

**EFFECTIVE AS A  
FINAL ORDER**

**DATE:** 10/1/13

**FILED** *CAD*  
SEP 10 2013

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

KS State Board of Healing Arts

In the Matter of )  
 )  
Nancy Mueller Brainard, O.T.A. )  
License No. 18-00676 )  
\_\_\_\_\_ )

Docket Number: 14-HA00030

**SUMMARY ORDER**

NOW ON THIS 10<sup>th</sup> day of Sept, 2013, this matter comes before Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A. 77-537. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

Upon review of the agency record and being duly advised in the premises, the following findings of fact, conclusions of law and order are made for and on behalf of the Board:

**Findings of Fact**

1. Nancy Mueller Brainard, O.T.A. ("Licensee"), **Confidential** Overland Park, Kansas, 66209, is licensed to practice as an occupational therapist assistant in the State of Kansas, License No. 18-00676, and has been so licensed since October 13, 2008.
2. Pursuant to K.A.R. 100-54-6, Licensee's license to practice as an occupational therapist assistant in the State of Kansas expires on March 31 of each year. On or about March 29, 2013, Licensee submitted an application for licensure renewal.
3. Pursuant to K.S.A. 65-5412 and K.A.R. 100-54-7 each licensee desiring to renew an occupational therapist assistant license must have completed at least forty (40) contact hours of continuing education during the preceding 24-month period. Each licensee shall provide proof of satisfactory completion of the continuing education requirements to the Board upon request.

4. As part of the renewal process, Licensee certified that she had read the rules regarding the continuing education requirements and the Board's procedures for auditing continuing education. Licensee further certified that she had completed at least forty (40) contact hours of continuing education during the preceding 24-month period and that documentation of the completed continuing education would be maintained for a three-year period and produced to the Board upon request.

5. Licensee was randomly selected to provide verification of compliance with the continuing education requirements.

6. On or about June 3, 2013, a letter was mailed to Licensee requesting that Licensee provide, no later than July 3, 2013, the records relied upon when Licensee certified completion of the required continuing education.

7. On or about June 13, 2013, Licensee called the Board office and stated that she did not have all the hours that she certified to with her renewal. She was advised to submit all of the hours that she did have.

8. On or about June 13, 2013, Licensee submitted certificates for 9 hours of continuing education plus 2 hours of professional reading for a total of 11 hours of continuing education.

9. On or about June 27, 2013, a letter was mailed to Licensee informing her that she was short 29 hours of continuing education for the audit period.

10. On or about July 1, 2013, an email was sent to Licensee reminding her of the upcoming deadline of July 3, 2013, for submitting the continuing education.

11. On or about July 10, 2013, a certified letter was mailed to Licensee requesting that Licensee provide, no later than August 1, 2013, the records relied upon when Licensee certified completion of the required continuing education.

12. Licensee failed to comply with the Board's request to provide documented evidence of compliance with the continuing education requirements by the deadline.

**THE BOARD HEREBY CONCLUDES AS FOLLOWS:**

13. By failing to provide documented evidence of completion of the continuing education requirements, Licensee violated K.S.A. 65-5410(a)(4) by violating any lawful order or rule and regulation of the Board. Specifically, Licensee violated K.A.R. 100-54-5(g) by failing to furnish to the Board, or to its investigators or representatives, any information legally requested by the Board.

14. Licensee violated K.S.A. 65-5410(a)(2) by committing an act of unprofessional conduct as defined by K.A.R. 100-54-5(g); specifically, failing to furnish to the Board, or to its investigators or representatives, any information legally requested by the Board.

15. In addition to any other penalty prescribed under the Occupational Therapy Practice Act, K.S.A. 65-5410(c) authorizes the Board to assess a civil fine in an amount not exceeding \$5,000 for the first violation of the Occupational Therapy Practice Act.

**IT IS, HEREBY ORDERED BY THE KANSAS STATE BOARD OF HEALING ARTS THAT:**

16. Licensee is hereby assessed a CIVIL FINE for failure to comply with the Board's legal request for information.

17. Licensee is hereby ordered to pay the assessed CIVIL FINE pursuant to K.S.A. 65-5410(c) in the amount of \$100.00. The total amount of \$100.00 shall be due on or before October 15, 2013.

18. Licensee shall make all payments payable to the Kansas State Board of Healing Arts and send all payments to the attention of: Licensing Audit Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

19. Licensee shall complete 58 hours of continuing education and submit proof of completion to the Board within 90 days following service of this Summary Order.

20. Licensee's license shall be suspended for failure to provide proof of the continuing education requirements and/or payment of the fine within the timeframe specified above.

21. The Board shall maintain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

**IT IS SO ORDERED THIS 10<sup>th</sup> DAY OF Sept, 2013, IN  
THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**

  
Kathleen Selzler Lippert  
Executive Director  
Kansas State Board of Healing Arts

## **FINAL ORDER NOTICE OF RIGHTS**

**PLEASE TAKE NOTICE** that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Kathleen Selzler Lippert, Executive Director, Kansas Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that a true copy of the foregoing **FINAL ORDER** was served this 1<sup>st</sup> day of Oct., 2013 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

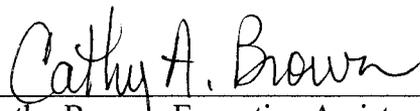
Nancy Mueller Brainard, OTA  
**Confidential**  
Overland Park, KS 66209

And a copy was hand-delivered to:

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

Office of the General Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

And the original was filed with the office of the Executive Director.

  
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Cathy Brown, Executive Assistant