

FILED *MRM*

OCT 30 2012

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

In the Matter of )  
 )  
**DOUG MAGDEN, L.R.T.** )  
Kansas License No. 22-00846 )

Docket No. 13-HA00024

**CONSENT ORDER FOR SURRENDER OF LICENSE**

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Associate Litigation Counsel, Brandy Snead, and Doug Magden, L.R.T. ("Licensee"), *pro se*, and move the Board for approval of a Consent Order affecting Licensee's license to practice as a radiologic technologist in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address as provided to the Board is: **Confidential**  
Street, Olathe, KS 66062.
2. Licensee is entitled to engage in practice as a radiologic technologist in the State of Kansas, having been issued License No. 22-00846 on approximately September 28, 2005, and having last renewed such license on approximately October 1, 2011.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of radiologic technologists. K.S.A. 65-7301 *et seq.*
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. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. The Kansas Radiologic Technologists 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.
6. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his 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. 65-7313(a)(8), as further defined in K.A.R. 100-73-6(d), to take action with respect to Licensee's license under the Kansas Radiologic Technologists Practice Act, K.S.A. 65-7301, *et seq.*
9. Licensee was an employee with Shawnee Mission Medical Center (SMMC) for fourteen (14) years. While Licensee was described as knowledgeable and a hard-worker, Confidential  
Confidential
  - a. Licensee was suspended without pay for 2.5 days in September 2007 Confidential  
Confidential

b. Licensee was suspended without pay **Confidential**

December 2010, **Confidential**

c. Licensee was placed on a 60-day Performance Development Plan at the beginning of

2011 **Confidential**

**Confidential**

10.

11. Licensee's acts, if proven, constitute violations of the Kansas Radiologic Technologists Practice Act as set forth in K.S.A. 65-7313. Specifically, grounds to discipline Licensee include:

a. K.S.A. 65-7313(a)(8), in that Licensee has been found guilty of unprofessional conduct under criteria which the board may establish by rules and regulations.

b. K.A.R. 100-73-6(d), in that Licensee was sanctioned or disciplined by a peer review committee, or a medical care facility for acts or conduct that would constitute grounds for denial, limitation, suspension, or revocation of a license under K.S.A. 65-7313 and amendments thereto.

12. The Board has received information, investigated the same, and has reason to believe allegations of unprofessional conduct occurred.

13. All pending investigation materials for Investigative No. 12-00119 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. On May 15, 2012, Disciplinary Panel No. 27 authorized and directed Board counsel to request **Confidential**

Confidential

13.

14.

15. On August 7, 2012, Jennifer McArthur, Board Paralegal, spoke to Licensee who informed her of his decision to no longer practice radiologic technology in Kansas.

16. On August 11, 2012, Licensee emailed Ms. McArthur and stated that he did “not intend to practice any radiology connected employment in the future. [He did] not see any need to continue to be licensed in the state of Kansas.”

17. On September 11, 2012, Licensee returned a phone call from Ms. McArthur and stated that  
Confidential Licensee agreed to surrender his license.

18. The Kansas Radiologic Technologists Practice Act does not have an “inactive” status. Therefore, the purpose of this Consent Order is to ensure Licensee’s inability to practice radiologic technology  
Confidential  
Confidential

19. Licensee waives his right to contest the allegations contained in this Consent Order and consents to a finding that there are grounds for the Board to pursue disciplinary action against his license.

20. Pursuant to K.S.A. 65-7313, the Board may revoke Licensee’s license; alternatively, Licensee may surrender his license.

21. Pursuant to K.A.R. 100-73-8(b) the Board has the authority to require successful completion of an individually tailored program approved by the board prior to reinstatement of such license.
22. Pursuant 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.
23. 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 Radiologic Technologists Practice Act.
24. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Radiologic Technologists 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 Kansas Radiologic Technologists Practice Act.
25. 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.

26. 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.
27. 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.
28. 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.
29. 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.
30. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
31. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

32. 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, 800 SW Jackson, Lower Level Suite A, Topeka, Kansas 66612.
33. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order under K.S.A. 77-505 and K.S.A. 77-526. 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.
34. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
35. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action on his license to engage in the practice of radiologic technologist:

#### **SURRENDER**

- a. Licensee hereby surrenders his license to practice as a radiologic technologist. 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. 65-7307 and K.A.R. 100-73-8.
- b. Licensee agrees that in the event he applies for reinstatement of his license, the allegations contained in this Consent Order will be considered as findings of fact and conclusions of law.
- c. **Confidential**

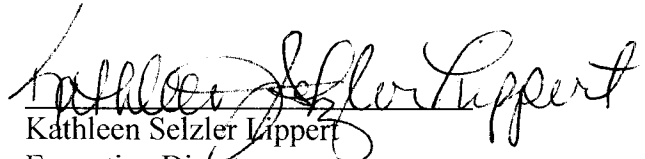
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d.

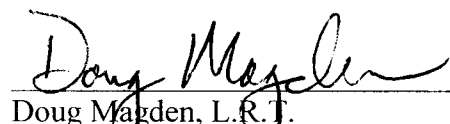
**IT IS THEREFORE ORDERED** that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

**IT IS ORDERED** on this 30 day of Oct, 2012.

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

  
Kathleen Selzler Lippert  
Executive Director

10/30/12  
Date

  
Doug Magden, L.R.T.  
Licensee

10-29-12  
Date



PREPARED AND APPROVED BY:



Brandy Snead, #25301

Associate Litigation Counsel

Kansas Board of Healing Arts

800 SW Jackson

Lower Level Suite A

Topeka, Kansas 66612

(785) 368-8212

(785) 368-7103 - facsimile

**CERTIFICATE OF SERVICE**

I, Michele R. Mainey, hereby certify that I served a true and correct copy of the Consent Order for Surrender of License by United States mail, postage prepaid, on this 30<sup>th</sup> day of October, 2012, to the following:

Doug Magden, L.R.T.  
Licensee  
**Confidential**  
Olathe, KS 66062

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:

Brandy Snead  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson  
Lower Level Suite A  
Topeka, Kansas 66612

Katy Lenahan  
Licensing Administrator  
Kansas Board of Healing Arts  
800 SW Jackson  
Lower Level Suite A  
Topeka, Kansas 66612

Michele R. Mainey  
Staff Member