

FILED
DEC 07 2016
KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
) Docket No. 17-HA00023
KYLE M. SHEAHON, D.C.)
Kansas License No. 01-05701)

CONSENT ORDER FOR SURRENDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Jane E. Weiler, Associate Litigation Counsel, ("Petitioner"), and Kyle M. Sheahon, D.C., ("Licensee"), *pro se*, 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: [REDACTED] Salina, Kansas 67401.
2. Licensee is or has been entitled to practice chiropractic in the State of Kansas, having been issued License No. 01-05701 on approximately April 10, 2015. Licensee's current license is suspended, and having last renewed such license on approximately January 28, 2016.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of chiropractic. K.S.A. 65-2801 *et seq.* and K.S.A. 65-2871.
4. 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

Consent Order for Surrender
Kyle M. Sheahon, D.C.
License No. 01-05701

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.

5. 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.
6. 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 possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
7. 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.
8. 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(k), and K.S.A. 65-2836(b), as further defined in K.S.A. 65-2837(b)(12), to take action with respect to Licensee's license under the Kansas Healing Arts Act, K.S.A. 65-2801, *et seq.*

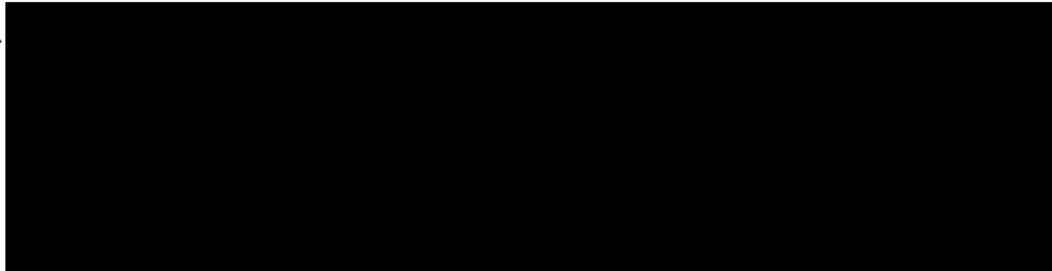
9. On or about February 10, 2015, Licensee entered into a settlement agreement in the form of a Consent Order *In the Matter of Kyle M. Sheahon, D.C.*, in KSBHA Docket No. 15-HA00063 (“2015 Consent Order”). On or about April 15, 2015, the Board accepted and ratified this Consent Order. The 2015 Consent Order constituted a lawful order of the Board and constituted non-disciplinary public action against Licensee’s license to practice chiropractic in the State of Kansas.
10. Pursuant to the 2015 Consent Order, Licensee was required to comply with all of the terms and conditions of the Consent Order, which included, in pertinent part:

- a.
- b.
- c.
- d.
- e.

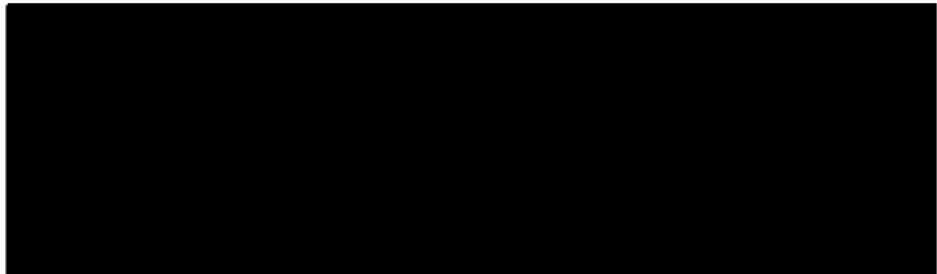


- f. The aforementioned monitoring provisions were not self-terminating, and after a period of three (3) years, Licensee could request modification or termination of the provisions.

11.



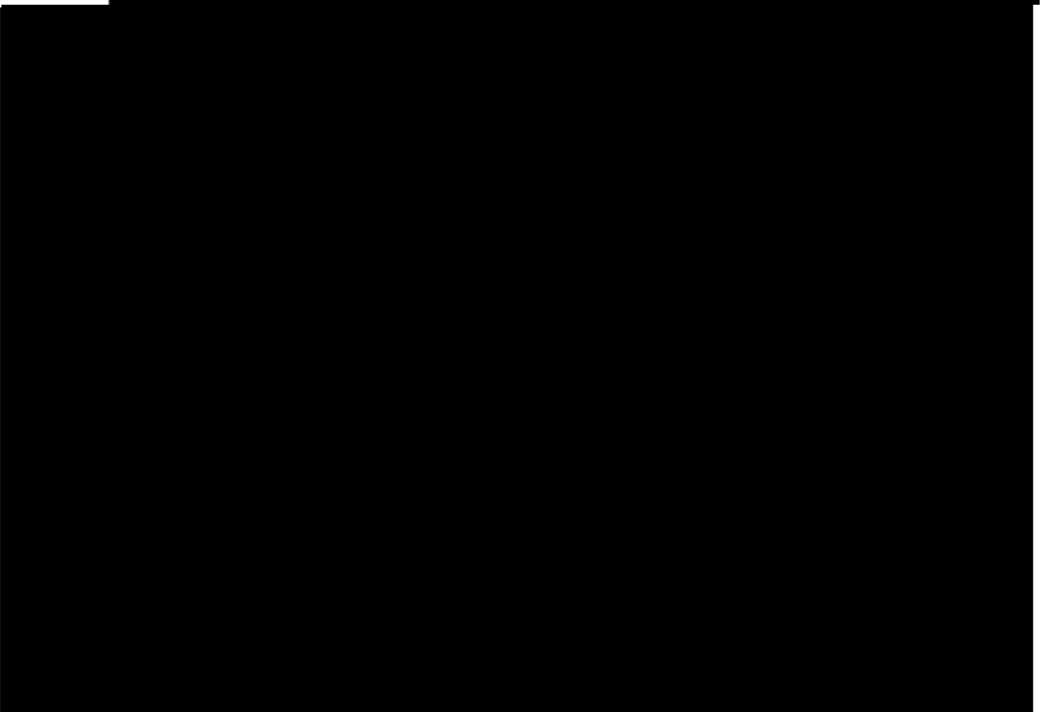
a.



b.

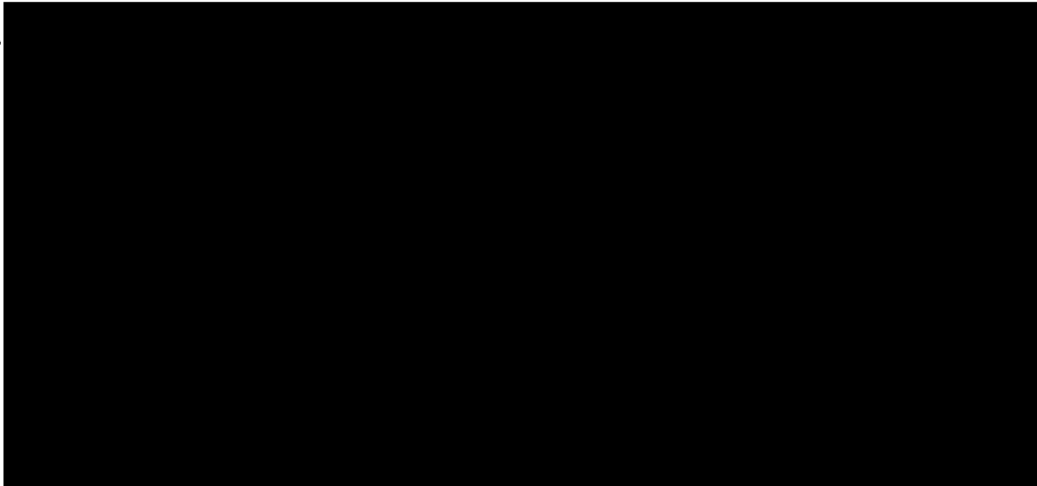
c.

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16. On or about December 29, 2015, Board staff filed a Petition for disciplinary action in KSBHA Docket No. 16-HA00047 against the chiropractic license of Licensee.

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20. On or about January 21, 2016, Petitioner filed a Motion for Leave to Amend the Petition due to the fact additional evidence had been received that could impact the Board's decision in this matter.

21. Further, on or about January 21, 2016, Petitioner filed an Amended Petition for disciplinary action that alleged additional allegations of Licensee's continued conduct in the present matter.

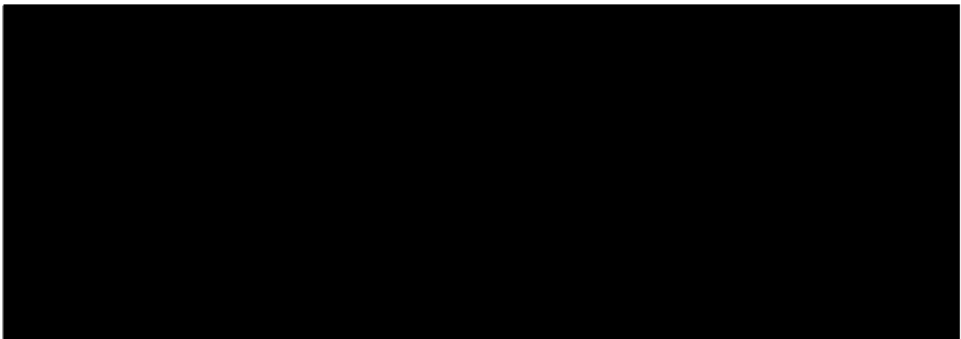
22.



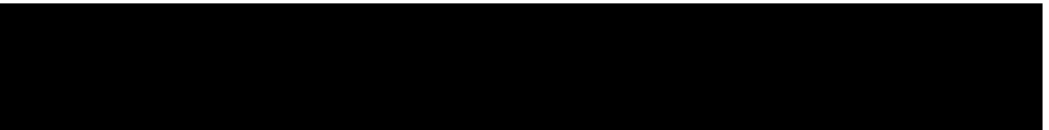
a.

b.

c.



23.



24. On or about March 9, 2016, in lieu of the aforementioned Amended Petition for disciplinary action, Licensee submitted to the Board a signed Consent Order ("2016 Consent Order") in KSBHA Docket No. 16-HA00047. Further, Licensee

would then appear before the April 2016 Board Meeting for the full Board to review this proposed 2016 Consent Order.

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28. On or about April 8, 2016, Licensee appeared in person for the Conference Hearing regarding the new Consent Order in KSBHA Docket No. 16-HA00047. Further, Licensee testified under oath at this aforementioned Conference Hearing

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30. On April 8, 2016, Licensee's license was suspended pursuant to the aforementioned 2016 Consent Order for period of fourteen (14) calendar days to

end on April 22, 2016; however, Licensee's license was emergently suspended on approximately April 22, 2016.

31.

[REDACTED]

32. On or about April 21, 2016, Petitioner filed a Petition in KSBHA Docket No. 16-HA00096 for disciplinary action against Licensee's license to practice chiropractic in the State of Kansas that alleged Licensee had violated a lawful order of the Board previously entered into by the Board in KSBHA Docket No. 15-HA00063.

33. Additionally, on or about April 21, 2016, Petitioner filed a Motion for *Ex Parte* Emergency Order of Suspension against Licensee's license to practice chiropractic in the State of Kansas that alleged Licensee continuation in practice constituted an immediate danger to the public health, safety, and welfare because Licensee's non-compliance [REDACTED] impedes his ability to practice with reasonable skill and safety.

34. On or about April 22, 2016, Board Presiding Officer, Richard Macias, granted the aforementioned Motion and issued an *Ex Parte* Emergency Order of Suspension and Order for Emergency Proceedings.

35. On or about June 10, 2016, Licensee appeared in person for the Conference Hearing regarding the Petition for disciplinary action against Licensee's chiropractic license, and on the issue of whether the *Ex Parte* Suspension should remain in effect in KSBHA Docket No. 16-HA00096.

36. On or about July 18, 2016, the Board issued a Final Order (“2016 Final Order”) that suspended Licensee’s license in KSBHA Docket No. 16-HA00096 for a period of at least ninety (90) days. In order for the suspension to be terminated, Licensee must at least have submitted to a new forensic evaluation of Licensee’s fitness to practice; complete a professional ethics course; and [REDACTED]

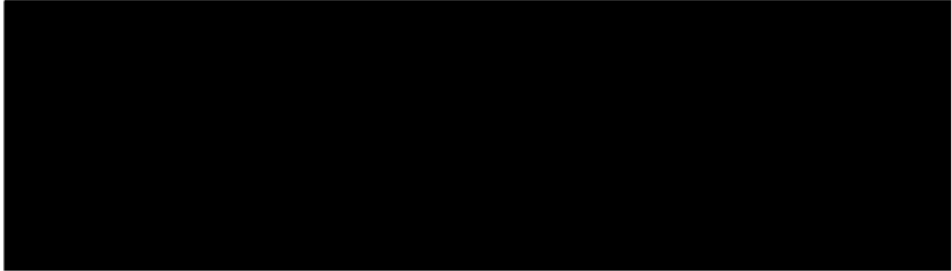
[REDACTED]

37. Pursuant to the 2016 Consent Order, Licensee is required to comply with all of the terms and conditions of the Consent Order, which included, in pertinent part:

- a.
- b.
- c.
- d.

[REDACTED]

e.



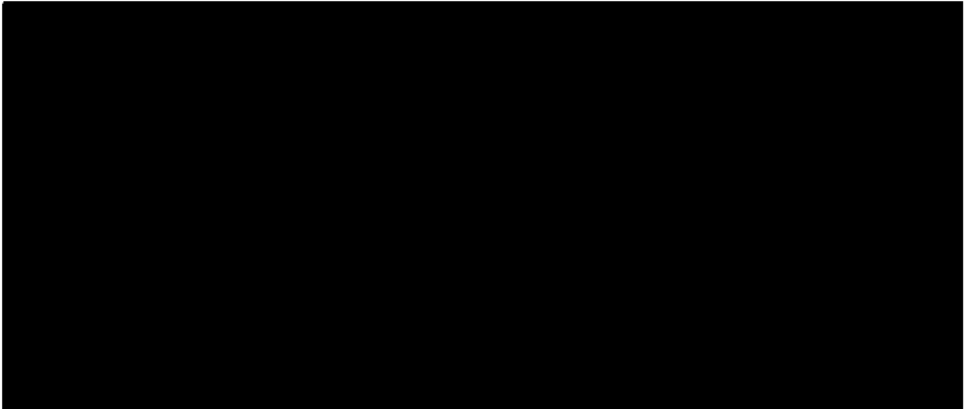
f.

g. The aforementioned monitoring provisions were not self-terminating, and after a period of five (5) years, Licensee could request modification or termination of the provisions.

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a.



b.

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39. During the June 2016 Board Meeting, Licensee was reminded that he is still required to comply with the terms and conditions of the 2016 Consent Order and  Further, Licensee acknowledged his understanding of the Board's actions regarding his non-compliance with his Consent Order.

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52. On or about October 25, 2016, Petitioner filed a Petition in KSBHA Docket No. 17-HA00023 for disciplinary action against Licensee's license to practice chiropractic in the State of Kansas that alleged Licensee had violated a lawful order of the Board, the 2016 Final Order, previously ordered by Board in KSBHA Docket No. 16-HA00096.

53. 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.
54. Licensee's acts constitute violations of the Kansas Healing Arts Practice Act as set forth in K.S.A. 65-2836.
55. Licensee violated K.S.A. 65-2836(k), in that he violated a lawful order of the Board previously ordered by the Board in Docket No. 16-HA00096 when Licensee failed to comply with the terms and conditions of his 2016 Consent Order and the 2016 Final Order.
56. 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.
57. 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.
58. All of the materials in KSBHA Investigative Case Number 16-00338 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 authorized and

directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

59. 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. 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.*
60. 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.

61. 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.
62. 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.
63. 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.
64. 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.

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

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

67. All correspondence or communication between Licensee and the Compliance Coordinator 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

68. Licensee shall obey all federal, state and local laws and rules governing the practice as 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.

69. 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.

70. This Consent Order constitutes public disciplinary action.

71. A protective order is hereby entered to protect all confidential information under 42 CFR Part II and K.S.A. 65-4925.

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

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

VOLUNTARY SURRENDER TREATED AS REVOCATION

74. Licensee hereby surrenders his Kansas license to practice chiropractic. Such surrender shall be treated as a revocation for all purposes including reporting such action. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the provisions of K.S.A. 65-2844. Further, Licensee's application will be governed by *Vakas v. The Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991), and all applicable statutes, law, rules and regulations regarding qualifications for licensure and reinstatement.

75. Licensee shall be required to pay the fee for reinstatement of a revoked license with any application for reinstatement.

76. Licensee agrees that in the event he applies for reinstatement of his license, the allegations contained in this Consent Order will be considered as findings of fact and conclusions of law.

77. Licensee shall place his patients' records in the custody of another licensed chiropractor or records maintenance facility in compliance with K.A.R. 100-24-2 and 100-24-3. Licensee shall notify the Board on or before November 30, 2016, of the specific measure taken and the appropriate contact information so that the

Board can respond to questions from patients about the location of their patient records and how they can obtain them.


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

79. Licensee is prohibited from owning, managing, being employed by or in any way acting in an advisory capacity for any entity providing chiropractic services in the State of Kansas.

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.

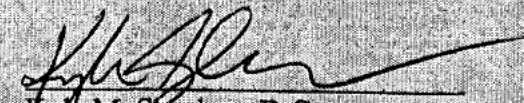
IT IS SO ORDERED on this 7 day of Dec, 2016.

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


Kathleen Selzler Lippert
Executive Director

Dec 7th, 2016
Date

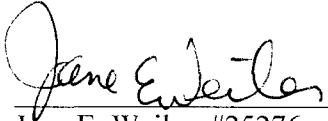
*The original signature page
has been mailed to board staff
Per correspondence from licensee.


Kyle M. Sheahon, D.C.
Licensee

12-6-16
Date

Consent Order for Surrender
Kyle M. Sheahon, D.C.
License No. 01-05701

PREPARED AND APPROVED BY:



Jane E. Weiler, #25276
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level Ste A
Topeka, Kansas 66612
(785) 296-1479
(785) 368-8210-fax
Jane.weiler@ks.gov

Weiler, Jane [BOHA]

From: Kyle Sheahon [REDACTED]
Sent: Monday, December 05, 2016 11:08 AM
To: Weiler, Jane [BOHA]
Subject: Surrender of License

Jane, I would like to surrender my license in response to my financial restrictions and therefore inability to uphold my requirements under the consent order.

Sent from my iPhone

Weiler, Jane [BOHA]

From: Gmail [REDACTED]
Sent: Wednesday, December 07, 2016 10:11 AM
To: Weiler, Jane [BOHA]
Subject: Re: Surrender of License

Attached is the signed signature page of the consent order, the original copy is in the mail.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order for Surrender by United States mail, postage prepaid, on this 7th day of November, 2016, to the following:

Kyle M. Sheahon, D.C.
[REDACTED]
Salina, Kansas 67401

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 hand-delivered to:

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

John Nichols, Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Debra Albright