

FILED

FEB 13 2013

KS State Board of Healing Arts

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

In the Matter of)	
)	Docket No. 13-HA <u>00043</u>
Erica L. Anderson, A.T.)	
Kansas License No. Pending)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Seth K. Brackman, Associate Litigation Counsel (“Petitioner”), and Erica L. Anderson, A.T. (“Applicant”), *pro se*, and move the Board for approval of a Consent Order affecting Applicant’s license to practice as an athletic trainer in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant’s last known mailing address to the Board is: 7627 E 37th Street N, Apt. #1409, Wichita, Kansas 67226.
2. On or about August 31, 2012, Applicant submitted to the Board an application for licensure as an athletic trainer. Such application was deemed complete and filed with the Board on February 7, 2013.
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 athletic training. K.S.A. 65-6901 et seq. and K.S.A. 65-6902.
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. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board’s Final Order.

5. The Kansas Athletic Trainers Licensure Act is constitutional on its face and as applied in the case. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. Applicant voluntarily and knowingly waives her right to a hearing. Applicant 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. 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.
7. 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.
8. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-6911 and K.A.R. 100-69-7, to take action with respect to Applicant's license under the Kansas Athletic Trainers Licensure Act, K.S.A. 65-6901, *et seq.*
9. In her application, Applicant stated that she has been employed by Friends University in Wichita, Kansas, since August 2012, as a certified Athletic Trainer.

10. On October 18, 2012, Applicant sent Board staff an e-mail listing herself as an Assistant Athletic Trainer on the Friends University website and also listing her current job duties as follows:

- a. Assist head athletic trainer in daily functions and operations of the athletic training room;
- b. Documentation of injuries, rehabs, and treatments; and
- c. Provide standard first care to student athletes.

11. On October 19, 2012, Applicant sent Board staff a second e-mail wherein she provided additional information in regard to her job responsibilities at Friends University as follows:

Unsupervised

- a. Treats injuries and recommends medical attention for athletes injured in sporting events. Provides injury preventative education to athletes and coaches and also provides rehabilitation of injuries through nutrition counseling and/or physical activities;
- b. Coverage of athletic practices and all home competitions. Travel with athletic team as designated;
- c. Maintains necessary paperwork related to injury reports/doctor notes, insurance claims, training manuals, and budget needs. Organizes student athlete physicals prior to sport participation and maintains student athlete medical files.

Supervised

- d. Provides administrative support to sporting events and assists athletic director as needed; and
 - e. Follows doctor recommendations for diagnosis, prognosis, and return to play.
12. Applicant's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-6911 and K.A.R. 100-69-7.
13. 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 Applicant has violated the Kansas Athletic Trainers Licensure Act with respect to the above allegations. Applicant further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.
14. Applicant violated K.S.A. 65-6911(a)(8) for negligently or intentionally violating the provisions of the Kansas Athletic Trainers Licensure Act, specifically for providing services as an athletic trainer as defined in K.S.A. 65-6902(b) without first being licensed by the Board.
15. Applicant violated K.S.A. 65-6903(a), in that Applicant used in connection with her name the words "assistant athletic trainer" on the Friends University website while not licensed to engage in the practice of athletic training, contrary to K.S.A. 65-6903(a) and 65-6911.

16. Pursuant to K.S.A. 65-6911, the Board may deny, suspend, limit, refuse to renew, place on probation, reprimand or revoke Applicant's license for violations of the Kansas Athletic Trainers Licensure Act.
17. According to K.S.A.77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
18. All pending investigation materials in KSBHA Investigative Case Number 13-00194 regarding Applicant were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 27 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
19. Applicant understands that a Temporary License shall be issued based upon Applicant's signing this Consent Order, paying the temporary license fee, and abiding by the terms of this Consent Order. Applicant further understands that the Temporary License is only effective until a conference hearing is held by the Board on ratification of this Consent Order and that if the Board fails to ratify this Consent Order, the Temporary License shall immediately expire at the conclusion such hearing. If the Board ratifies this Consent Order, Applicant shall be issued an active license under the terms of this Consent Order.
20. In lieu of conducting a formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action as a condition to being granted licensure to engage in the practice of athletic training:

PUBLIC REPRIMAND

21. Applicant is publicly reprimanded for violating the Athletic Trainers Licensure Act.
22. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Athletic Trainers Licensure 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 Athletic Trainers Licensure Act.
23. 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.

24. 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.
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. 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.
27. 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.
28. Applicant acknowledges that she has read this Consent Order and fully understands the contents.
29. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.

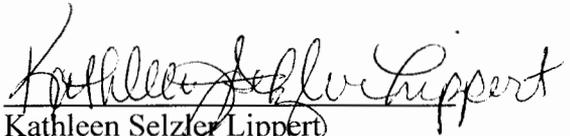
30. All correspondence or communication between Applicant and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 800 S.W. Jackson, Lower Level, Suite A, Topeka, Kansas 66612.
31. Applicant shall obey all federal, state and local laws and rules governing the practice of athletic training 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.
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. 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.
33. This Consent Order constitutes disciplinary action.
34. 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.

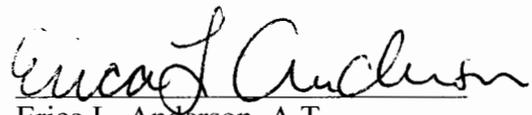
IT IS FURTHER ORDERED that upon meeting all technical requirements for licensure, Applicant shall be granted a license.

IT IS SO ORDERED on this 13th day of February, 2013.

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


Kathleen Selzler Lippert
Executive Director

2/13/13
Date


Erica L. Anderson, A.T.
Applicant

2/16/2013
Date

PREPARED AND APPROVED BY:



Seth K. Brackman, #23726
Associate Litigation Counsel
Kansas Board of Healing Arts
800 S.W. Jackson
Lower Level, Suite A
Topeka, Kansas 66612
P: 785-368-7257
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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 13th day of February, 2013, to the following:

Erica L. Anderson, A.T.
Applicant
Confidential
Wichita, Kansas 67226

And the original was hand-filed with:

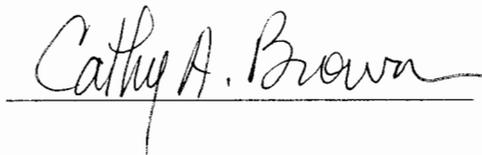
Kathleen Selzler Lippert
Executive Director
Kansas Board of Healing Arts
800 S.W. Jackson
Lower Level, Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

Seth K. Brackman
Associate Litigation Counsel
Kansas Board of Healing Arts
800 S.W. Jackson
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Melissa Massey
Compliance Coordinator
Kansas Board of Healing Arts
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Katy Lenahan
Licensing Administrator
Kansas Board of Healing Arts
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Cathy A. Brown