

FEB 23 2021

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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)
)
Wendy K. Allen, L.R.T.)
Kansas License No. 22-00160)

Docket No. 20-HA²¹00033

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through J. Todd Hiatt, Litigation Counsel (“Petitioner”), and Wendy K. Allen, L.R.T. (“Licensee”), by and through her 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 19, 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 CT Technologist Supervisor until her resignation in lieu of termination on or about August 2, 2018.

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5. While employed at KU Hospital, Licensee and her husband, Bryan 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 also stated an intent to steal more IV bags to replace those used by her and her husband.

6. On or about July 31, 2018, Licensee was interviewed by KU Hospital administration regarding the thefts. Licensee denied having any knowledge about the missing IV bags. During questioning, Licensee continued to repeatedly deny the allegations until she was told her husband had already admitted that he and Licensee had stolen IV bags and supplies. Licensee then admitted to taking two bags of saline solution home from the KU Hospital radiology storage closet. Licensee refused to confirm what Licensee's husband had stolen from work, and she denied having used any of the saline bags. Licensee signed a written statement admitting to the facts disclosed during this meeting, specifically, that she took two bags of saline solution from KU Hospital, but they were not opened.

7. After Licensee was placed on administrative probation pending the investigation, and after her husband had signed a written statement admitting the items he and Licensee had stolen were administered to Licensee, Licensee's husband, and a neighbor. Licensee signed a written statement in which she admitted to stealing two bags of saline, and further stated "The saline was possibly used by one other individual at my home . . . but I am not sure if I was the one that administered." She subsequently attempted to retract this statement. However, Licensee's husband confirmed to KU Hospital he had witnessed Licensee administer an IV to their 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. 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.

10. 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 radiologic technologists. K.S.A. 65-7301 *et seq.*

11. The Kansas Radiologic Technologists 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. Licensee voluntarily and knowingly waives her right to a hearing. 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.

13. 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.

14. 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.*

15. 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 her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

16. Licensee violated K.S.A. 65-7313(a)(6), in that Licensee engaged in practice beyond the scope of duties permitted a licensee. Specifically, Licensee administered an IV to another person at her home for the purpose of rehydrating after excessive alcohol consumption, without any medical order to do so.

17. 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 herself and her husband without permission, leading to her 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 at least two saline bags from KU Hospital, without permission for the purpose of

rehydrating after excessive alcohol consumption, constituting unprofessional conduct as defined by K.A.R. 100-73-6(h).

- c. Licensee committed conduct likely to deceive, defraud, or harm the public in that her responses to KU Hospital and **CONFIDENTIAL** contained dishonest, misleading, and contradictory statements by Licensee, constituting unprofessional conduct as defined by K.A.R. 100-73-6(h).

18. 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.

19. 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.

20. 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.

21. 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 her 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.*

22. 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.

23. 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.

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 entities authorized to receive disclosure of the 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, 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.

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

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

30. 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.

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. 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.

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

33. 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.

34. Licensee shall at all times keep Board staff informed of her 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.

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

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

37. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against her license to practice as a radiologic technologist.

PUBLIC CENSURE

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

FINE

39. 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.

40. 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."

41. 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

EDUCATION: ETHICS COURSE

42. Licensee shall successfully complete the **Ethics and Boundaries Examination** offered by **Ethics and Boundaries Assessment Services, L.L.C.** within 180 calendar days of the

execution of this consent order. Information regarding the Ethics and Boundaries Examination, including registration, is available at: www.ebas.org.

43. Licensee shall provide **proof of successful completion** of the Ethics and Boundaries Examination to the Board's Compliance Coordinator **within thirty (30) days of successfully completing the examination.**

44. All costs associated with such examination shall be at Licensee's own expense, including, but not limited to, all costs associated with registration for the examination, any testing center costs, the cost of travel to and from the examination, and the cost of accommodations while taking the examination.

45. Any hours earned by Licensee toward continuing education as a result of successfully completing the Ethics and Boundaries Examination shall be in addition to those continuing education hours required for renewal of licensure.

46. All documentation required pursuant 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

47. Licensee must successfully complete the Ethics and Boundaries Examination and pay the required fine on or before the dates specified before she may request termination of this Consent Order.

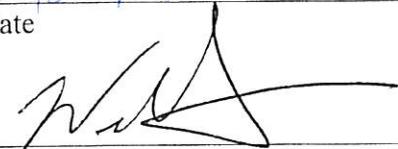
IT IS FURTHER ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 23rd day of February, 2021, 2019.

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



2/23/21
Date



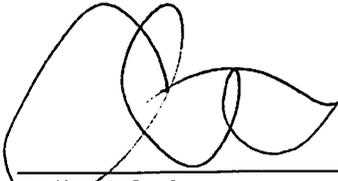
Wendy K. Allen, L.R.T.
Licensee

2-4-20
Date

PREPARED AND APPROVED BY:



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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 23rd day of February, ²⁰²¹2019, to the following:

Wendy K. 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:

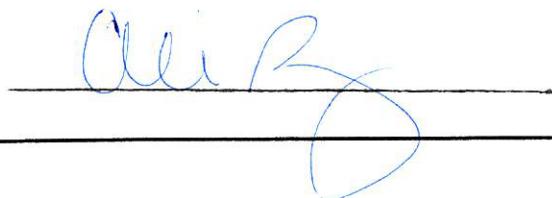
Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

J. Todd Hiatt
Litigation Counsel
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Compliance Coordinator
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Topeka, Kansas 66612

Licensing Administrator
Kansas Board of Healing Arts
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Topeka, Kansas 66612



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Wendy K. Allen, L.R.T.