. Licensee shall provide proof of successful completion within thirty (30) calendar days of successfully completing the program.
- e. These hours shall be in addition to those hours required for renewal of licensure.

- f. Proof of completion of the education requirements shall be submitted by sending the same to:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Ste. A
Topeka, Kansas 66612

II. Probation: Supervision

- a. Upon termination of Licensee's suspension and receiving proof of successful completion of SPEC, Part IV, and CPEP's Medical Record Keeping Seminar warranting the change of license to active status, Licensee agrees that he will not practice chiropractic unless he complies with each of the following:
- i. Licensee agrees to have a Board-approved practice supervisor, who is another Kansas-licensed chiropractor, who has no pending Board complaints, investigations, and/or disciplinary matters, to supervise the practices and procedures of Licensee's practice of chiropractic to ensure compliance with community and ethical standards. Licensee shall bear all expenses associated with the practice supervisor.
 - ii. Licensee shall submit a Curriculum Vitae (CV) of his proposed practice supervisor(s) for approval by the Board, the Disciplinary Panel, or the Disciplinary Panel's designee. Any and all practice supervisors must be approved by the Board, the Disciplinary Panel,

or its designee, prior to Licensee engaging in the practice of chiropractic.

- iii. The practice supervisor(s) shall directly supervise 100% of Licensee's practice of chiropractic for one (1) month.
 - iv. "Direct supervision" shall be defined as the practice supervisor being physically present with Licensee and the patient during the chiropractor/patient encounter.
 - v. This supervision requirement is self-terminating. The supervision provision will terminate upon receipt of a written, notarized report from Licensee's supervising chiropractor certifying that Licensee has the requisite skill and knowledge to practice chiropractic with reasonable skill and safety such that direct supervision is no longer required. The report shall also include a summary of whether Licensee is seeing patients, documenting properly in the patient record, and making treatment recommendations in an appropriate and timely manner.
- b. This period of time shall be known as the supervisory period.
 - c. For any period(s) of time that Licensee is not actively practicing the healing arts in Kansas, the supervision provisions of this Consent Order shall be tolled and not be counted in reducing the required timeframe for supervision.
 - d. The Board designates the Disciplinary Panel to review and approve/disapprove of the proposed practice supervisor.

- e. Should Licensee need to change his practice supervisor, Applicant shall submit a CV of the new proposed practice supervisor to the Board for approval by the Board, the Disciplinary Panel, or an appointed member of Disciplinary Panel No. 29 prior to being supervised by the new practice supervisor. Any proposed subsequent practice supervisors(s) shall meet the requirements listed for practice supervisors above. Licensee shall not practice chiropractic for any period of time in which he does not have a Board-approved practice supervisor in place except as pursuant to K.S.A. 65-2803(c).
- f. Licensee will furnish a copy of this Consent Order to his practice supervisor.

III. Probation: Monitoring

- a. Upon successfully completing the supervisory period, Licensee agrees that he will not practice chiropractic unless he complies with each of the following:
 - i. Licensee agrees to have a Board-approved practice monitor, who is another Kansas-licensed chiropractor, who has no pending Board complaints, investigations, and/or disciplinary matters, to review the practices and procedures of Licensee's practice of chiropractic to ensure compliance with the standard of care and with community and ethical standards. Licensee shall bear all expenses associated with the practice monitor. The practice monitor may be the same as the previously Board approved practice supervisor.

- ii. Licensee shall submit a Curriculum Vitae (CV) of his proposed practice monitor(s) for approval by the Board, the Disciplinary Panel, or the Disciplinary Panel's designee. Any and all practice monitors must be approved by the Board, the Disciplinary Panel, or the Disciplinary Panel's designee, prior to Licensee engaging in the practice of chiropractic.
- iii. The practice monitor will review at least 50% of Licensee's patient charts on a monthly basis for a period of at least five (5) months.
- iv. The practice monitor will meet in person with Licensee at least one (1) time each month to discuss the patient charts that were reviewed. Such discussion should encompass what Licensee is doing well and what needs improvement.
- v. Licensee shall cause and ensure the practice monitor submits quarterly reports due on the 15th of the month to the Board on a form provided by Board staff. Such reports shall include the number of patient charts reviewed, a brief summary of Licensee's services rendered during the month, whether Licensee is appropriately documenting the patient record, and an opinion as to whether Licensee's practice is within the standard of care. The practice monitor must immediately notify Board staff if he/she believes Licensee's services are below the standard of care. Licensee is responsible for ensuring that the practice monitor's reports are submitted by the monthly deadlines.

- b. Licensee is responsible for ensuring the practice monitor's timely submission of the monthly report.
- c. This period of time will be known as the monitoring period.
- d. The Board designates the Disciplinary Panel to review and approve/disapprove of the proposed practice monitor.
- e. Should Licensee need to change his practice monitor, Licensee shall submit a CV of the new proposed practice monitor to the Board for approval by the Board, the Disciplinary Panel, or an appointed member of Disciplinary Panel No. 29 prior to being monitored by the new practice monitor. Any proposed subsequent practice monitor(s) shall meet the requirements listed for practice monitors above. Licensee shall not practice chiropractic for any period of time in which he does not have a Board-approved practice monitor in place except as pursuant to K.S.A. 65-2803(c).
- f. Licensee will furnish a copy of this Consent Order to his practice monitor.
- g. For any period(s) of time that Licensee is not actively practicing the healing arts in Kansas, the monitoring provisions of this Consent Order shall be tolled and not be counted in reducing the required timeframe for monitoring.
- h. The above monitoring provisions are not self-terminating. After a period of five (5) months, Licensee may request modification or termination of the monitoring provisions by making a written request to the Board or its designee.

IV. Probation: Costs

- a. The payment of the Board's incurred COSTS in conducting these proceeding under the Kansas Administrative Procedure Act will be considered a term of probation.
- b. Upon Licensee's successful completion of the terms of probation as outlined above, the Board's incurred COSTS will be waived, and a Journal Entry of Satisfaction of Consent Order indicating that Licensee has no further obligation for compliance and discharging him from all requirements of the Consent Order shall be issued.
- c. Should Licensee fail to successfully complete the terms of probation as outlined above such that a Petition is filed and results in a Final Order finding non-compliance with this Consent Order, then Licensee will be required to pay the Board's incurred COSTS in the amount of \$ 10,271.09. The total amount of \$ 10,271.09 shall be paid in full within sixty (60) days of the Final Order, unless otherwise authorized by the Board. Licensee shall make all payments payable to the Kansas State Board of Healing Arts. All monetary payments, which shall be in the form of cashier's check or money order, relating to this Consent Order shall be mailed to the attention of:

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

V. Probation: General Terms

- a. Licensee shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.
- b. Licensee will furnish a copy of this Consent Order to each and every state in which he holds licensure or applies for licensure.
- c. Licensee shall immediately notify the Board or its designee of any complaint filed, or investigation opened, by the proper licensing authority of another state, territory, District of Columbia, or other country, or by a peer review body, a health care facility, a professional association or society, or by a governmental agency.

VI. Probation Timeframe

- a. Termination timeframe of the above Probation: Supervision and Probation: Monitoring terms are as set forth in the appropriate sections.
- b. Licensee shall request termination of probation once all the above sections are completed. In his request for termination of probation, Licensee will provide an essay, consisting of at least 500 words, addressing what he learned during the supervisory period, what he learned during the monitoring period, and what he learned from the education he received, and he will address how it applies to his practice. The essay will also provide a self-assessment of his practice performance and explain any difficulties that he may have had including a detailed description on how he has rectified

any deficiencies. Assigned Board Counsel for the Board will be given an opportunity to present Licensee's essay to the appointed Disciplinary Panel and/or its appointed member for this matter for attorney-client consultation. Additionally, Board Counsel shall be given an opportunity to provide a written response to Licensee's request for termination. Board Counsel shall be given thirty (30) days from the time of Licensee's filing of his request for modification or termination to file a written response with the Board or its designee. Licensee must appear before the Board in person during a regularly scheduled Board meeting in connection with his request for termination of probation.

38. Any and all requests for termination and/or modification of this Consent Order will be made in writing and submitted to the Board by certified mail addressed to:

Kansas State Board of Healing Arts
Attn: Executive Director
800 SW Jackson Lower Level Suite A
Topeka, Kansas 66612

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 20 day of Aug, 2015.

FOR THE KANSAS STATE
BOARD OF HEALING ARTS
Confidential

Kathleen Seifert Vipper
Executive Director

8/20/15

Date

Confidential

Jeffrey T. Weikowitz, D.C.
Licensee

8/20/15

Date

PREPARED AND APPROVED BY:

Jessica A. Bryson

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Consent Order
Jeffrey T. Weikowitz, D.C.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 20th day of August, 2015, to the following:

Jeffrey T. Lefkovitz, D.C.
Licensee
Confidential
Overland Park, Kansas 66221

Matthew M. Merrill
Attorney for Licensee
Brown & Ruprecht, PC
2323 Grand Blvd Ste 1100
Kansas City, Missouri 64108

And the original was hand-filed with:

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

And a copy was delivered to:

Jessica A. Bryson
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Susan R. Gering
Associate Litigation Counsel
Kansas Board of Healing Arts
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Staff Member