BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

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KS State Board of Healing Arts

In the Matter of **Michelle Gillum, P.T.** License Number 11-01094	))))	Docket No. 05-HA-70

CONSENT ORDER

COME NOW, the Kansas State Board of Healing Arts ("Board") by and through Kelli J. Benintendi, Associate Counsel ("Petitioner"), and Michelle Gillum, P.T., ("Licensee") and stipulate and agree to the following:

1. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of physical therapy. K.S.A 65-2901 *et seq.*

2. Licensee admits that this Consent Order and the filing of such document are in accordance with applicable law and that the Board has jurisdiction to consider the Consent Order.

3. Licensee agrees that the physical therapy practice act is constitutional on its face and as applied in this case. Licensee further agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

4. Licensee's last known mailing address as provided to the Board is 2309 N. Shefford Circle, Wichita, Kansas, 67205.

5. On April 29, 2003, Licensee entered into a Consent Order ("2003 Consent Order") with the Board. **(Confidential)**

(Confidential)

(Confidential)

6. **(Confidential)**

(Confidential)

7. **(Confidential)**

(Confidential)

8. **(Confidential)**

(Confidential)

9. Licensee admits to violating the terms of the 2003 Consent Order **(Confidential)**

(Confidential)

10. **(Confidential)**

(Confidential)

11. Licensee admits that she gave HAPN an false name for her practice supervisor, which

(Confidential)

12. In lieu of conducting formal proceedings, the Board may enter into an informal settlement of this matter pursuant to K.S.A. 77-505.

13. Licensee voluntarily and knowingly waives her right to a hearing pursuant to the Kansas administrative procedure act, K.S.A. 77-501 *et seq*. 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.

14. 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.

15. In consideration of the conditions, terms, covenants, and promises contained herein, and in lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary provisions:

(a) Licensee is hereby PUBLICALLY CENSURED for her violation of the2003 Consent Order previously entered into by Licensee and the Board;

(b) **(Confidential)**

(c) **(Confidential)**

(d) **(Confidential)**

(e) **(Confidential)**

(f) **(Confidential)**

(g) **(Confidential)**

(h) **(Confidential)**

16. Pursuant to K.S.A. 65-2912(a), this Consent Order constitutes limitations on Licensee's license to practice as a physical therapist. These limitations are not self-terminating and shall remain in effect for at least three (3) years from the date this Consent Order is filed with the Board. At the end of the three-year period, Licensee may request the termination of the limitations.

17. Licensee's failure to comply with the provisions of this Consent Order will result in the Board initiating disciplinary action to immediately suspend Licensee's license, pursuant to and in compliance with the Kansas administrative procedure act.

18. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the physical 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 physical therapy act.

19. Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, both administrative and civil, including the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* This release shall forever discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this Consent Order or the content of this Consent Order.

20. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to the National Practitioner Databank and any and all reporting entities requiring disclosure of this Consent Order.

21. 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. This Consent Order supercedes and replaces the 2003 Consent Order previously entered by the parties.

22. 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.

23. Licensee, by signature to this document, waives any objection to the participation of the Board members in the consideration of this offer of settlement and agrees not to seek the

disqualification or recusal of any Board member in any future proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

24. Licensee acknowledges that she has read this Consent Order, fully understands the contents and acknowledges that this Consent Order has been entered into freely and voluntarily.

25. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Kelli J. Benintendi, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

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

27. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order. 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.

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 is the Order of the Board.

IT IS FURTHER ORDERED that the Consent Order supercedes and replaces the Consent Order entered into by the parties on April 29, 2003.

IT IS FURTHER ORDERED that Licensee is hereby PUBLICALLY CENSURED for her violation of the 2003 Consent Order previously entered into by Licensee and the Board.

IT IS FURTHER ORDERED that

(a) **(Confidential)**

(b) **(Confidential)**

(c) **(Confidential)**

(d) **(Confidential)**

(e) **(Confidential)**

(f) **(Confidential)**

(g) **(Confidential)**

IT IS SO ORDERED.

KANSAS STATE BOARD OF HEALING ARTS

Lawrence T. Buening, Jr.
Executive Director

4/25/05
Date

Michelle Gillum, P.T.
Licensee

3/24/05
Date

Prepared By:

Kelli J. Benintendi #16032
Associate Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

CERTIFICATE OF SERVICE

I, Kelli J. Benintendi, Associate Counsel, Kansas Board of Healing Arts, hereby certify that I served a true and correct file-stamped copy of the above **Consent Order** by United States mail, postage prepaid, on this 26th day of April, 2005, to the following:

Michelle Gillum, P.T.
2309 N. Shefford Circle
Wichita, Kansas 67205

and the original was hand-delivered for filing to:

Lawrence T. Buening, Jr.
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

Kelli J. Benintendi

Kelli J. Benintendi
Associate Counsel