

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

**KS State Board of Healing Arts**

In the Matter of	)	
	)	
<b>BRADLEY ECK, D.C.</b>	)	Docket No. 07 -HA-00095
Kansas License No. 01-04269	)	
_____	)	

**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts (“Board”), by and through Stacy R. Bond, Associate Litigation Counsel (“Petitioner”) and Bradley Eck, D.C. (“Licensee”) by and through his counsel, Randall Forbes, and move the Board for approval of a Consent Order affecting Licensee’s license to practice chiropractic medicine in the State of Kansas. The parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is 2118 N. Tyler Building A, Wichita, KS 67212.
2. Licensee is or has been entitled to engage in the practice of chiropractic medicine, having been issued an original license on June 23, 1995. Licensee holds an active current license, having last renewed his license on January 1, 2009.
3. 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 medicine. K.S.A. 65-2871.
4. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board’s Disciplinary Panel #21. The Disciplinary Panel authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

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. 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 this case.

7. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

8. 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.

9. 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.

10. At all relevant times hereto, Licensee has held an active current license to practice chiropractic medicine in Kansas.

11. The Board received information and investigated the same, and has reason to believe that Licensee entered into cohesion contracts with patients to provide IDD therapy treatments. In these contracts Licensee stated “This is not an individual treatment charge, yet a global fee or flat fee, meaning that you are paying for the effort involved to try and correct your condition.” The contracts also stated that “The Doctor determines how many treatments you will need, therefore, the flat fee is the same, if you have received one treatment or 100 treatments.” Upon requests by patients who had signed these contracts and then requested a refund after minimal treatment, the patients were informed by Licensee that there were no refunds.

12. Licensee’s acts, if proven, constitute unprofessional conduct as defined by K.S.A. 65-2837(b)(18), K.S.A. 65-2837(b)(19), K.S.A. 65-2837(b)(22) and pursuant to K.S.A. 65-2836(b), the Board has authority to discipline Licensee’s license.

13. The Board received information and investigated the same, and has reason to believe that Licensee from on or about November 1, 2005 through February 2007 submitted multiple similar recurring advertisements in the *The Wichita Eagle*, advertising a “Limited Time Offer” for a free or reduced priced clinical evaluation to see how decompression therapy could help with the reader’s back and neck pain. Licensee published in the recurring advertisements that the offer was only available for a specific period of time, but subsequent advertisements would have the same offer with the dates changed.

14. During this same time period, Licensee published advertisements that stated “I brought professional quality health care to this area in 1995.” Implicit in this statement is that Licensee is advertising professional superiority.

15. During this same time period, Licensee published advertisements captioned "No More Pain." Such caption implies to the reader that Licensee is guaranteeing that they will have permanent pain relief as a result of Licensee's professional services. Additionally Licensee's advertisements stated "Thanks to this technology, I am able to help patients quickly without any risks or complications."

16. Licensee's acts, if proven, constitute unprofessional conduct as defined by K.S.A. 65-2836(d), K.S.A. 65-2837(b)(1), K.S.A. 65-2837(b)(7), K.S.A. 65-2837(b)(8), K.S.A. 65-2837(b)(13) and pursuant to K.S.A. 65-2836(b), the Board has authority to discipline Licensee's license.

17. The Board received information and investigated the same, and has reason to believe that Licensee from about April 13, 2006 to about August 17, 2006 failed to maintain adequate documentation in patient treatment records.

18. Licensee's acts, if proven, constitute a violation of the Healing Arts Act as further defined by K.S.A. 65-2836(k), by violating the lawful regulation promulgated by the board, K.A.R. 100-24-1.

19. According to K.S.A. 65-2838(b), the Board has authority to enter into this Consent Order without necessity of proceeding to a formal hearing. Pursuant to K.S.A. 65-2836, the Board has grounds to deny, revoke, suspend, limit or censure Licensee's license and pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violation of the Healing Arts Act.

20. In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Consent Order, hereby

voluntarily agrees to the following disciplinary action against his license to engage in the practice of chiropractic medicine:

**PROBATION**

- a. Licensee is hereby placed on probation for a term of two years.
- b. Licensee hereby agrees to no longer offer credit applications to patients at his office.
- c. Licensee hereby agrees to provide full refunds to patients listed in the complaint who did not receive all of the treatments contracted for. These refunds shall be in six equal installments and must be completed by September 1, 2009. Licensee shall provide to the Board proof of reimbursement.
- d. Licensee hereby agrees to submit to the Board of Healing Arts copies of all advertisements he utilizes during the term of his probation. The copies must be sent to: Compliance Coordinator, Kansas Board of Healing Arts, 235 S. Topeka Blvd., Topeka, KS 66603. The advertisements must be received by the Board no later than 14 days after publication. Licensee must advise the Board the name of the publication and the date published for each advertisement submitted.
- e. Licensee hereby agrees to reimburse the Board of Healing Arts the investigative costs of this matter. The costs are due and payable by the end of the Licensee's probationary period.

**EDUCATION**

- f. Licensee shall attend and successfully complete a course on Medical Record Keeping Course within 6 (six) months after the filing of this Order. The course must be approved by the Board or its designee and will be at Licensee's own expense. Licensee must provide Board staff with proof of completion of the course.

**FINE**

- g. Licensee agrees to pay a FINE in the amount of \$5,000.00, due and payable to the Board of Healing Arts on or before July 1, 2009.

**MONITORING**

- h. Licensee's radiographs and reports shall be monitored for at least one (1) year by another Kansas-licensed chiropractor at Licensee's own expense.

The monitoring chiropractor must be pre-approved by the Board or the Board's designee;

- i. On or before March 15, 2009, Licensee must submit the curriculum vitae of a proposed monitoring physician who is agreeable to serving in that role;
- j. The Board designates DR. TERRY WEBB to review and approve/disapprove any proposed education courses required under this Consent Order; to approve/disapprove any proposed practice monitor or any other issue that may arise in the implementation of this Consent Order.
- k. Licensee shall maintain a log of all radiographs taken in his office in a format provided by Board staff. The radiograph log shall be subject to random inspection by Board investigators;
- l. On a quarterly basis, the monitoring physician shall review the radiograph log and select five (5) patient charts and radiographs to review. Licensee shall then provide copies of such patient charts and radiographs to the monitoring physician for review. On the 30<sup>th</sup> day of the following month, the monitoring physician shall submit a report to the Board that includes an assessment for each patient chart and radiograph as to whether Licensee is taking radiographs and diagnosing in a manner which is recognized by a reasonably prudent practitioner as being acceptable under similar conditions and circumstances.
- m. The monitoring physician shall immediately notify the Board staff if he/she finds any patient case in which he/she reasonable believes Licensee is inappropriately taking radiographs or improperly diagnosing;
- n. Licensee is responsible for ensuring the timely submission of the monitoring physician's reports to Board staff. Board staff must receive at least four (4) reports. After four (4) reports have been submitted by the monitor, Licensee may request termination of the monitoring.

21. Licensee's failure to comply with the provisions of the Consent Order will result in the Board taking further disciplinary action as the Board deems appropriate in accordance with the Kansas Administrative Procedure Act.

22. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the 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 Healing Arts Act.

23. Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, both administrative and civil, including the Kansas Act for judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* This release shall forever discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this Stipulation or the content of this Stipulation.

24. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to any reporting entities authorized to receive disclosure of this Consent Order.

25. 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.

26. 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.

27. Licensee by signature to this document, waives any objection to the participation of the Board members and General Counsel in the consideration of this offer of settlement, and agrees not to seek the disqualification or recusal of any Board member and General Counsel in any future proceeding 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.

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

29. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be by certified mail addressed to the Kansas Board of Healing Arts, Attention: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

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

31. 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.



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

33. This Consent Order constitutes disciplinary action.

**IT IS THEREFORE ORDERED** that the Consent Order and agreement of the parties contained herein is adopted by the Board, and is the Order of the Board.

**IT IS FUTHER ORDERED** that

**PROBATION**

- a. Licensee is hereby placed on probation for a term of two years.
- b. Licensee hereby agrees to no longer offer credit applications to patients at his office.
- c. Licensee hereby agrees to provide full refunds to patients listed in the complaint who did not receive all of the treatments contracted for. These refunds shall be in six equal installments and must be completed by September 1, 2009. Licensee shall provide to the Board proof of reimbursement.
- d. Licensee hereby agrees to submit to the Board of Healing Arts copies of all advertisements he utilizes during the term of his probation. The copies must be sent to: Compliance Coordinator, Kansas Board of Healing Arts, 235 S. Topeka Blvd., Topeka, KS 66603. The advertisements must be received by the Board no later than 14 days after publication. Licensee must advise the Board the name of the publication and the date published for each advertisement submitted.
- e. Licensee hereby agrees to reimburse the Board of Healing Arts the investigative costs of this matter. The costs are due and payable by the end of the Licensee's probationary period.

**EDUCATION**

- f. Licensee shall attend and successfully complete a course on Medical Record Keeping Course within 6 (six) months after the filing of this Order. The course must be approved by the Board or its designee and will be at Licensee's own expense. Licensee must provide Board staff with proof of completion of the course.

**FINE**

- g. Licensee agrees to pay a FINE in the amount of \$5,000.00, due and payable to the Board of Healing Arts on or before July 1, 2009.

### **MONITORING**

- h. Licensee's radiographs and reports shall be monitored for at least one (1) year by another Kansas-licensed chiropractor at Licensee's own expense. The monitoring chiropractor must be pre-approved by the Board or the Board's designee;
- i. On or before March 15, 2009, Licensee must submit the curriculum vitae of a proposed monitoring physician who is agreeable to serving in that role;
- j. The Board designates Dr. Terry Webb to review and approve/disapprove any proposed education courses required under this Consent Order; to approve/disapprove any proposed practice monitor or any other issue that may arise in the implementation of this Consent Order.
- k. Licensee shall maintain a log of all radiographs taken in his office in a format provided by Board staff. The radiograph log shall be subject to random inspection by Board investigators;
- l. On a quarterly basis, the monitoring physician shall review the radiograph log and select five (5) patient charts and radiographs to review. Licensee shall then provide copies of such patient charts and radiographs to the monitoring physician for review. On the 30<sup>th</sup> day of the following month, the monitoring physician shall submit a report to the Board that includes an assessment for each patient chart and radiograph as to whether Licensee is taking radiographs and diagnosing in a manner which is recognized by a reasonably prudent practitioner as being acceptable under similar conditions and circumstances.
- m. The monitoring physician shall immediately notify the Board staff if he/she finds any patient case in which he/she reasonable believes Licensee is inappropriately taking radiographs or improperly diagnosing;
- n. Licensee is responsible for ensuring the timely submission of the monitoring physician's reports to Board staff. Board staff must receive at least four (4) reports. After four (4) reports have been submitted by the monitor, Licensee may request termination of the monitoring.

**IT IS SO ORDERED.**

**FOR THE KANSAS STATE**

**BOARD OF HEALING ARTS:**

  
\_\_\_\_\_  
Jack Confer  
Executive Director

2-24-09  
Date


  
\_\_\_\_\_  
Bradley Eck, D.C.  
Licensee

12-31-08  
Date

  
\_\_\_\_\_  
Randall Forbes #09089  
Attorney for Licensee

1.2.9  
Date

**PREPARED AND APPROVED BY:**

  
\_\_\_\_\_  
Stacy R. Bond #17673  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3065  
(785) 296-7413

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true and correct copy of the foregoing **CONSENT ORDER** was served this 25<sup>th</sup> day of February, 2009, by depositing the same in the United States mail, postage prepaid, and addressed to the following:

Bradley Eck, D.C.  
2118 N. Tyler Building A  
Wichita, KS 67212

Randall Forbes  
FRIEDEN & FORBES  
555 South Kansas Ave, Suite 303  
PO Box 639  
Topeka, KS 66601-0639

and a copy was hand-delivered to:

Stacy R. Bond  
Associate Litigation Counsel  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603

Melissa Massey  
Compliance Coordinator  
Kansas State Board of Healing Arts  
235 S. Topeka Blvd.  
Topeka, Kansas 66603

and the original was hand-delivered for filing to:

Jack Confer  
Executive Director  
Kansas State Board of Healing Arts  
235 S. Topeka Boulevard  
Topeka, Kansas 66603-3068

  
Cathy Brown  
Executive Assistant