

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
)
Timothy Bolen, P.T.)
Kansas License No. 11-01593)

Docket No. 13-HA 00023

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Brandy Snead, Associate Litigation Counsel ("Petitioner"), and Timothy Bolen, P.T. ("Licensee"), *pro se*, and move the Board for approval of a Consent Order affecting Licensee's license to practice physical therapy in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is: Confidential
Wichita, Kansas 67205.
2. Licensee is, or has been entitled to, be engaged in the practice of physical therapy in the State of Kansas, having been issued License No. 11-01593 on approximately June 15, 1990. Licensee's license is currently active.
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. 65-2919.
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 Physical 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.
6. 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.
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. Licensee 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 these allegations of unprofessional conduct occurred.
9. Confidential

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13. On September 7, 2011, Licensee responded to the Board. Licensee expressed his frustration over the current system as it involves a great deal of note taking and paperwork, in addition to actual patient care. Regarding July 6, 2011, Licensee explained that his recording visits with these two (2) patients was a mistake

because he was originally scheduled to see those patients, but the CPTA ended up taking over the appointments at the last minute, and Licensee failed to take the patients' information out of his stack of papers from the day. Later, when he completed his paperwork, he did so as if he had seen them because he thought he had.

14. On July 29, 2011, Licensee was terminated from Wesley Rehabilitation Hospital

Confidential

15. Licensee waives his right to contest the allegations contained in this Consent Order and consents to a finding that there are grounds for the Board to pursue disciplinary action against his license.

16. Licensee's acts, if proven, constitute violations of the Kansas Physical Therapy Practice Act, as set forth in K.S.A. 65-2912. Specifically, grounds to discipline include:

- a. K.S.A. 65-2912(5), in that Licensee has committed an act of unprofessional conduct as defined by rules and regulations and adopted by the board.
- b. K.A.R. 100-29-12(a)(22), in that Licensee committed an act of unprofessional conduct by failing to maintain adequate written records detailing the course of treatment of the patient or client.
- c. K.A.R. 100-29-12(31)(b), in that Licensee committed an act of unprofessional conduct by failing to maintain an adequate record for each

patient or client for whom the physical therapist performs professional service. Each record shall meet the following criteria: (1) Be legible; (2) identify the patient or client; and (3) contain an evaluation, a diagnosis, a plan of care, and a treatment and discharge plan.

d. K.A.R. 100-29-12(8), in that Licensee committed an act of unprofessional conduct by being sanctioned or disciplined by a peer review committee or medical care facility for acts or conduct that would constitute unprofessional conduct under this regulation.

17. Pursuant to K.S.A. 65-2912, the Board may censure, suspend, revoke or limit Licensee's license or certificate for violations of the Kansas Physical Therapy Practice Act.

18. 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 Physical Therapy 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.

19. Pursuant to K.S.A. 65-2912 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.

20. All pending investigation materials in KSBHA Investigation number 12-00080 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 26

authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

21. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Physician Assistant Licensure Act, to investigate complaints received 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 Physician Assistant Licensure Act.

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 take further disciplinary action, as the Board deems appropriate, including, but not limited to, suspension or revocation of Licensee's license to practice physical therapy in the State of 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, as set forth in the Kansas Administrative Procedure Act K.S.A. 77-501 *et seq.*, and the Kansas Physical Therapy Practice Act, K.S.A. 65-2901 *et seq.*

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 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 this 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 that he has read this Consent Order and fully understands the contents.
 29. Licensee acknowledges that 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 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.
 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. 65-2912. This Consent Order shall constitute the Board's Final Order when filed with the office of the Executive Director for the Board and no further Order is required.
 32. The Board may consider all aspects of this Consent Order in any future matters regarding Licensee.
 33. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following regarding his license to engage in the practice of physical therapy:

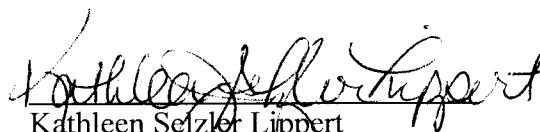
EDUCATION

- a. Licensee shall attend and successfully complete a continuing education course for record-keeping at his own expense.
- b. The course must be pre-approved by the Board, or its designee, Terry Webb, D.C..
- c. Licensee shall provide proof of successful completion by December 30, 2012.
- d. Unless otherwise approved by the Board, said continuing education course(s) shall consist of a formal live lecture format.
- e. These hours shall be in addition to those hours required for renewal of licensure.
- f. All correspondence, communication, or documentation between Licensee and the Board relating to the Consent Order shall be submitted to the Kansas State Board of Healing Arts, Attention: Compliance Coordinator, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.


IT IS THEREFORE 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 27th day of Oct, 2012.

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

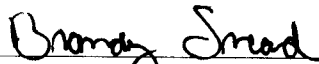

Kathleen Selzler Lippert
Executive Director

10/29/12
Date


Timothy Bolen, P.T.
Licensee

08/29/12
Date

PREPARED AND APPROVED BY:


Brandy Snead, # 25301
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
Phone: 785-368-8212
Fax: 785-368-8210
Email: bsnead@ksbha.ks.gov

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 30th day of October, 2012, to the following:

Timothy Bolen, P.T.
Licensee
Confidential
Wichita, KS 67205

And the original was hand-filed with:


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

And a copy was hand-delivered to:

Brandy Snead
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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

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



Jennifer McArthur, Paralegal
Cathy Brown, Executive Asst.