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JUN 26 2013

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

KS State Board of Healing Arts

In the Matter of)
)
Teresa M. Miller, P.T.)
Kansas License No. 11-02723)
)

Docket No.: 13-HA00097

CONSENT ORDER FOR SURRENDER

COMES NOW the Petitioner, the Kansas State Board of Healing Arts (“Board”), by and through Joshana L. Offenbach, Associate Disciplinary Counsel, and Teresa M. Miller (“Licensee”), *pro se* and move the Board for approval of a Consent Order affecting Licensee’s license to practice physical 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: **Confidential** Hiawatha, KS, 66434.
2. Licensee is or has been entitled to engage in the practice physical therapy in the State of Kansas, having been issued License No. 11-02723 on or about December 22, 2004. Licensee license is currently suspended after an Order of Emergency Suspension of License was filed on May 23, 2013.
3. At all times relevant to the allegations set forth in the Petition, Licensee held a current and active license to engage in the practice of physical therapy in the State of Kansas.
4. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of physical therapy pursuant to K.S.A. 65-2901 *et seq.*
5. Petitioner requests a protective order to be entered to protect all confidential information under 42 CFR Part II and K.S.A. 65-4915, 65-2839a(d) and K.S.A. 65-2898a.

6. 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 and 65-2838. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.
7. The Kansas Physical Therapy Practice Act is constitutional on its face and as applied in this case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
8. 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.
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. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.
10. The Board has received information and investigated the same, and has reason to believe there are grounds pursuant to K.S.A. 65-2912 to take disciplinary action with respect to Licensee's license under the Physical Therapy Practice Act, K.S.A. 65-2901, *et seq.*

11. On May 14, 2013, a Petition was filed against Licensee's license alleging one count of violations of the Physical Therapy Practice Act. The specific allegations are set forth therein and incorporated into this Consent Order by reference.
12. On May 21, 2013, a hearing was held based on Petitioner's Motion for *Ex Parte* Emergency Order of Suspension and for Emergency Proceedings.
13. On May 23, 2013 the Order of Emergency Suspension of License was issued. The specific findings of fact and conclusions of law are set forth therein and incorporated into this Consent Order by reference.
14. Licensee waives her right to contest the allegations contained in the Petition and the Order of Emergency Suspension, and consents to a finding that there are grounds for the Board to take discipline against her license. Licensee further waives her right to dispute or otherwise contest the allegations contained in the Petition and Order of Emergency Suspension in any future proceedings before the Board.
15. Licensee's acts, as set forth in the Petition, if proven, constitute violations of the Physical Therapy Practice act as follows:
 - a. K.S.A. 65-2912(a)(1): **Confidential**
Confidential
 - b. K.S.A. 65-2912(a)(5): Licensee committed an act and/or acts of unprofessional conduct as further defined by K.A.R. 100-29-12(a)(2)(C), in that Licensee cannot practice physical therapy with reasonable skill and safety **Confidential**
Confidential

c. K.S.A. 65-2912(a)(5): Licensee committed an act and/or acts of unprofessional conduct as further defined by K.A.R. 100-29-12(a)(7) when Licensee failed to furnish to the Board and its investigators with legally requested information.

d. K.S.A. 65-2912(a)(5): Licensee committed an act and/or acts of unprofessional conduct as further defined by K.A.R. 100-29-12(a)(12), in that Licensee engaged in a pattern of practice and/or other conduct that demonstrates a manifest incapacity or incompetence to practice physical therapy; Confidential
Confidential

e. K.S.A. 65-2912(a)(5): Licensee committed an act and/or acts of unprofessional conduct as further defined by K.A.R. 100-29-12(a)(18), in that Licensee committed conduct likely to harm the public Confidential
Confidential

16. Pursuant to K.S.A. 65-2912, the Board may revoke Licensee's license; alternatively, Licensee may surrender her license, so long as it is treated as a revocation.

17. According to K.S.A.65-2912(a)(1) and K.S.A. 65-2912(a)(5), the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

18. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Healing Arts 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 Healing Arts Act.

19. 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.
20. 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.
21. Licensee further understands and agrees that this Consent Order, Petition, and Order in full and unredacted shall be given to any and all health care entities at which she is employed or seeks employment regardless of the employment position.
22. 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.
23. 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.

24. Licensee, by signature to this document, waives any objection to the participation of the Board members 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.
25. Licensee acknowledges that she has read this Consent Order and fully understands the contents.
26. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
27. 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. 65-2838. 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.
28. This Consent Order constitutes disciplinary action.
29. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
30. In lieu of concluding the formal proceeding currently pending, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against her license to engage in the practice of physical therapy:

SURRENDER OF LICENSE

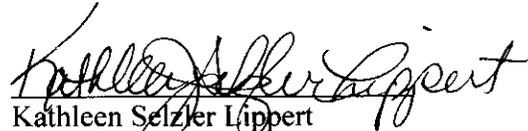
- a. Licensee hereby **SURRENDERS** her license to practice physical therapy, effective upon filing of this Consent Order with the Board. Such surrender of licensure shall be treated as a revocation for all purposes, including reporting such action.
- b. Licensee agrees that if she applies for reinstatement 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 State Board of Healing Arts, 248 Kan. 589 (Kan. 1991), and all applicable statutes, laws and rules and regulations regarding the qualifications for licensure and reinstatement;
- c. Licensee shall be required to pay the fee for reinstatement of a revoked license with any application for reinstatement; and
- d. Licensee agrees that in the event she applies for reinstatement of her license, the allegations contained in the Petition, Order of Emergency Suspension and 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 and conclusions of law.

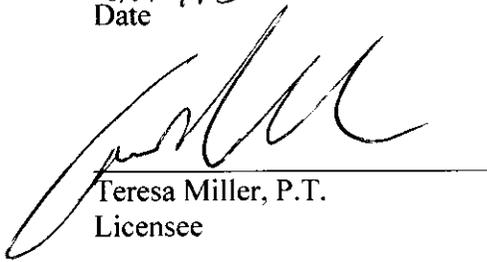
IT IS FURTHER ORDERED that Licensee's licenses is revoked effective upon the filing of this Consent Order.

IT IS SO ORDERED on this 16 day of June, 2013.

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

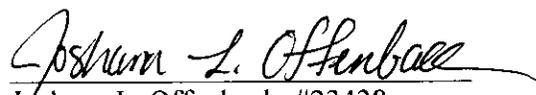

Kathleen Selzer Lippert
Executive Director

6/26/13
Date


Teresa Miller, P.T.
Licensee

6-18-13
Date

PREPARED AND APPROVED BY:


Joshana L. Offenbach, #23438

CERTIFICATE OF SERVICE

I, Cathy A. Brown, hereby certify that I served a true and correct copy of the **CONSENT ORDER FOR SURRENDER** by United States mail, postage prepaid, on this 26th day of June, 2013 to the following:

Teresa M. Miller, P.T.

Confidential

Hiawatha, KS, 66434

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, Kansas 66612

and a copy was hand-delivered to:

Joshana L. Offenbach
Associate Disciplinary Counsel
Kansas State Board of Healing Arts
800 SW Jackson
Lower Level, Suite A
Topeka, Kansas 66612

And the original was hand-filed with:

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

Cathy A. Brown
Staff Member