

FEB 23 2021

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)

Bryan M. Allen, L.R.T.)

Kansas License No. 22-00159)

Docket No. 20-HA-00032

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through J. Todd Hiatt, Litigation Counsel ("Petitioner"), and Bryan M. Allen, L.R.T. ("Licensee"), by and through his attorney, Colin N. Gotham, and move the Board for approval of a Consent Order affecting Licensee's license to practice as a licensed radiological technologist in Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is: **CONFIDENTIAL**
CONFIDENTIAL
2. Licensee is entitled to practice as a radiologic technologist in Kansas, having been issued original license number 22-00160 on August 31, 2005. Licensee's current license status is Active, having last renewed such license on or about September 30, 2019.
3. The Board has received information and investigated the same, and has reason to believe there are grounds to take action under the Kansas Radiologic Technicians Act, K.S.A. 65-7301 *et seq.*
4. Licensee was employed by the University of Kansas Hospital ("KU Hospital") as a Radiology Senior Supervisor until his resignation in lieu of termination on or about August 2, 2018.

Consent Order
Bryan M. Allen, L.R.T.

5. While employed at KU Hospital, Licensee and his wife, Wendy Allen, L.R.T., stole saline solution, four to five IV kits, four to five intracath needles, one nasal cannula, and one oxygen cylinder from a KU Hospital facility which they used to hydrate themselves and friends after a night of drinking. An eyewitness reported, and would testify, that Licensee's wife also stated an intent to steal more IV bags to replace those used by her and Licensee.

6. On or about July 31, 2018, Licensee was interviewed by KU Hospital administration regarding the thefts. Licensee admitted, both orally and by written statement, he had stole IVs and IV supplies from KU Hospital and that there were two used and two unused IV bags currently at his home. Licensee also admitted that he and his wife would use the saline to rehydrate after a night of drinking.

7. On or about August 2, 2018, Licensee signed another written statement in which Licensee admitted the items he and his wife had taken were administered to Licensee, Licensee's wife, and a neighbor.

8. Upon completing its investigation, KU Hospital concluded that Licensee's conduct constituted several violations of its employee policies and ethical standards, and Licensee's termination was recommended. Licensee resigned in lieu of termination.

9. Licensee confirmed to Board investigators in writing he had stolen the above items from KU Hospital for the purpose of rehydrating himself and his wife after consuming alcohol.

10. 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. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

11. The Board is the sole and exclusive administrative agency in Kansas authorized to regulate the practice of the healing arts, and specifically the practice of radiological technologists. K.S.A. 65-7301 *et seq.*

12. The Kansas Radiologic Technologists Practice 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.

13. 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.

14. 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.

15. The Board has received information and investigated the same, and has reason to believe there may be grounds to take action with respect to Licensee's license under the Kansas Radiologic Technologists Practice Act, K.S.A. 65-7301 *et seq.*

16. 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 Radiologic Technologists Practice 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.

17. Licensee violated K.S.A. 65-7313(a)(6), in that Licensee has undertaken or engaged in practice beyond the scope of duties permitted a licensee. Specifically, Licensee took KU Hospital supplies, in the form of a saline bag, IV supplies, a nasal cannula, and an oxygen cylinder, without permission, to be administered by Licensee and his wife to themselves and at least one other person at their home for the purpose of rehydrating after excessive alcohol consumption. These acts constitute the provision of medical care and treatment that exceeds Licensee's scope of practice.

18. Licensee violated K.S.A. 65-7313(a)(8) by committing acts of unprofessional conduct, as defined by K.A.R. 100-73-6(d) and K.A.R. 100-73-6(h). Specifically:

- a. Licensee was sanctioned or disciplined by KU Hospital for taking hospital supplies home for use by himself, his wife, and a neighbor, without permission, leading to his resignation in lieu of termination, constituting unprofessional conduct as defined by K.A.R. 100-73-6(d).
- b. Licensee committed conduct likely to deceive, defraud, or harm the public by taking KU Hospital supplies, in the form of a saline bag, IV supplies, a nasal cannula, and an oxygen cylinder, without permission for the purpose of rehydrating after excessive alcohol consumption, constituting unprofessional conduct as defined by K.A.R. 100-73-6(h).

19. Under K.S.A. 65-7313(a), the Board may limit, suspend, censure, impose administrative fines, revoke or otherwise sanction Licensee's license for violations of the Kansas Radiologic Technologists Practice Act.

20. According to K.S.A. 77-505 and K.S.A. 65-7313(b), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

21. All pending ~~CONFIDENTIAL~~ materials in ~~CONFIDENTIAL~~ regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 34 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

22. 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 as a licensed radiological technologist 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 Radiologic Technologists Practice Act K.S.A. 65-7301 *et seq.*

23. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Radiologic Technologists 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 Radiologic Technologists Practice Act.

24. 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 for 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.

25. 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.

26. 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.

27. 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.

28. 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.

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

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

31. Licensee shall obey all federal, state and local laws and rules governing the practice of radiologic technologists 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.

32. 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. 77-505 and K.S.A. 65-7313(b). 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.

33. Licensee shall immediately notify the Board or its designees of any citation, arrest or charge filed against him or any conviction for any traffic or criminal offense excluding speeding and/or parking violations.

34. Licensee shall immediately notify the Board or its designee of any complaint filed, or investigation opened, by the proper licensing authority of another state, territory, District of Columbia, or other county, or by a peer review body, a health care facility, a professional association or society, or by a governmental agency.

35. Licensee shall at all times keep Board staff informed of his current practice locations addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten days of any such change.

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

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

38. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action on his license to engage in the practice of radiologic technologists:

PUBLIC CENSURE

39. Licensee is hereby **publicly censured** for violating the Kansas Radiologic Technologists Practice Act.

FINE

40. Licensee is hereby ordered to pay a **FINE** in the amount of **ONE THOUSAND DOLLARS AND ZERO CENTS**, (\$1,000.00) for violations of the Kansas Radiologic Technologists Practice Act.

41. Such fine shall be paid in full within 60 calendar days of the execution of this Consent Order, in the form of a Cashier's Check or Money Order paid to the order of "Kansas State Board of Healing Arts."

42. All monetary payments to the Board relating to this Consent Order shall be mailed to the Board by certified mail, addressed to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612
KSBHA_compliancecoordinator@ks.gov


TIMEFRAME

43. Licensee must successfully pay the required fine on or before the date specified before he may request termination of this Consent Order.

IT IS FURTHER 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 22nd day of February, 2021.

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



Executive Director

2/23/21

Date

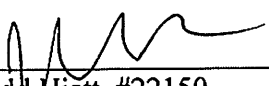


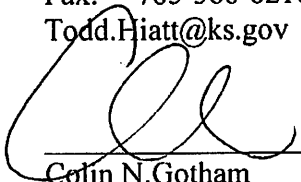
Bryan M. Allen, L.R.T.
Licensee

2-4-20

Date

PREPARED AND APPROVED BY:



J. Todd Hiatt, #22150
Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
Phone: 785-296-8371
Fax: 785-368-8210
Todd.Hiatt@ks.gov

Colin N. Gotham
Attorney for Licensee
7225 Renner Road, Suite 200
Shawnee, KS 66217
Phone: 913-890-7005
cgotham@emlawkc.com

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 25th day of February, ²⁰²¹~~2019~~, to the following:

Bryan M. Allen, L.R.T.
Licensee

CONFIDENTIAL

Colin N. Gotham
Attorney for Licensee
7225 Renner Road, Suite 200
Shawnee, KS 66217

And the original was hand-filed with:

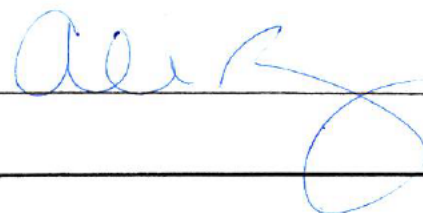
Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

J. Todd Hiatt
Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

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



Consent Order
Bryan M. Allen, L.R.T.