

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

FILED

JUL 14 2011

KS State Board of Healing Arts

In the Matter of)
ROBIN LEA BRANINE, O.T.)
)
Kansas License No. 17-02122)
_____)

Docket No. 11-HA-00091

FINAL ORDER ASSESSING CIVIL FINE

COMES NOW the Kansas State Board of Healing Arts (“Board”), by and through its Executive Director, Kathleen Selzler Lippert (“Executive Director”), a duly authorized representative of the Board in accordance with K.S.A 2010 Supp. 77-514 to conduct summary proceedings pursuant to K.S.A 2010 Supp. 77-537, and, pursuant to the authority in K.S.A. 65-5401, *et seq.*, and, in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, hereby enters the following findings of fact, conclusions of law, and Final Order in the above-captioned matter:

I. Findings of Fact

1. Robin Lea Branine, O.T. (“Licensee”) was originally issued license number 17-02122 to practice as an occupational therapist in the State of Kansas on October 7, 2002. Licensee’s license is currently active.
2. Licensee’s last known mailing address provided to the Board is: confidential
confide Louisburg, Kansas 66053.
3. On May 11, 2011, the Executive Director, in accordance with K.S.A. 2010 Supp. 77-514, and as authorized by K.S.A. 2010 Supp. 65-5410, issued a Summary Order against Licensee assessing a civil fine of \$350.00 for violation of the Occupational Therapy Practice Act. The Summary Order ordered Licensee to remit the assessed civil fine, in full, to the Board within thirty (30) days following the effective date of the Summary Order.

4. All facts set forth in the Summary Order filed in this matter on May 11, 2011 are hereby adopted by reference herein.

5. Pursuant to K.S.A. 77-542, the Summary Order notified Licensee that if a written request for a hearing was not filed within fifteen (15) days following service of the Summary Order, the Summary Order would become effective as a Final Order of the Board, without further notice, upon the expiration of the time for requesting a hearing. The Summary Order required any written request for hearing to be mailed to Kathleen Selzler Lippert, at 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

6. Pursuant to K.S.A. 2010 Supp. 77-531, the Summary Order was served upon Licensee by mailing a copy of the Summary Order to Licensee at Licensee's last known address of record with the Board, via United States Mail, first-class postage prepaid.

7. No written request for hearing was received by the Executive Director within fifteen (15) days following service of the Summary Order.

8. Pursuant to K.S.A. 77-530, the Summary Order became effective as a Final Order without further notice on May 30, 2011.

9. As of the date of this Final Order, Licensee has not remitted payment in the amount of \$350.00 to the Board for the civil fine assessed by the Summary Order.

II. Applicable Law

1. Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*
2. Occupational Therapy Practice Act, K.S.A. 65-5401, *et seq.*
3. K.A.R. 100-54-5(o) defines "unprofessional conduct" as conduct likely to deceive, defraud, or harm the public.

4. K.S.A. 2010 Supp. 65-5410 (c) states, in pertinent part:

The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for unprofessional conduct in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. ...

III. Conclusions of Law

1. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding
2. The Summary Order filed in this matter on May 11, 2011 became effective as a Final Order without further notice on May 30, 2011.
3. By practicing as a occupational therapist without benefit of a proper license, Licensee engaged in conduct that could deceive, defraud or harm the public, in violation of K.A.R. 100-54-5(o).
4. Licensee has not remitted payment in the amount of \$350.00 to the Board for the fine assessed in the Summary Order.

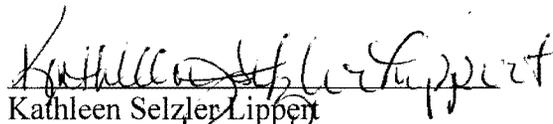
IV. Order

IT IS THEREFORE ORDERED that the Summary Order filed in the above-captioned matter has become a Final Order.

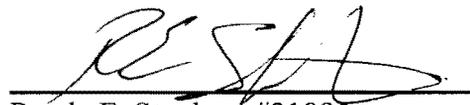
IT IS FURTHER ORDERED that the \$350.00 civil fine assessed against Licensee in the Summary Order in this matter, for violations of the Occupational Therapy Practice Act, is hereby **immediately due and owing** to the Board. Payment in the form of a money order, or a check made out to “Kansas State Board of Healing Arts,” shall be sent to the following:
Attention: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

IT IS FURTHER ORDERED that the Board shall maintain jurisdiction over this matter to issue any future order(s) deemed necessary and appropriate.

IT IS SO ORDERED THIS 14th DAY OF JULY, 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts

Prepared and Approved by:


Randy E. Stookey, #21885
Assistant General Counsel
Kansas State Board of Healing Arts

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. Service of a Final Order is complete upon mailing. Pursuant to K.S.A. 77-529, Licensee may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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, the Board's Executive Director, at 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 Assessing Civil Fine** was served this 14th day of July, 2011 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Robin Lea Branine, O.T.
confidential
Louisburg, KS 66053

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, KS 66612

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

Stacy R. Bond, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

and an electronic courtesy copy was sent to:

Office of the General Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612
mowens@ksbha.ks.gov

and the original was filed with the office of the Executive Director:

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



Cathy Brown
Executive Assistant

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MAY 11 2011

KS State Board of Healing Arts

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

In the Matter of)
ROBIN LEA BRANINE, O.T.)
)
Kansas License No. 17-02122)
_____)

Docket No. 11-HA 00091

SUMMARY ORDER

NOW ON THIS 10th day of May, 2011, 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. Robin Lea Branine, O.T. (“Licensee”) was originally issued license number 17-02122 to practice as an occupational therapist in the State of Kansas on October 7, 2002. Licensee’s license is currently active.
2. Licensee’s last known mailing address as provided to the Board at the time of her application for reinstatement is confidential Louisburg, Kansas 66053.
3. On or about February 23, 2011, the Board received an application from Licensee for reinstatement of her occupational therapy license. Licensee’s license had been cancelled for failure

to renew on May 1, 2010.

4. In her application, Licensee lists all professional activities since the cancellation of her license. Licensee states that she is employed by East Central Kansas Special Education Cooperative (Paola USD #368) which is located in Paola, Kansas. Licensee stated that she practiced as an Occupational Therapist in Kansas while her license was cancelled from May 1, 2010 through March 16, 2011.

5. Also in Licensee's application is an explanation regarding her failure to renew. Licensee states that on February 18, 2011 she was notified by the cooperative that they had recently learned that her Kansas license had been cancelled.

6. Licensee's license was reinstated on March 16, 2011. Licensee practiced in Kansas from May 1, 2010 through March 16, 2011 as an occupational therapist without being properly licensed.

Applicable Law

7. K.S.A. 65-5410 states, in pertinent part: (a) The Board may deny, refuse to renew, suspend, revoke or limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

(2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;

(c) The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for unprofessional conduct in an amount not to exceed \$5000 for the first violation. . . .

8. K.A.R. 100-54-5. Unprofessional conduct; defined. "Unprofessional

conduct” means any of the following: (o) committing conduct likely to deceive, defraud or harm the public.

Conclusions of Law

9. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

10. The Board finds that Licensee practiced as an occupational therapist without being licensed from May 1, 2010 through March 16, 2011.

11. The Board finds that by practicing as an occupational therapist without being properly licensed, Licensee engaged in conduct that could deceive, defraud or harm the public.

12. That by continuing to engage in the practice of occupational therapy from May 1, 2010 through March 16, 2011, without being properly licensed, Licensee was in violation of K.S.A. 65-5410(a)(2) and K.A.R. 100-54-5 (o).

13. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than Licensee, Robin Lea Branine, O.T.

IT IS, THEREFORE, ORDERED that Licensee is hereby assessed a civil fine of \$350 due and payable within thirty days of the effective date of this Order.

NOTICE AND OPPORTUNITY FOR HEARING

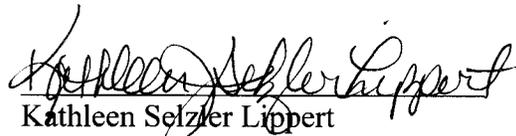
PLEASE TAKE NOTICE that this is a Summary Order. A party to whom a Summary Order is issued may file a written request for a hearing pursuant to K.S.A. 77-542 within 15 days

following service of the Summary Order. Such written request shall also state the legal and/or factual basis upon which the party opposes this Order. If a hearing is not requested, the Summary Order shall become effective as a Final Order of the Board upon expiration of the time for requesting a hearing. A written request for hearing must be addressed and mailed to Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

PLEASE TAKE NOTICE that upon becoming effective as a Final Order, this document shall be deemed a public record and be reported to any reporting entities authorized to receive such disclosure.

Dated this 10th day of May 2011.

Kansas State Board of Healing Arts


Kathleen Selzler Lippert
Executive Director

Certificate of Service

I certify that the foregoing Summary Order was served this 11th day of May, 2011, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Robin Lea Branine, O.T.
confidential
Louisburg, KS 66053

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, KS 66612

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Compliance Monitor
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Associate Counsel
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Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
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Cathy Brown
Executive Assistant