

FILED *CHD*
MAR 21 2011
KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
)
DEBORAH GALE DOWNING, O.T.A.)
Kansas License No. 18-00524) Docket No. 11-HA00064
)
_____)

**FINAL ORDER AND JOURNAL ENTRY OF SATISFACTION
OF REQUIREMENTS OF FINAL ORDER**

NOW ON THIS 21st day of March, 2011, the above-entitled matter comes on before Kathleen Selzler Lippert, Executive Director of the Kansas State Board of Healing Arts (“Board”). After reviewing the file and being duly advised in the premises, the Executive Director makes the following determinations.

1. On February 23, 2011, the Executive Director issued a Summary Order regarding the license of Deborah Gale Downing, O.T.A. (“Licensee”) to practice as an occupational therapy assistant in the state of Kansas. The Summary Order contained a provision assessing a \$250 civil fine against Licensee for engaging in unprofessional conduct, due and payable within thirty (30) days of the effective date of the Summary Order.

2. The Summary Order contained a notice that a written request for hearing could be filed within 15 days following service, but if no hearing is requested, the Summary Order would be come effective as a final order of the Board upon expiration of the time for requesting a hearing.

3. No hearing has been requested by any party; therefore the Summary Order became effective as a Final Order on March 14, 2011.

4. On March 11, 2011, Licensee remitted \$250.00 to the Board for satisfaction of the \$250 civil fine.

5. Licensee has satisfied all requirements of the Final Order and has no further obligation for compliance.

IT IS THEREFORE ORDERED that Licensee is hereby discharged from the requirements of the Final Order.


IT IS SO ORDERED.

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. Pursuant to K.S.A. 77-601 *et. seq.* a party to whom a Final Order is issued may petition for judicial review of this Final Order. The petition for judicial review must be filed within thirty (30) days of service of this Final Order. In the event a petition for judicial review is filed pursuant to K.S.A 77-613(e), the Agency Officer to be served on behalf of the Kansas State Board of Healing Arts is Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson St., Lower Level-Suite A, Topeka, Kansas 66612.

Dated this 21st day of March 2011.

KANSAS BOARD OF HEALING ARTS


Kathleen Selzler Lippert
Executive Director

3/21/11
Date

CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of the foregoing **Final Order and Journal Entry of Satisfaction** was served on the 21st day of March, 2011 by United States mail, first-

class postage pre-paid and addressed to:

Deborah Gale Downing, O.T.A.
9228 N. Belton Ave.
Kansas City, MO 64154

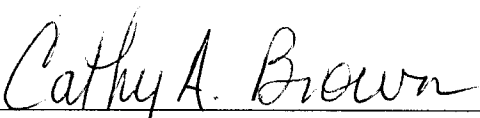
and a copy was hand-delivered to:

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

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

and the original was hand-delivered for filing with the office of the Executive Director:

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


Cathy Brown
Executive Assistant

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FEB 23 2011

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of)
DEBORAH GALE DOWNING, O.T.A.)
)
Kansas License No. 18-00524)
_____)

Docket No. 11-HA 00064

SUMMARY ORDER

NOW ON THIS 23rd day of Feb, 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. Deborah Gale Downing, O.T.A. ("Licensee") was originally issued license number 18-00524 to practice as an occupational therapy assistant in the state of Kansas on December 27, 2000. 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 9228 N. Belton Avenue, Kansas City, Missouri 64154.
3. On or about March 18, 2010, the Board received an application from Licensee for reinstatement of her occupational therapy assistant license. Licensee's license had been cancelled for

failure to renew on May 1, 2009.

4. In her application, Licensee lists all professional activities since the cancellation of her license. Licensee states that is employed by Rehab Choice Incorporated which is located in St. Louis, Missouri but has several contracts in Missouri and Kansas. Licensee stated that she works full time at Hillview Nursing & Rehab in Platte City, Missouri but that from December 15, 2009 through March 11, 2010 she practiced as an Occupational Therapist Assistant at Rehab Care in Wyandotte County on an as needed basis.

5. Licensee's license was reinstated on March 26, 2010. Licensee worked from December 15, 2009 through March 11, 2010 as an occupational therapy assistant without being properly licensed.

Applicable Law

6. 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 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. . . .

7. 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

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

9. That by continuing to be employed as an occupational therapy assistant from December 15, 2009 through March 11, 2010, Licensee was holding herself out to the public as an individual properly licensed by the Kansas State Board of Healing Arts to assist in the practice of occupational therapy assistance, by doing so Licensee engaged in conduct likely to deceive, defraud or harm the public in violation of K.S.A. 65-5410(2) in combination with K.A.R. 100-54-5.

10. The Board finds that Licensee engaged in unprofessional conduct as defined by K.A.R. 100-54-5 by continuing to be employed as an occupational therapy assistant without being properly licensed.

11. 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, Deborah Gale Downing, O.T.A.

IT IS, THEREFORE, ORDERED that Licensee is hereby assessed a civil fine of \$250.00 due and payable within thirty days of the effective date of this Order.

NOTICE AND OPPORTUNITY FOR HEARING

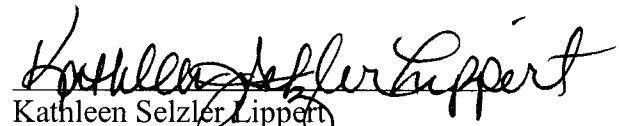
PLEASE TAKE NOTICE that this is a Summary Order. A party to whom a Summary Order is issued may file a written request for a hearing pursuant to K.S.A. 77-542 within 15 days

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, 235 S. Topeka Blvd., Topeka, KS 66603.

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 23rd day of Feb 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 23rd day of February 2011, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Deborah Gale Downing, O.T.A.
9228 N. Belton Avenue
Kansas City, MO 64154

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 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