

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

In the Matter of	)	
	)	
Cynthia F. Carter, O.T.	)	KSBHA Docket No. <u>23-1400020</u>
Kansas License No. 17-00097	)	

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**CONSENT ORDER FOR SURRENDER OF LICENSE**

COMES NOW Disciplinary Panel #37 (the "Panel"), by and through James G. McSweyn, Associate Litigation Counsel, and Lisa D. Montgomery, Associate Litigation Counsel, and Cynthia F. Carter, O.T. ("Licensee"), by and through counsel, Diane L. Bellquist, of Joseph, Hollander & Craft LLC, and move the Board for approval of this Consent Order affecting Licensee's license to practice occupational therapy in Kansas. The Board and Licensee stipulate to the following:

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

2. Licensee is or has been entitled to be engaged in the practice of occupational therapy in the State of Kansas, having originally been issued license No. 17-00097 on or around August 15, 1987. Licensee's status is currently Active. Licensee has most recently renewed her license on or around March 4, 2022.

3. At all times relevant to the allegations set forth in this Consent Order, Licensee has held a Kansas license to practice occupational therapy designated as Active.

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Consent Order for Surrender of License  
Cynthia F. Carter, O.T.  
License No. 17-00097

4. This Consent Order is based on the following facts, which the parties agree to and stipulate to be true and relevant to the requested relief:

a. At all times relevant hereto Licensee and C.V. ("Patient") had an Occupational Therapist-Patient relationship.

b. Between **CONFIDENTIAL**, Licensee treated Patient eight (8) times.

c. On or about January 12, 2022, during the first visit with Licensee, Patient was provided with a cell phone number whereby Patient could reach Licensee outside of normal business hours.

d. Over the course of the next several weeks, Licensee and Patient communicated about subjects unrelated to their professional relationship.

e. On or about March 25, 2022, Licensee called Patient. **CONFIDENTIAL**

**CONFIDENTIAL**

f. On or about March 30, 2022, during their next occupational therapy session,

**CONFIDENTIAL**

**CONFIDENTIAL**

During this conversation,

Licensee admitted to Patient that this conduct was "unprofessional."

g. Later in the day on or about March 30, 2022, Licensee sent a text to Patient asking to come to Patient's home. Following this text, events unfolded as follows:

i. **CONFIDENTIAL**

# CONFIDENTIAL

ii.

iii.

iv.

v.

- h. Licensee's conduct at Patient's home on the night of March 30, 2022, caused Patient not only to be concerned for her own safety but, for the safety of **CONFIDENTIAL** as well.

## VIOLATIONS OF THE KANSAS OCCUPATIONAL THERAPY PRACTICE ACT

5. Licensee has committed an act or acts of unprofessional conduct in violation of the Kansas Occupational Therapy Practice Act and/or applicable rules and regulations adopted by the board. Specifically, Licensee has violated:

- a. K.S.A. 65-5410(a)(2) as further defined by **CONFIDENTIAL**, to-wit: Licensee is practicing occupational therapy without reasonable skill and safety **CONFIDENTIAL** **CONFIDENTIAL** , and

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Consent Order for Surrender of License  
Cynthia F. Carter, O.T.  
License No. 17-00097

- b. K.S.A. 65-5410(a)(2) as further defined by K.A.R. 100-54-5(o), to-wit: Licensee has committed conduct likely to deceive, defraud, or harm the public.

**MISCELLANEOUS PROVISIONS**

6. Licensee understands and 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 Occupational Therapy Practice Act with respect to the above allegations.

7. Licensee voluntarily and knowingly waives her right to a hearing or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board. Licensee voluntarily and knowingly waives her 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. 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 is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of occupational therapy. K.S.A. 65-5401 *et seq.*

9. 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.

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Consent Order for Surrender of License  
Cynthia F. Carter, O.T.  
License No. 17-00097

10. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Occupational Therapy Practice 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 Occupational Therapy Practice Act.

11. The Kansas Occupational Therapy Practice Act is constitutional on its face and as applied in this case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

12. 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.

13. 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

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**Consent Order for Surrender of License**  
Cynthia F. Carter, O.T.  
License No. 17-00097

prosecute, cause, or permit to be prosecuted, any action or proceeding of any description against the Releasees.

14. 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.

15. 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.

16. 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.

17. 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.

18. Licensee acknowledges that she has read this Consent Order and fully understands the contents.

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**Consent Order for Surrender of License**  
Cynthia F. Carter, O.T.  
License No. 17-00097

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

20. 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.

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

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

**SURRENDER OF LICENSE TO PRACTICE OCCUPATIONAL THERAPY**

23. In lieu of conducting a formal proceeding on the allegations, **Licensee agrees to surrender her license to practice occupational therapy in Kansas**. Such surrender will be treated as a revocation for all purposes, including reporting.

24. 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.

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Consent Order for Surrender of License  
Cynthia F. Carter, O.T.  
License No. 17-00097

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

**IT IS THEREFORE ORDERED** that this Consent Order and agreement of the parties contained herein is **hereby 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 24<sup>th</sup> day of March, 2023.

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

Susan Bell

3/24/23

Date

Cynthia F. Carter

Cynthia F. Carter, O.T.  
Licensee

3/23/23

Date

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Consent Order for Surrender of License  
Cynthia F. Carter, O.T.  
License No. 17-00097



PREPARED AND RESPECTFULLY SUBMITTED BY:

/s James McSweyn

James G. McSweyn #29058  
Associate Litigation Counsel  
Lisa D. Montgomery #18243  
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**CERTIFICATE OF SERVICE**

I hereby certify that I served a true and correct copy of the **CONSENT ORDER FOR SURRENDER OF LICENSE** by () placing the same in the U.S. mail, postage prepaid, () facsimile to the phone numbers listed below, and that the transmission was reported as complete and without error and that the facsimile machine complied with Supreme Court Rule 119(b)(3), or () hand delivery, on this the 24<sup>th</sup> day of March, 2023, to the following:

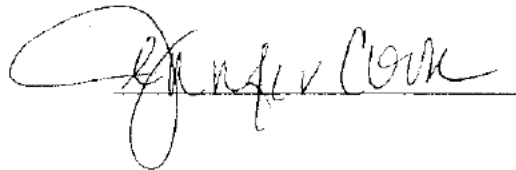
Cynthia Carter  
**CONFIDENTIAL**

*Licensee*

Diane L. Bellquist  
Joseph, Hollander & Craft LLC  
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Topeka, Kansas 66612  
[dbellquist@josephhollander.com](mailto:dbellquist@josephhollander.com)  
*Attorney for Licensee*

And the original was hand-filed with:

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



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