

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

In the Matter of)
)
Diane Meier, O.T.A.,)
Application for License)
_____)

Docket No. 05-HA-32

FILED
DEC 15 2004
KANSAS STATE BOARD OF
HEALING ARTS

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (“Board”) by and through Kelli J. Benintendi, Associate Counsel (“Petitioner”), and Diane Meier, O.T.A., (“Applicant”), *pro se*, and move the Board for approval of a Consent Order as a condition to being granted a license to practice as an occupational therapy assistant in the State of Kansas. The parties stipulate and agree to the following:

1. Applicant’s mailing address as provided to the Board is 15 Dry Creek Road, Kaw City, Oklahoma 74641.
2. On or about July 23, 2004, Applicant submitted to the Board an application for licensure as an occupational therapy assistant.
3. The Board is the sole and exclusive administrative agency for the State of Kansas authorized to regulate the practice of occupational therapy, K.S.A. 65-5401 *et seq.*
4. This Consent Order and the filing of such document are in accordance with applicable law and the Board may enter into an informal settlement of this matter as provided in K.S.A. 77-505, without the necessity of proceeding to a formal hearing.
5. Upon approval, the provisions in this Consent Order shall constitute the findings of the Board, and this Consent Order shall be the Board’s Final Order.

6. The Kansas occupational therapy practice act is constitutional on its face and as applied in this case.

7. Applicant agrees that, in considering this matter, the Board is not acting beyond the scope of its jurisdiction as provided by law.

8. Applicant voluntarily and knowingly waives her right to a hearing under the Kansas administrative procedure act, K.S.A. 77-501 *et seq.* Applicant 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. Applicant voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.

9. 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. Applicant specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.

10. In her application, Applicant disclosed Confidential as contemplated by K.S.A. 65-5410(a)(2), and as further defined by K.A.R. 100-54-5(c).

11. In her application, Applicant disclosed Confidential
Confidential

12. In her application, Applicant further disclosed that on November 20, 1997, she was issued an Occupational Therapy Assistant License by the Oklahoma State Board of Medical Licensure (“Oklahoma Board”) under a Voluntary Submittal to Jurisdiction. As a condition of

licensure in Oklahoma, Applicant agreed to be placed on probation for an indefinite period of time

Confidential

16, 2000, the Oklahoma Board made findings that Applicant had violated her previous agreement and placed Applicant on another indefinite period of probation.

14. In lieu of conducting formal proceedings and/or the making of findings by the Board, Applicant, by her signature affixed to this Consent Order, hereby voluntarily agrees to the following limitations as a condition to being granted licensure:

a. Confidential

b.

c.

d. Confidential

e.

15. The limitations contained in this Consent Order are not self-terminating and shall remain in effect for at least one (1) year. At the end of one (1) year, Applicant may request the termination of the limitations.

16. For any period of time that Applicant is not actively practicing as an Occupational Therapy Assistant in Kansas, the limitations will remain in effect but will be tolled and not counted towards reducing the one (1) year timeframe.

17. Applicant's failure to comply with the provisions of the Consent Order will result in the Board taking further disciplinary action, as the Board deems appropriate according to 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 Occupational Therapy Practice Act, K.S.A. 65-5401, *et seq.*, 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 occupational therapy practice act.

19. Applicant hereby releases the Board, its individual members (in their official and personal capacities), 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 Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description of any description against Releasees.

20. Applicant further understands and agrees that upon her signing the Consent Order, this document shall be deemed a public record, and shall be reported to any reporting entities requiring disclosure of this Consent Order.

21. This Consent Order, when signed by both parties, constitute 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.

22. Applicant 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 Applicant is not present. Applicant 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. Applicant, 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. The Board may consider all aspects of this Consent Order in any future matter regarding Applicant.

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

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

27. Applicant shall obey all federal, state and local laws and rules governing the practice of occupational 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.

28. Upon the filing of this Consent Order and meeting all requirements for issuance of a license, Applicant shall be issued a license as an occupational therapy assistant.

29. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become and Order. This Consent Order shall constitute that 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

a. Confidential

b.

c.

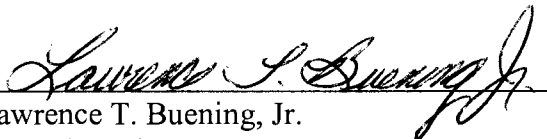
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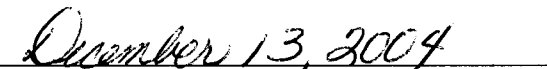
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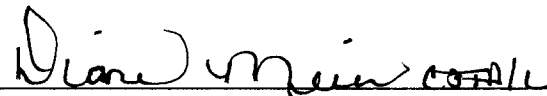
IT IS FURTHER ORDERED that upon the filing of this Consent Order and meeting all requirements for issuance of a license, Applicant shall be issued a license as an occupational therapy assistant.


IT IS SO ORDERED.

KANSAS BOARD OF HEALING ARTS

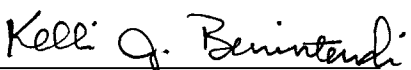

Lawrence T. Buening, Jr.
Executive Director


Date


Diane Meier, O.T.A.


Date

Prepared by:


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

Attorney for the Board

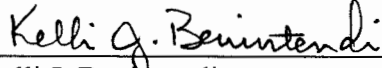
CERTIFICATE OF SERVICE

I, Kelli J. Benintendi, Associate Counsel, Kansas State Board of Healing Arts, hereby certify that I served a copy of the above **CONSENT ORDER** by depositing the same in the U.S. mail, postage prepaid, on this the 13th day of December, 2004, addressed to:

Diane Meier
15 Dry Creek Road
Kaw City, Oklahoma 74641

And the original was hand-delivered for filing to:

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



Kelli J. Benintendi
Associate Counsel