

DEC 31 2019 

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

KS State Board of Healing Arts

In the Matter of)
)
ERIC HAWKINS, D.C.)
)
Kansas License No. 01-05030)

Docket No. ~~19-11A~~ 19-11A00006 HHW

CONSENT ORDER FOR SURRENDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through J. Todd Hiatt, Litigation Counsel ("Petitioner"), and Eric Hawkins, D.C. ("Licensee"), by and through his attorney, Diane L. Bellquist, of Joseph, Hollander & Craft, LLC, and move the Board for approval of a Consent Order affecting Licensee's license to practice chiropractic in Kansas.

The Board and Licensee stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is: CONFIDENTIAL

CONFIDENTIAL

2. Licensee is or has been entitled to engage in the practice of chiropractic in Kansas, having been issued original license number 01-05030 on April 8, 2006, and having last renewed such license on January 31, 2019. Licensee's current license status is Suspended.

3. On July 27, 2018, Licensee's license was emergently suspended after Petitioner filed a Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings ("Motion") on July 26, 2018. (Agency Record, *Ex Parte* Emergency Order of Suspension, *In the Matter of Eric Hawkins, D.C.*, KSBHA Docket No. 19-HA00006, filed July 27, 2018; Petitioner's Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings, *In the Matter of Eric Hawkins, D.C.*, KSBHA Docket No. 19-HA00006, filed July 26, 2018).

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4. On September 12, 2018, the Board entered an Order Granting Motion to Stay the matter involving Licensee after the parties filed a Joint Motion to Stay on September 10, 2018. Under the Order Granting Motion to Stay, the Board has now determined that it is necessary to proceed with this matter. (Agency Record, Order Granting Motion to Stay, *In the Matter of Eric Hawkins, D.C.*, KSBHA Docket No. 19-HA00006, filed September 12, 2018).

FACTS

5. This Consent Order incorporates herein by reference the facts as stated in the Petition filed July 26, 2018. Generally, the Petition alleges multiple violations of the Healing Arts Act, including:

- a. Licensee performed examinations and services on Patient 1 that had no legitimate medical purpose;
- b. Licensee committed acts of sexual misconduct and/or improper sexual contact which exploited the licensee-patient relationship with Patient 1 and Patient 2;
- c. Licensee committed acts or conduct that would deceive or harm the public in his treatment of Patient 1;
- d. Licensee provided chiropractic care and treatment to Patient 1, on February 15, 2018, without first having obtained informed consent; and
- e. Licensee committed an act of unprofessional or dishonorable conduct by engaging in a sexual relationship with Patient 2 while Licensee and Patient 2 were in a licensee-patient relationship.

(Agency Record, Petition, *In the Matter of Eric Hawkins, D.C.*, KSBHA Docket No. 19-HA00006, filed July 26, 2018).

6. In addition to the facts stated in the Petition and incorporated by reference above, the facts further supporting the allegations in this Consent Order include, but are not limited to, the following:

- a. On or about March 5, 2015, Licensee provided chiropractic treatment to a 31-year-old female patient ("Patient 3") with complaints of pain in her neck, sacrum, mid-back, and right sacroiliac joint.
- b. Licensee provided chiropractic treatment to Patient 3 on an occasional basis for approximately ten (10) years prior to her appointment on or about March 5, 2015. During Patient 3's prior appointments, Licensee winked at her, squeezed her shoulders, and patted her on the back in a manner Patient 3 perceived as "flirty."
- c. After checking in for her appointment on or about March 5, 2015, Patient 3 proceeded to walk back to the treatment room, where she positioned herself on her stomach on the treatment table, facing away from the treatment room door.
- d. Soon thereafter, Licensee entered the treatment room and, as he walked past Patient 3 on the treatment table, slapped Patient 3's buttocks with his hand.
- e. After slapping Patient 3's buttocks, Licensee made a statement to Patient 3 to the effect of, 'I just couldn't resist myself.'
- f. Patient 3 was immediately left speechless and embarrassed as a result of Licensee's conduct, and she did not say anything to Licensee in response.

- g. Because of Licensee's conduct during Patient 3's appointment on or about March 5, 2015, Patient 3 has chosen not to receive any further chiropractic treatment from Licensee and purposefully seeks to avoid Licensee when she sees him in public.

VIOLATIONS OF THE HEALING ARTS ACT

7. If proven, the Board believes Licensee's acts and conduct constitute acts in violation of the Healing Arts Act as follows:

- a. Licensee violated K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(16), by committing acts of sexual abuse, sexual misconduct, or other improper sexual contact that exploited the licensee-patient relationship with a patient.
- b. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(21), in that Licensee performed examinations and services that had no legitimate medical purpose.
- c. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(b)(25), in that Licensee failed to keep written medical records which accurately describe the services rendered to the patient.
- d. Licensee violated K.S.A. 65-2836(b), as further defined by K.S.A. 65-2837(a), in that Licensee provided chiropractic care and treatment without having first obtained informed consent.
- e. Licensee violated K.S.A. 65-2836(f), in that Licensee has willfully or repeatedly violated the Healing Arts Act.

- f. Licensee violated K.S.A. 65-2836(k), in that Licensee violated K.A.R. 100-24-1 by failing to maintain an adequate record for patients for whom Licensee performed a professional service.
8. Under K.S.A. 65-2836 *et seq.*, the Board has grounds to revoke, suspend, censure, place on probation or otherwise limit Licensee's license for violations of the Healing Arts Act.
9. Licensee acknowledges that if formal proceedings were conducted and Licensee presented no exhibits, witnesses, or other evidence, the Board has sufficient evidence to prove that Licensee violated the Healing Arts Act. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before the Board.

SURRENDER

10. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby surrenders his license to practice chiropractic medicine in Kansas. Such surrender shall be treated as a revocation for all purposes, including reporting. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the provisions of K.S.A. 65-2844 and all applicable statutes, law, rules, and regulations regarding qualifications for licensure and reinstatement. Further, Licensee agrees and acknowledges that any application seeking to change his licensure status in Kansas will be governed by the standards set forth in *Vakas v. Kansas Board of Healing Arts*, 248 Kan. 589 (1991).
11. Licensee shall be required to pay the fee for reinstatement of a revoked license with any application for reinstatement.

12. Licensee agrees that, in the event he applies for reinstatement of his license, the allegations contained in this Consent Order will be considered by the Board in reviewing any application for reinstatement.

13. Licensee agrees that he will not apply for reinstatement or stay of this revocation of his license for a period of at least three (3) years following the date of the approval of this Consent Order.

14. Licensee shall place his patients' medical records in the custody of another licensed doctor of chiropractic, or a records maintenance facility, in compliance with K.A.R. 100-24-2 and 100-24-3. Licensee shall notify the Board in writing on or before January 1, 2020 of the specific measure(s) taken and the appropriate contact information of the designated record custodian so the Board can respond to questions from patients regarding the location of their medical records and how they can obtain their medical records.

15. Licensee acknowledges that, under K.S.A. 65-2867, it shall be unlawful for Licensee to open or maintain an office for the purpose of the healing arts, or to announce or hold himself out to the public as possessing the intention, authority, or skill to practice the healing arts.

COSTS

16. Licensee is hereby ordered to pay \$1,246.00 of the Board's total costs in conducting this proceeding under the Kansas Administrative Procedure Act as set forth in the Board's Statement of Costs.

17. These costs shall be paid in full by July 1, 2020.

18. Licensee shall make all payments, which shall be in the form of a cashier's check or money order, to the "Kansas State Board of Healing Arts" and send all payments to the attention of:

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

MISCELLANEOUS PROVISIONS

19. The Board is the sole and exclusive administrative agency in 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.

20. A Qualified Protective Order has previously been issued to protect the confidential information and shall apply to this Consent Order. (Agency Record, Amended Qualified Protective Order, *In the Matter of Eric Hawkins, D.C.*, KSBHA Docket No. 19-HA00006, filed February 21, 2019).

21. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into this Consent Order as provided by K.S.A. 77-505 and K.S.A. 65-2838. Upon approval, these stipulations shall constitute the findings of the Board and this Consent Order shall constitute the Board's Final Order.

22. 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.

23. 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,

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to submit rebuttal evidence, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.

24. 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.

25. 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.

26. 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. Licensee 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.*

27. 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

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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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. Licensee acknowledges he has read this Consent Order and fully understands the contents.

34. Licensee acknowledges this Consent Order has been entered into freely and voluntarily.

35. Licensee shall obey all federal, state and local laws and rules governing the practice of chiropractic in 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.

36. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an 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.

37. This Consent Order constitutes **public disciplinary action**.

38. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

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 31 day of December, 2019.

**FOR THE KANSAS STATE BOARD OF
HEALING ARTS:**



Executive Director

12/31/19

Date



Eric Hawkins, D.C.

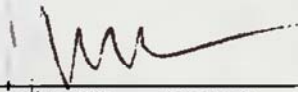
Licensee

12-26-19

Date

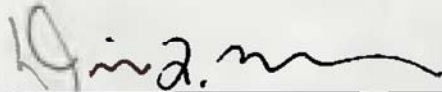
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PREPARED AND APPROVED BY:



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Attorney for Licensee

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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 31st day of November, 2019, to the following:

Eric Hawkins, D.C.

Licensee

CONFIDENTIAL

Diane L. Bellquist

Attorney for Licensee

Joseph, Hollander & Craft, LLC

1508 SW Topeka Blvd.

Topeka, Kansas 66612-1887

With a copy hand-delivered to:

J. Todd Hiatt

Litigation Counsel

Kansas State Board of Healing Arts

800 SW Jackson, Lower Level-Suite A

Topeka, Kansas 66612

Licensing Administrator

Kansas State Board of Healing Arts

800 SW Jackson, Lower Level-Suite A

Topeka, Kansas 66612

And the original was hand-filed with the office of the Executive Director:

Executive Director

Kansas Board of Healing Arts

800 SW Jackson, Lower Level-Suite A

Topeka, Kansas 66612



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