EFFECTIVE AS A FINAL ORDER

DATE: 2/3/2022

FILED

JAN 14 2022

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of **Zachary B. Cross, O.T.** **Kansas License No. 17-03813**	**Docket No. 22-HA-**00026

SUMMARY ORDER

NOW ON THIS 14th day of January 2022, This matter comes before Susan B. Gile, Interim Executive Director, Kansas State Board of Healing Arts ("Board"), in summary proceedings pursuant to K.S.A. 77-537.

Pursuant to K.S.A. 77-537 and K.S.A. 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within fifteen (15) days of service. Upon review of the agency record and being duly advised in the premises, the following finding of fact, conclusions of law, and order are made for and on behalf of the Board:

Findings of Fact

1. Zachary B. Cross, O.T. ("Applicant") was first issued License No. 17-03813 to practice as an occupational therapist in Kansas on December 3, 2020. His license was cancelled for failure to renew on May 11, 2021. Applicant applied to reinstate his license on November 1, 2021.

2. Applicant's last mailing address known to the Board is: CONFIDENTIAL

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3. On May 11, 2021, Applicant's license was cancelled for failure to renew.

4. Applicant applied to reinstate his occupational therapist license on November 1, 2021. On his reinstatement application, Applicant disclosed he had been actively practicing as an occupational therapist in Overland Park, Kansas from May 11, 2021, to October 18, 2021, despite not holding a license to practice in Kansas. (Bd. Exh. 1-Application p. 4).

5. To the best of knowledge and belief, Applicant has not practiced since October 18, 2021. (*Id.* at p. 17)

6. Applicant practiced without a license for at least six (6) months. Further, while Applicant practiced during the six (6) months, he was not excluded from the Occupational Therapy Practice Act under any of the exceptions pursuant to K.S.A. 65-5418(b).

Applicable Law

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

8. Under the Kansas Occupational Therapy Practice Act, K.S.A. 65-5401 *et seq.*, by definition, an occupational therapist must hold a license in order to practice: "'Occupational therapist' means **a person who is licensed to practice occupational therapy** as defined in this act." K.S.A. 65-5402(d). [emphasis added]

9. K.S.A. 65-5410(a) of the Occupational Therapy Practice Act states in pertinent part:

> 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;

10. K.A.R. 100-54-5(o) defines "unprofessional conduct" in pertinent part to include "committing conduct likely to deceive, defraud, or harm the public."

Conclusions of Law

11. The Board finds Applicant violated K.S.A. 65-5410(a)(2) of the Kansas Occupational Therapy Practice Act, as further defined by K.A.R. 100-54-5(o), in that Applicant committed an act of unprofessional conduct by practicing as an occupational therapist in Kansas without a license for a period of six (6) months.

12. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, in accordance with provisions set forth in K.S.A. 77-537(a) in that the use of summary proceedings does not violate any provision of law and the protection of the public interest does not require the Board to give notice and an opportunity to participate to person other than Applicant.

IT IS ORDERED that Applicant is hereby **PUBLICLY CENSURED**, and that Applicant is assessed a **CIVIL FINE** in the amount of one hundred dollars **($100.00)** for violations of the Kansas Occupational Therapy Practice Act, due within thirty (30) days after this Order becomes a Final Order. Such fine shall be paid to the "Kansas State Board of Healing Arts," in full. All monetary payments, which shall be in the form of check or money order, relating to this Summary Order shall be mailed to the Board, certified, and addressed to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suit A,
Topeka, Kansas 66612.
KSBHA_ComplianceCoordinator@ks.gov

IT IS FURTHER ORDERED that, upon satisfaction of the requirements imposed by this Summary Order, Applicant's application for the reinstatement of his Active license to practice as an occupational therapist in Kansas shall be granted.

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 14th day of January, 2022.

KANSAS STATE BOARD OF HEALING ARTS

Susan Gile

Susan B. Gile,
Interim Executive Director

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 Susan Gile, Acting 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 3rd day of February 2022 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Zachary Brett Cross, O.T.
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Licensee

Kelli J. Stevens
Forbes Law Group, LLC
6900 College Blvd., Suite 840
Overland Park, KS 66211
kstevens@forbeslawgroup.com
Counsel for Licensee

And a copy was hand-delivered to:

Lyddie Hornbaker
Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson Lower Level, Suite A
Topeka, Kansas 66612
Lydia.Hornbaker@ks.gov

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

Licensing Coordinator
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.

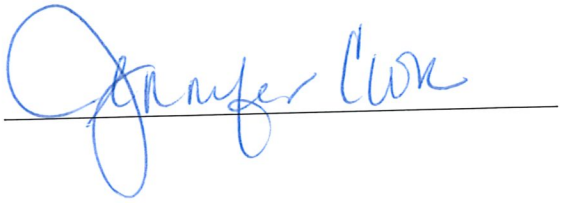

EXHIBIT 1

Application

HAND DELIVERED

Kansas

REINSTATEMENT APPLICATION FOR OCCUPATIONAL THERAPY

Completion of this application form is necessary for consideration for licensure. Disclosure of this information is voluntary; however, failure to disclose all requested information may result in this form not being processed and may subsequently result in denial of this application. All candidates for licensure or renewal have an obligation to update and supplement the information and responses on this application if they change. Failure to supplement the information and responses provided on this application may result in denial or other appropriate action. All information provided must be accurate. Please note that the information provided on this application may be subject to the public information laws of this state.

Please type or print. When space provided is insufficient, attach additional pages. You may reproduce these blank forms as needed. Please make sufficient copies of all forms before you begin.

1. Kansas License no: 17-03813

2. Indicate your full legal name. If your name is different from that shown on your documentation you must submit a copy of the legal document of the name change. If your name is different from your Kansas license you will need to complete the *Name Change* form. You can download the form from our website or call to have mailed.

Full Name: Zachary Brett Cross
first middle last suffix

Other names used, including maiden name: _____

3. Include residence, mailing and e-mail address. Residence address may *not* be a Post Office Box, except qualified participants under the Safe At Home Act. K.S.A. 75-451 *et seq.* may use substitute residential and mailing addresses.

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Residence Address _____ zip

Mailing Address: _____ _____ _____ _____ _____
public information street city county state zip

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E-mail: _____

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4. Daytime phone number (include area code): _____

5. Identification. Disclosure of your social security number is required by federal mandates set forth in 42 U.S.C.S. § 666(a)(13). K.S.A. 74-148(a) provides that every application by an individual for a professional license shall require the applicant's social security number. K.S.A. 74-139 requires disclosure of your social security number upon request to the Kansas director of taxation. Your social security number may be provided for child support enforcement actions, to the Kansas director of taxation, for reporting disciplinary actions to the National Practitioner Data Bank-Health Integrity and Protection Data Bank (NPDB-HIPDB) as required by 45 C.F.R. §§ 61.1 *et seq.* Disclosure of your social security number is voluntary for disclosure to other state regulatory agencies, testing and examination vendors, law enforcement agencies, and other private federations and associations involved in professional regulation. Such disclosure is for identification purposes only. Your social security number will not be released for any other purpose not permitted by law.

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Social Security/Tax ID. No: _____

NPI (National Provider Identifier): 1629664404 NPI Not Applicable: ☐

Are you a U.S. Citizen? Y ☑ N ☐ If you answered NO, are you (check one):

A qualified alien (as defined in 8 U.S.C.A. § 1641). ☐

A nonimmigrant under the Immigration and Nationality Act (8 U.S.C.A. § 1101 *et seq*). ☐

An alien who is paroled into the United States under 8 U.S.C.A. § 1182(d)(5) for less than one year. ☐

A foreign national, not physically present in the United States. ☐

Other: _____

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6. List ALL professional activities since the time of cancellation of your Kansas license. Account for all time and explain all gaps in professional activity. Attach an additional sheet if necessary. Include actual work address, not corporate headquarter's address.

Activity: Pediatric OT Employer (if applicable) Dr. Debs Center for Child and Family Development

Location: Overland Park, KS (city / state) Dates: From 5/11/2021 (mm/yy) To 10/18/2021 (mm/yy)

Activity: _____ Employer (if applicable) _____

Location: _____ (city / state) Dates: From _____ (mm/yy) To _____ (mm/yy)

Activity: _____ Employer (if applicable) _____

Location: _____ (city / state) Dates: From _____ (mm/yy) To _____ (mm/yy)

Activity: _____ Employer (if applicable) _____

Location: _____ (city / state) Dates: From _____ (mm/yy) To _____ (mm/yy)

7. List all states or jurisdictions in which you are currently or have ever been licensed, registered or certified as an OT/OTA. Attach an additional sheet if necessary. KSBHA will verify your credentials except for any state that does not provide free and current verifications on their official state website. For those states, you may complete the attached *Licensure Verification* form and forward to all Boards or similar entities in which you have held an OT/OTA license, registration or certification. Some entities charge a fee for this information. Contact the entity to determine their requirements.

State/Jurisdiction	License, Registrant, Certificate no.	Status	Issue Date
Kansas	17-03813	inactive	12/03/2020

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Applicant name: _____
(please print or type)

To the Kansas Board of Healing Arts,

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ATTESTATION QUESTIONS

Please answer each of the following questions. **All "yes" answers MUST be thoroughly explained in detail on a separate signed page.** You are required to furnish complete details including date, place, reason, and disposition of the matter and attach all relevant documentation. All information received will be checked accordingly to verify the truth and veracity of your answers. **It is imperative you honestly and fully answer all questions, regardless of whether you believe the information requested is relevant.**

If you are unsure of your response to a question, check the "yes" box and submit the appropriate documentation. Your responses on your application are evaluated as evidence of your candor and honesty. An honest "yes" answer to a question on your application is not definitive as to the Boards' assessment of your present moral character and fitness, but a dishonest "no" answer is evidence of a lack of candor and honesty. Please be advised that a false response to any of these questions may be grounds for denial of licensure. If a question is not applicable, then check the "no" box.

1. Have you ever been dropped, suspended, expelled, fined, placed on probation, allowed to resign, requested to leave temporarily or permanently, or otherwise had action taken against you by any professional training program prior to completing the training? Yes☐ No☑
2. Have you ever had any application for any professional license refused or denied by any licensing authority? Yes☐ No☑
3. Have you ever been refused or denied the privilege of taking an examination required for any professional licensure? Yes☐ No☑
4. Have you ever been warned, censured, disciplined, had admissions monitored, had privileges limited, suspended, revoked or placed on probation, or have you ever involuntarily or voluntarily (to avoid disciplinary action or investigation) resigned or withdrawn from any licensed hospital, nursing home, clinic or other health care facility in which you have trained, including but not limited to residency or postgraduate training programs, or otherwise been a staff member, been a partner or held privileges? Yes☐ No☑
5. Have you ever been denied staff membership with any licensed hospital, nursing home, clinic or other health care facility? Yes☐ No☑
6. Have you ever been requested to resign, withdraw or otherwise terminate your position with a partnership, professional association, corporation or other practice organization, either public or private? Yes☐ No☑
7. Have you ever voluntarily surrendered any professional license? Yes☐ No☑
8. Has any licensing authority ever limited, restricted, suspended, revoked, censured or placed on probation or had any other disciplinary action taken against any professional license you have held? Yes☐ No☑
9. Have you ever been notified or requested to appear before a licensing or disciplinary agency? Yes☐ No☑
10. To your knowledge, have any complaints (regardless of status) ever been filed against you with any licensing agency, professional association, hospital, nursing home, clinic or other health care facility? Yes☐ No☑

Kansas State Board of Healing Arts
800 SW Jackson – Lower Level, Suite A., Topeka, KS 66612
Phone: (785) 296-7413; Fax: (785) 296-0852; Email: KSBHA_Licensing@ks.gov
www.ksbha.org

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11. Has any professional association imposed any disciplinary action against you? Yes[ ] No[✓]

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12. Do you have any physical or mental health condition (including alcohol or substance use) that currently impairs your ability to practice your profession in a competent, ethical, and professional manner?

13. Have you ever been denied a Drug Enforcement Administration (DEA) or state bureau of narcotics or controlled substance registration certificate or been called before or warned by any such agency or other lawful authority concerned with controlled substances? Yes[ ] No[✓]

14. Have you ever surrendered your state or federal controlled substances registration, or had it revoked, suspended, or restricted in any way? Yes[ ] No[✓]

15. Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary agency? Yes[ ] No[✓]

16. Have you ever been arrested? Do not include minor traffic or parking violations or citations except those related to a DUI, DWI or a similar charge. You must include all arrests including those that have been set aside, dismissed or expunged or where a stay of execution has been issued. Yes[ ] No[✓]

17. Have you ever been charged with a crime, indicted, convicted of a crime, imprisoned, or placed on probation (a crime includes both Class A misdemeanors and felonies)? You must include all convictions including those that have been set aside, dismissed or expunged or where a stay of execution has been issued. Yes[ ] No[✓]

18. Have you ever been court martialed or discharged dishonorably from the armed services? Yes[ ] No[✓]

19. Have you ever been a defendant in a legal action involving professional liability (malpractice), or had a professional liability claim paid in your behalf, or paid such claim yourself? Yes[ ] No[✓]

20. Have you ever been denied provider participation in any State Medicaid or Federal Medicare Programs or in a private insurance company? Yes[ ] No[✓]

21. Have you ever been terminated, sanctioned, penalized, or had to repay money to any State Medicaid or Federal Medicaid Programs or private insurance company? Yes[ ] No[✓]

It is your continued duty to update the Board on any changes once the application has been submitted.

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www.ksbha.org

8. Photo.

Attach a **2"x3" wallet size** photograph of applicant with head and shoulder areas only. The photograph must have been taken within 90 days prior to date of application. Proof photographs, negatives, copies of photographs, poor quality, photographs cut from books, newspaper articles or passport photos are **NOT** accepted.

9. Oath must be signed by applicant and notarized.

I, Zachary Cross, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents. I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension, or revocation of my license to practice occupational therapy in the state of Kansas and may subject me to a fine not exceeding $10,000 and term of imprisonment not exceeding 5 years of each violation (K.S.A. 21-3805).

Signature of Applicant

Sworn to before me this 30th day of October 20 21

Notary Public

04-21-2025 Commission Expires

KATHY L. ROBERTS
SEAL here
Notary Public-State of Kansas
My Appt. Expires 04-21-2025

Seal Verified KSBHA

10. Continuing Education.

Include proof of completion of continuing education as required by K.A.R. 100-54-8, if applicable.

Application fee of $80. NPDB report fee of $3. Make the fees payable to: Kansas State Board of Healing Arts or charge by credit/debit card using the attached authorization form.

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800 SW Jackson, Lower Level-Suite A., TOPEKA KS 66612
Voice: 785-296-7413 Toll Free: 1-888-886-7205 Fax: 785-296-0852 Website: www.ksbha.org

Kansas

Third Party Authorization

Must be signed by applicant and notarized.

I, Zachary Cross, hereby authorize all hospitals, institutions or organization, my references, personal physicians, employers (past and present), business and professional associates (past and present) and all government agencies (local, state, federal or foreign) to release to the Kansas Board of Healing Arts or its successors any information, files or records requested by the Board in connection with this application. I further authorize the Kansas State Board of Healing Arts or its successors to release to the organizations, individuals, or groups listed above any information which is material to this application or any subsequent licensure.

Signature of Applicant

Sworn to before me this 30th day of October 20 21

Kathy L Roberts Notary Public

04-21-2025 Commission Expires

SEAL here

KATHY L. ROBERTS
Notary Public-State of Kansas
My Appt. Expires 04-21-2025

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EXPEDITED LICENSURE QUESTIONNAIRE

To determine if you are eligible for expedited licensure pursuant to K.S.A. 48-3406[i], please answer the following questions. If it is determined that your responses were intentionally false or misleading, you will be subject to an administrative disciplinary action in Kansas and will be reported to all appropriate state/ federal/military/law enforcement agencies.

1. Are you a current member of any branch of the United States armed services, United States military reserves, national guard of any state, or a former member with an honorable discharge? Yes ☐ No ☑ If yes:

   Branch:_____ Dates of Service:_____ Military ID#:_____

2. Are you the spouse of a current member of any branch of the United States armed services, United States military reserves, national guard of any state, or a former member with an honorable discharge? Yes☐ No☑ If yes:

   Branch:_____ Dates of Service:_____ Military ID#:_____

3. Do you currently reside in Kansas? Yes☑ No☐ If yes:

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   Current Kansas Residence Address: _____

4. Do you intend* to establish residency in Kansas within the next 6 months? ***If you answer "yes" to this question but do not establish Kansas residency within the next 6 months, your Kansas license will be cancelled. If it is determined that your answer to this question was intentionally false or misleading, you will be subject to an administrative disciplinary action in KS and will be reported to all appropriate state/federal/military agencies in other jurisdictions.*** Yes ☑ No ☐ If yes:

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   Intended Kansas Residence Address: Current: _____

   Expected Date of Commencing Residence: Current

If you answered "no" to all questions #1 through #4, you do not need to answer questions #5 through #7.

5. Are you currently licensed, registered, or certified to practice (the profession for which you are seeking licensure in Kansas) by another state, district, or territory of the United States and have worked under that license for at least 1 year. ***This does not include certifications or registrations issued by private boards, professional societies, or any organization other than a government body of a state, district, or territory of the U.S.*** Yes ☐ No ☑ If no:

   a. Have you practiced the profession for which you are seeking licensure in Kansas for at least 3 years in a state that does not license/register/certify the profession? Yes ☐ No ☑

   b. Have you practiced the profession for which you are seeking licensure in Kansas for at least 2 years in a state that does not license/register/certify the profession and you held a certification or registration issued by a private organization during those 2 years? Yes ☐ No ☑ If yes:

Organization that issued private certification/registration:_____ Date Issued:_____

Kansas State Board of Healing Arts
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* **"Active practice" does not include care provided while in a training program, residency, or fellowship; or employment that consisted solely of research activities or administrative duties. The Board generally considers active practice to be direct patient care that for either (1) at least one full day per week for 50 weeks during a year; or (2) 400 hours during a year.**

6. Have you actively practiced* the profession for which you are seeking licensure in Kansas during the last 2 years? Yes ☑ No ☐

If you answered "yes" to question #6, you do not need to answer question #7.

7. If you answered "No" to questions #6, please provide a detailed explanation regarding your active clinical practice and direct patient care during the 12 months immediately preceding the submission of your application. Please explain any gaps in active practice in the 12 months immediately preceding the submission for your application, including the amount of time and reason.

I mistakenly practiced without knowledge that my license was cancelled until [same date as above].

[i] An applicant who has not been in the active practice of their occupation during the two years preceding the application for which a license is sought, may be required to complete additional testing, training, monitoring or continuing education as the KSBHA deems necessary to establish present ability to practice in a manner that protects the health and safety of the public. K.S.A. 48-3406(d).

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THIRD PARTY RELEASE

If you would like the Kansas State Board of Healing Arts ("Board") staff to talk with third parties about your application complete this form. This form provides authorization for the Board to release information regarding your application to third parties. This information includes, but is not limited to: application information, license verification, status change, address changes, Kansas Health Care Stabilization Fund information, continuing education information, audit information, and past or current legal issues and documents. This authorization expires one year from the date of signature. You can revoke this authorization at any time by submitting a request in writing. Revoking this authorization will not affect any action taken prior to receipt of your written request. A reproduction of this authorization shall have the same effect as the original. Email to KSBHA_Licensing@ks.gov or mail it directly to the Board.

I, Zachary Cross, authorize Board staff to release and discuss any and all information pertaining to my application, with the following individuals:

1. Name: Kelli Stevens
   Phone: 913-303-3411
   Email: kstevens@forbeslawgroup.com
   Relationship: Attorney

2. Name: _____
   Phone: _____
   Email: _____
   Relationship: _____

I acknowledge by my signature, that although I am not required to authorize the Board to release information to third parties, I am giving my consent for Board staff to do so. Additionally, I understand that I may revoke this authorization in writing at any time, except for that information which has already been released with consent, prior to my revocation.

Zachary Cross
Signature of Applicant

12/26/2021
Date

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800 SW Jackson – Lower Level, Suite A., Topeka, KS 66612
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Kansas

LICENSE VERIFICATION FORM

Send to all states or jurisdictions in which you currently, or have ever, held a license, permit, or certification, permanent or temporary. Verification fees may be applicable and are the applicant's responsibility. Please contact individual boards to confirm fees. The applicant should complete the top section. The official state board should complete the bottom section and email to KSBHA_Licensing@ks.gov or mail it directly to the Kansas State Board of Healing Arts.

I, hereby authorize and request the state Board of Kansas having control of any documents, records, and other information pertaining to me to furnish to the Kansas State Board of Healing Arts information including documents and/or records regarding charges or complaints filed against me or my license/registration; informal, pending, closed or any other pertinent information.

Full Name: Zachary Cross

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Other Names Used (if applicable): _____ Date of Birth: _____

License or Registration No.: 17-03813 Issue Date: 12/3/2020

Profession: Occupational Therapy

Signature: Zachary Cross Date: 10/25/2021

Full Name of Licensee or Registrant: _____

License or Registration No.: _____ Status: _____

Issue Date: _____ Expiration Date: _____

License Method: _____ School: _____

DISCIPLINARY ACTIONS:

Is the applicant currently the subject of a pending investigation by a licensing or disciplinary authority in your state? Yes ☐ No ☐ Unable to Divulge ☐

Have formal disciplinary proceedings been initiated against the applicant or applicant's license or registration by a disciplinary authority in your state? Yes ☐ No ☐ Unable to Divulge ☐

Comments: _____

Signature: _____ (SEAL)

Title: _____

State Board of: _____

Date: _____

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