

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

8V
FILED
FEB 08 2018
KS State Board of Healing Arts

In the Matter of)
) **KSBHA Docket No. 18-HA 00032**
KERRI L. DIBLE, R.T.)
Kansas License No. 16-04459)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Phoenix Z. Anshutz, Associate Litigation Counsel, (“Petitioner”), and Kerri L. Dible, R.T. (“Licensee”), by and through counsel, Christopher A. Rohr, and move the Board for approval of a Consent Order affecting Licensee’s license to practice respiratory 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: [REDACTED]
[REDACTED] Colby, Kansas 67701
2. Licensee is or has been entitled to engage in the practice of respiratory therapy in the State of Kansas, having been issued License No. 16-04459 on approximately January 22, 2014. Licensee’s license is active, having last renewed such license on approximately April 5, 2017.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of respiratory therapy.
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, 65-5510, 65-5516, and 65-2838. Upon approval, these stipulations shall

Consent Order for Surrender
Kerri L. Dible, R.T.

constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. The Kansas Respiratory Therapy 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.

6. 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.

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 there may be grounds pursuant to K.S.A. 65-5510(a), K.S.A. 65-5510(a)(2), and K.A.R. 100-55-5(q) to take action with respect to Licensee's license under the Kansas Respiratory Therapy Act, K.S.A. 65-5501, *et seq.*

9. On or about November 14, 2016, PM reported to the Colby Police Department that her debit card had been stolen and used at the Wal-Mart located in Colby, Kansas on or about October 27, 2016.

10. Licensee stole PM's debit card while PM was volunteering at Citizens Medical Center. At the time of the incident, Licensee was employed by Citizens Medical Center as a respiratory therapist and was working on the day that the theft occurred.

11. Video evidence the from local Wal-Mart obtained by the Colby Police Department showed Licensee utilizing the PM's stolen debit card to purchase baby wipes, baby formula, and a \$100.00-dollar gift card. A receipt from the transaction further evidenced that Licensee had in-fact used the PM's debit card.

12. On or about November 23, 2016, Licensee was formally charged in the District Court of Thomas County, Kansas with multiple felony and misdemeanor counts including:

- i. Count 1: Forgery, a severity level 8 nonperson felony;
- ii. Count 2: Making False Information, a severity level 8 nonperson felony;
- iii. Count 3: Identity Theft, a severity level 8 nonperson felony;
- iv. Count 4: Interference with Law Enforcement, a severity level 9 nonperson felony;
- v. Count 5: Criminal Use of a Financial Card, a class A nonperson misdemeanor;
- vi. Count 6: Theft, a class A nonperson misdemeanor; and
- vii. Count 7: Theft, a class A nonperson misdemeanor.

13. On or about February 23, 2017, Licensee entered into a Diversion Agreement in the District Court of Thomas County, Kansas. In that Diversion Agreement, Licensee stipulated to the acts “set forth in the Complaint and Affidavit filed” in that Case. Upon execution of the Diversion Agreement, Thomas County agreed to dismiss counts 2, 3, and 4. Further, in exchange for serving a one (1) year term under the Diversion Agreement and adhering to all conditions outlined therein, if the Licensee is in full compliance, the remaining charges will be dismissed. The one (1) year term is set to expire on or about February 23, 2018.

14. Licensee violated K.S.A. 65-5510(a)(2) for committing acts of unprofessional conduct.

15. Licensee further violated K.S.A. 65-5510(a)(2), as further defined by K.A.R. 100-55-5(q), for committing conduct likely to defraud or harm the public.

16. Pursuant to K.S.A. 65-5510, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee’s license and pursuant to K.S.A. 65-5510(c) the Board has the authority to impose administrative fines for violations of the Kansas Respiratory Therapy Act.

17. According to K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

18. All of the materials in KSBHA Investigative Case Number 17-00211 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board’s Disciplinary Panel. Disciplinary Panel No. 32 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

19. 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 immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice respiratory 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 her own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Respiratory Therapy Act, K.S.A. 65-5501 *et seq.*

20. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Respiratory Therapy Act, or to investigate complaints received under the Risk Management Law, K.S.A. 65-4921 *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 Kansas Respiratory Therapy Act.

21. 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.

22. 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 the Consent Order.

23. 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.

24. 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.

25. 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.

26. Licensee acknowledges that she has read this Consent Order and fully understands the contents.

27. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

28. Licensee shall obey all federal, state and local laws and rules governing the practice of respiratory 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.

29. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order under K.S.A. 77-526. This Consent Order shall constitute the Board's Order when filed with the office of the Executive Director for the Board and no further Order is required.

30. This Consent Order constitutes **public disciplinary action**.

31. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

32. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public disciplinary action against her license to engage in the practice of respiratory therapy:

SURRENDER TREATED AS REVOCATION

33. Licensee hereby surrenders her Kansas license to practice respiratory therapy in Kansas. Such surrender shall be treated as a revocation for all purposes including reporting such action.

34. Licensee agrees that if she applies for reinstatement of her license, such application will be considered by the Board in accordance with the provisions of K.S.A. 65-2844. 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.

35. Licensee shall be required to pay the fee for reinstatement of a revoked license with any application for reinstatement

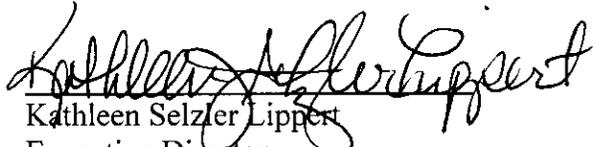
36. Licensee agrees that in the event she applies for reinstatement of her license, the allegations contained in this Consent Order will be considered as findings of fact and conclusions of law.

IT IS 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.

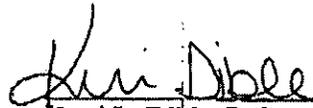
IT IS FURTHER ORDERED that Licensee's license is revoked effective upon the filing of this Consent Order.

IT IS SO ORDERED on this 7 day of Feb, 2018.

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


Kathleen Selzler Lippert
Executive Director

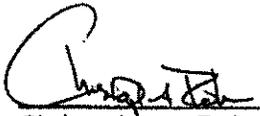
Feb 7, 2018
Date


Kerri L. Dible, R.T.
Licensee

2/7/2018
Date

PREPARED AND APPROVED BY:


Phoenix Z. Anshutz, #20617
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level Ste A
Topeka, Kansas 66611
(785) 296-8022
phoenix.z.anshutz@ks.gov


Christopher A. Rohr
Law Office of Christopher A. Rohr, P.A.
280 N. Court Avenue
P.O. Box 545
Colby, Kansas 67701
Attorney for Licensee

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 8th day of Feb., 2018, to the following:

Christopher A. Rohr
Law Office of Christopher A. Rohr, P.A.
280 N. Court Avenue
P.O. Box 545
Colby, Kansas 67701
Attorney for Licensee

Kerri L. Dible
[REDACTED]
Colby, Kansas 67701
Licensee

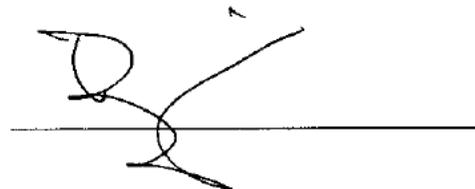
And the original was hand-filed with:

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:

Phoenix Z. Anshutz
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level Ste A
Topeka, Kansas 66612

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



Consent Order for Surrender
Kerri L. Dible, R.T.

