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KS State Board of Healing Arts

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

In the Matter of)
)
Brian Scott Simpson, P.T.)
Application for Licensure)

Docket No. 08-HA- 00070

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Kathleen Selzler Lippert, Associate Counsel (“Respondent”), and Brian Scott Simpson, P.T. (“Applicant”), *pro se*, and move the Board for approval of a Consent Order granting Applicant a license to practice physical therapy in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant’s last known mailing address to the Board is: 16407 NE 124th Terr, Kearney, Missouri 64060.
2. On or about November 2, 2007, Applicant submitted to the Board an application for licensure in physical therapy. Such application was deemed complete and filed with the Board on November 27, 2007.
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 physical therapy. K.S.A. 65-2901 et seq. and K.S.A. 65-2912.
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 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.

Consent Order
Brian Scott Simpson, P.T.

5. The Kansas Physical Therapy Act is constitutional on its face and as applied in the case.
6. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. Applicant voluntarily and knowingly waives his right to a hearing. Applicant 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. Applicant voluntarily and knowingly agrees to waive all possible 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. Applicant 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 there are grounds to deny licensure or grant licensure with limitations.
10. Applicant was disciplined by the Division Of Professional Registration State Board of Registration For The Healing Arts (Missouri Board) for sexual misconduct relating to the professional practice of physical therapy.
11. The Missouri Board's findings of fact conclude Applicant engaged in a sexual relationship with one patient shortly after the patient was discharged from treatment.

Further, the Missouri Board concluded that Applicant engaged in a sexual relationship with a second patient.

12. The Missouri Board disciplined Applicant.

13. **(Confidential)**

14. Applicant acknowledges that if formal hearing proceedings were conducted and Applicant presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that there are grounds to deny or limit licensure with respect to the above allegations. Applicant further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

15. Applicant's acts constitute unprofessional conduct as set forth in K.S.A. 65-2912 and constitute grounds to deny or limit licensure. Specific grounds include:

- a. K.S.A. 65-2912 (5), as further defined in K.A.R. 100-29-10(a)(3), in that Applicant had a physical therapy license disciplined by another state for acts or conduct which would constitute grounds for disciplinary action under K.S.A. 65-2912.
- b. K.S.A. 65-2912(5), as further defined in K.A.R. 100-29-10(a)(20), in that Applicant committed any act of sexual misconduct related to the professional practice of physical therapy.

16. According to K.S.A.65-2838(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

17. In lieu of conducting a formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following limitations as a condition to being granted licensure:

MONITORING

- a. Applicant's license will be monitored for a period of five (5) years. During his time frame, Applicant shall comply with all of the terms and conditions set out herein.
- b. **(Confidential)**

- c. During the monitoring period, Applicant shall accept and comply with unannounced visits from the Board's representatives or designees to monitor his compliance with the terms and conditions of this Consent Order. Further, Applicant shall appear in person for interviews with the Board or its designee upon request.
- d. During the monitoring period, Applicant shall keep the Board informed of Applicant's current work and home telephone numbers and addresses. Applicant shall notify the Board in writing within ten (10) days of any change in this information.

- e. Applicant shall notify, within fifteen (15) days of the effective date of this Consent Order, all employers, hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Applicant practices or has privileges of Applicant's status. Notification shall be in writing and Applicant shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.

LIMITATIONS

- f. Applicant shall not date or otherwise have any social contact or involvement with any current or former female client or patient outside the professional relationship.

MONITORING AND LIMITATION TIMEFRAME

- g. The above monitoring provisions and limitations are not self-terminating. After a period of five (5) years, Applicant may request modification or termination of the provisions. For any period of time that Applicant is not actively practicing physical therapy in Kansas, the monitoring provisions and limitations will remain in effect but will be tolled and not counted towards reducing the five (5) year timeframe.
18. Applicant's failure to comply with the provisions of the Consent Order may result in the Board taking disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Physical Therapy Act.
19. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Physical Therapy Act, or to investigate complaints received under the Risk Management Law, K.S.A. 64-4921 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 Physical Therapy Act.

20. Applicant 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 Act for Judicial Review and Civil Enforcement of Agency Actions, 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 Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.
21. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.
22. 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.
23. Applicant 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 Applicant is not present. Applicant 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.

24. Applicant, 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.
25. Applicant acknowledges that he has read this Consent Order and fully understands the contents.
26. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.
27. All correspondence or communication between Applicant and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
28. Applicant shall obey all federal, state and local laws and rules governing the practice of physical therapy 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.
29. 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.

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

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

IT IS FURTHER ORDERED that upon meeting all technical requirements for licensure, Applicant shall be granted a license.

IT IS FURTHER ORDERED that:

MONITORING

a. Applicant's license will be monitored for a period of five (5) years. During his time frame, Applicant shall comply with all of the terms and conditions set out herein.

b. **(Confidential)**

c. During the monitoring period, Applicant shall accept and comply with unannounced visits from the Board's representatives or designees to monitor his compliance with the terms and conditions of this Consent Order. Further,

Applicant shall appear in person for interviews with the Board or its designee upon request.

- d. During the monitoring period, Applicant shall keep the Board informed of Applicant's current work and home telephone numbers and addresses. Applicant shall notify the Board in writing within ten (10) days of any change in this information.
- e. Applicant shall notify, within fifteen (15) days of the effective date of this Consent Order, all employers, hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Applicant practices or has privileges of Applicant's status. Notification shall be in writing and Applicant shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.

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- f. Applicant shall not date or otherwise have any social contact or involvement with any current or former female client or patient outside the professional relationship.

MONITORING AND LIMITATION TIMEFRAME

- g. The above monitoring provisions and limitations are not self-terminating. After a period of five (5) years, Applicant may request modification or termination of the provisions. For any period of time that Applicant is not actively practicing physical therapy in Kansas, the monitoring provisions and limitations will remain in effect but will be tolled and not counted towards reducing the five (5) year timeframe.

IT IS SO ORDERED on this 30 day of ^{December}~~November~~, 2007.

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

Lawrence T. Buening, Jr.
Lawrence T. Buening, Jr.
Executive Director

December 8, 2007
Date

Brian Scott Simpson P.T.
Brian Scott Simpson, P.T.
Applicant

11/30/07
Date

PREPARED AND APPROVED BY:

Kathleen Selzer Lippert
Kathleen Selzer Lippert #17997
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-296-0961

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 ~~30~~ ^{10th} day of ~~November~~ ^{December}, 2007, to the following:

Brian Scott Simpson, P.T.
Applicant
16407 NE 124th Terr
Kearney, Missouri 64060

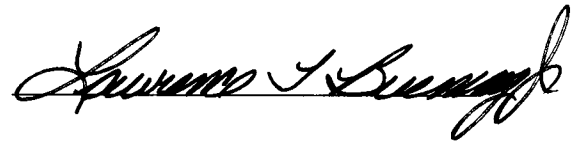
And the original was hand-filed with:

Lawrence T. Buening, Jr.
Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Consent Order
Brian Scott Simpson, P.T.

And a copy was hand-delivered to:

Kathleen Selzler Lippert #17957
Associate Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

A handwritten signature in black ink, appearing to read "Steven J. Lippert". The signature is written in a cursive style with a horizontal line underneath the text.