

**EFFECTIVE AS A
FINAL ORDER**

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DATE: 11/26/13

JAN 14 2013

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

KS State Board of Healing Arts

In the Matter of)
MANOLITO MUNOZ, O.T.)
)
Kansas License No.)
17-02202)
_____)

Docket No. 13-HA 00039

SUMMARY ORDER

NOW ON THIS 14th day of January 2013, 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. Manolito Munoz, O.T. ("Licensee") was originally issued license number 17-02202 to practice occupational therapy in the state of Kansas on November 3, 2003. Licensee's license is currently active, having been renewed on April 1, 2012.
2. Licensee's last known mailing address as provided to the Board at the time of his renewal is **Confidential** ., Andover, Kansas 67002.
3. On or about April 18, 2012, the Board received a complaint regarding Licensee evaluating and treating patients with occupational therapy without a proper physician referral or order.
4. After reviewing billing and treatment records for occupational therapy patients, it

was discovered that Licensee had evaluated and performed occupational therapy treatment on ten (10) patients without a prior physician referral or order.

5. Licensee performed an OT evaluation and/or treatment on K.C. on August 2, 2011, A.J. on February 4, 2012, B.S. on February 16, 2012, J.S. on January 17, 2012, Y.B. on October 7, 2011, J.A. on January 31, 2012, T.P. on October 31, 2011, S.B. on December 28, 2011, T.D. on November 30, 2011, and D.M. on October 26, 2011, without a proper prior physician referral or order.

6. On or about April 26, 2012, the Board received a second complaint regarding Licensee providing an occupational therapy evaluation and treatment to patient R.B. without a physician referral.

7. Patient R. B. initially accompanied her husband to the clinic for his appointment with Licensee. R.B. mentioned that she had been having neck pain and Licensee informed R. B. that he could help her with that.

8. Licensee performed an OT evaluation on R.B. on December 22, 2011, without a physician referral or order.

9. Licensee then sent a TORB (telephone order read back) to R.B.'s physician asking him to sign the order for occupational therapy and return the order. The physician refused stating that he does not order occupational therapy for neck pain.

10. Patient R. B. then received a bill for the evaluation from her insurance company because there was no physician order for occupational therapy services.

11. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. The Disciplinary Panel authorized and directed the issuance of this Summary Order and the specific

disciplinary sanctions pursuant to Board Guidelines.

Applicable Law

12. K.S.A. 65-5402 states in pertinent part: Practice of occupational therapy means the therapeutic use of purposeful and meaningful occupations (goal-directed activities) to evaluate and treat, pursuant to the referral, supervision, order or direction of a physician
13. K.S.A. 65-5410 states: 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 or is likely to endanger 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.
14. K.S.A. 65- 5410 states: 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 or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes: (5) violating any provision of this act.
15. K.A.R. 100-54-5 states: Unprofessional conduct means any of the following:
 - (o) committing conduct likely to deceive, defraud or harm the public.

Conclusions of Law

17. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
18. Licensee's conduct in performing an occupational therapy evaluation and treatment of patients without a prior physician referral or order is a violation K.S.A. 65-5402 and K.S.A. 65-5410.
19. That Licensee was engaged in the practice occupational therapy without a proper physician referral or order on August 2, 2011, February 4, 2012, February 16, 2012, January 17,

2012, October 7, 2011, January 31, 2012, December 28, 2011, October 31, 2011, November 30, 2011, October 26, 2011 and December 22, 2011, a violation of K.S.A. 65-5402 and K.S.A. 65-5410.

21. K.S.A. 65-5402, in combination with K.S.A. 65-5410, prohibits an individual who is licensed under the Kansas Occupational Therapy Act, K.S.A. 65-5401 *et. seq.*, from evaluating or treating patients without a referral or order from a licensed physician.

22. That Licensee by evaluating or treating patients without a referral or order from a licensed physician has engaged in unprofessional conduct, a violation of K.S.A. 65-5402 in combination with K.S.A. 65-5410(a)(2) and (5).

24. 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, Manolito Munoz, O.T.

IT IS, THEREFORE, ORDERED that Licensee is hereby **PUBLICLY CENSURED** for violating the Kansas Occupational Therapy Act.


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, 800 SW Jackson, Lower Level Suite A, Topeka, Kansas 66612.

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 14 day of Nov, 2013.

Kansas State Board of Healing Arts


Kathleen Selzler Lippert
Executive Director

FINAL ORDER NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court as authorized by K.S.A. 77-601, *et seq.* Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Kathleen Selzler Lippert, Executive Director, Kansas Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true copy of the foregoing **FINAL ORDER** was served this 26th day of Nov., 2013 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Manolito Munoz, OT
Confidential
Andover, KS 67002

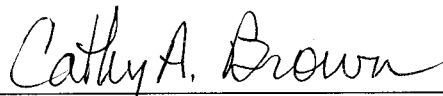
And a copy was hand-delivered to:

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

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

Office of the General 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.



Cathy Brown, Executive Assistant