

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

KS State Board of Healing Arts

In the Matter of)	
)	Docket No.: 10-HA00033
Jenni A. Denton, O.T.A.)	
Kansas License No. 18-00577)	

CONSENT ORDER FOR SURRENDER OF LICENSE

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Lori D. Dougherty, Associate Litigation Counsel (“Petitioner”), and Jenni A. Denton, O.T.A. (“Licensee”), by and through her counsel, Brian Doerr, and move the Board for approval of a Consent Order affecting Licensee’s license to practice as an occupational therapy assistant in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address provided to the Board is: 311 North Keeler Street, Olathe, Kansas 66061.
2. Licensee is or has been entitled to engage in the practice of an occupational therapy assistant in the State of Kansas, having been issued License No. 18-00577 on approximately October 25, 2002. Licensee last renewed on or about March 5, 2009. Licensee’s license has been on suspended status since September 23, 2009.
3. At all times relevant to the allegations set forth in the Petition, Licensee held a current and active license to engage in the practice of an occupational therapy assistant in the State of Kansas.
4. 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 occupational therapy. K.S.A. 65-2801 *et seq.* and K.S.A. 65-5402.

5. 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 and 65-5410. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.
6. The Kansas Occupational Therapy Practice Act is constitutional on its face and as applied in the case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
7. Licensee voluntarily and knowingly waives her right to a hearing. Licensee 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. 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.
8. 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.
9. The Board has received information and investigated the same, and has reason to believe there are grounds pursuant to K.S.A. 65-5410 and 65-5401 *et seq.* to take action with respect to Licensee's license under the Occupational Therapy Practice Act.

10. A Petition was filed with the Board in this matter on September 22, 2009, alleging grounds for disciplinary action under the Occupational Therapy Practice Act. The specific allegations are set forth therein and incorporated into this Consent Order for Surrender.

11. Licensee waives her right to contest the allegations contained in the Petition and consents to a finding that there are grounds for discipline against her license.

12. An investigation was initiated after the Board received information and investigated the same, and had reason to believe that on or about April 4, 2004, Licensee was arrested for a 3rd DUI and convicted of this crime on November 12, 2004. A 3rd DUI is a felony offense under K.S.A. 8-1567(f).

13. (confidential)

(confidential) The specific terms of the February 16, 2006, Consent Order (“Consent Order I”) filed in 06-HA00072 are incorporated herein, as if fully set forth in this Consent Order for Surrender.

14. (confidential)

15. (confidential)

16. (confidential)

17. On February 27, 2009, the Licensee signed a new Consent Order in 06-HA00072 (“Consent Order II”) in lieu of disciplinary proceedings for violating Consent Order I. The Board adopted Consent Order II as a Final Order during the regularly scheduled Board Meeting on February 20, 2009. The specific terms of Consent Order II filed in 06-HA00072 are incorporated herein, as if fully set forth in this Consent Order for Surrender.

18. (confidential)

19. (confidential)

20. (confidential)

21. (confidential)

22. (confidential)

23. (confidential)

24. (confidential)

25. (confidential)

26. On or about November 5, 2009, Licensee, through counsel, informed the Board of her desire to surrender her occupational therapy assistant license in lieu of formal disciplinary proceedings (confidential)
(confidential)

27. 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 Occupational Therapy Practice Act with respect to the above allegations. Licensee further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

28. (confidential)

29. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-5410. Specifically, grounds to discipline include:

- a. K.S.A. 65-5410(a)(4), unprofessional conduct in that Licensee has violated any lawful order or directive of the Board previously entered by the Board, to wit:
Consent Order II, (confidential)

30. Pursuant to K.S.A. 65-5410, the Board may revoke Licensee's license; alternatively, Licensee may surrender her license while under investigation. Pursuant to K.S.A. 65-2863a the Board has the authority to impose administrative fines for violations of the Occupational Therapy Practice Act.
31. According to K.S.A. 77-505 of the Kansas Administrative Procedure Act, the Board has authority to enter into this Consent Order without necessity of proceeding to a formal hearing.
32. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board member(s) who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 20 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
33. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against her license to engage in the practice of as an occupational therapy assistant:

SURRENDER

- a. Licensee hereby **SURRENDERS** her license to practice as an occupational therapy assistant. Such surrender shall be treated as a revocation for all purposes including reporting. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the provisions of K.S.A. 65-5412. Further, Licensee's application will be governed by *Vakas v. The Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991), and all applicable statutes, law, rules and regulations regarding qualifications for licensure and reinstatement.

- b. Licensee may reapply at any time for licensure when she feels she would be able to demonstrate to the Board that she is fit to practice. The burden of proof by clear and convincing evidence shall be on the Licensee to show sufficient rehabilitation to justify reinstatement of the license. All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.
 - c. Licensee shall be required to pay the fee for reinstatement of a cancelled license with such application. The Board shall consider such application and may grant reinstatement of licensure in accordance with the provisions of K.S.A. 65-5412 and the provisions set forth in *Vakas*; and
 - d. Licensee agrees that in the event she applies for reinstatement of her license, the allegations contained in this Consent Order will be considered as findings of fact and conclusions of law.
34. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act and Kansas Occupational Therapy Practice Act.
35. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Occupational Therapy Practice 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 Occupational Therapy Practice Act.

36. 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 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 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.
37. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any reporting entities authorized to receive disclosure of the Consent Order.
38. 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.
39. 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.

40. 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.
41. Licensee acknowledges that she has read this Consent Order and fully understands the contents.
42. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
43. All correspondence or communication between Licensee 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, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.
44. Licensee shall obey all federal, state and local laws and rules governing the practice as an occupational therapy assistant 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.
45. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order of the Board. 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.
46. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

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.

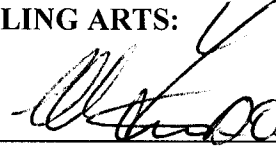
IT IS FURTHER ORDERED that:

- a. Licensee hereby **SURRENDERS** her license to practice as an occupational therapy assistant. Such surrender shall be treated as a revocation for all purposes including reporting. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the provisions of K.S.A. 65-5412. Further, Licensee's application will be governed by *Vakas v. The Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991), and all applicable statutes, law, rules and regulations regarding qualifications for licensure and reinstatement.
- b. Licensee may reapply at any time for licensure when she feels she would be able to demonstrate to the Board that she is fit to practice. The burden of proof by clear and convincing evidence shall be on the Licensee to show sufficient rehabilitation to justify reinstatement of the license. All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.
- c. Licensee shall be required to pay the fee for reinstatement of a cancelled license with such application. The Board shall consider such application and may grant reinstatement of licensure in accordance with the provisions of K.S.A. 65-5412 and the provisions set forth in *Vakas*; and

- d. Licensee agrees that in the event she applies for reinstatement of her license; the allegations contained in this Consent Order will be considered as findings of fact and conclusions of law.

IT IS SO ORDERED on this 16th day of November, 2009.

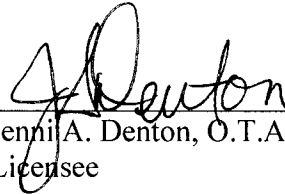
**FOR THE KANSAS STATE BOARD OF
HEALING ARTS:**



M. Myron Leinwetter, D.O.
Presiding Officer

11/16/09

Date



Jenni A. Denton, O.T.A.
Licensee

11/13/09

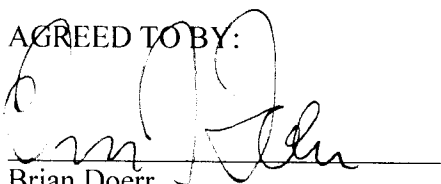
Date

PREPARED AND APPROVED BY:



Lori D. Dougherty, #22696
Associate Litigation Counsel
Joshana L. Offenbach, #23438
Associate Disciplinary Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068
785-368-8212 Phone
785-368-7103 Fax

AGREED TO BY:



Brian Doerr
Attorney for Licensee
Dugan, Shadwick, Doerr & Kurlbaum, PC
11040 Oakmont St.
Overland Park, KS 66210
(913) 498-3538 – fax

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 16th day of November, 2009, to the following:

Jenni A. Denton, O.T.A.
Licensee
311 North Keeler Street
Olathe, Kansas 66061

Brian Doerr
Attorney for Licensee
Dugan, Shadwick, Doerr & Kurlbaum, PC
11040 Oakmont St.
Overland Park, KS 66210
(913) 498-3538 – fax

And the original was hand-filed with:

Kathleen Selzler Lippert, #17
Interim Executive Director
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

And a copy was hand-delivered to:

Lori D. Dougherty
Associate Litigation Counsel
Joshana L. Offenbach, #23438
Associate Disciplinary Counsel
Melissa Massey
Compliance Coordinator
Katy Lenahan
Licensing Administrator
M. Myron Leinwetter, D.O., Presiding Officer
In care of Greg Arnett
Associate General Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

