

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
Jeana Marie Niday, P.T.)
)
Kansas License No. 11-03708)
_____)

Docket No. 12-HA00022

FINAL ORDER ASSESSING PENALTY AND PUBLIC CENSURE

COMES NOW the Kansas State Board of Healing Arts (“Board”), by and through its Executive Director, Kathleen Selzler Lippert (“Executive Director”), a duly authorized representative of the Board in accordance with K.S.A 2010 Supp. 77-514 to conduct summary proceedings pursuant to K.S.A 2010 Supp. 77-537, and, pursuant to the authority in K.S.A. 65-2901, *et seq.*, and, in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, hereby enters the following findings of fact, conclusions of law, and Final Order in the above-captioned matter:

I. Findings of Fact

1. Jeana Marie Niday, P.T. (“Licensee”) was originally issued license number 11-03708 on June 22, 2007, to practice as a physical therapist in the State of Kansas. Licensee changed her license status from active to inactive on or about January 1, 2011.

2. Licensee’s last known mailing address Licensee provided to the Board is: confidential
confidential Salina, Kansas 67401.

3. On August 30, 2011, the Executive Director, in accordance with K.S.A. 2010 Supp. 77-514, and as authorized by K.S.A. 2010 Supp. 65-2916, issued a Summary Order against Licensee. All facts set forth in the Summary Order filed in this matter are hereby adopted by reference herein.

4. For violations of the physical therapy practice act, the Summary Order publicly censured Licensee and ordered Licensee to complete, and submit to the Board, evidence of satisfactory completion of an additional twelve (12) contact hours of continuing education credits prior to the Board granting Licensee an active license to practice physical therapy in Kansas.

5. Pursuant to K.S.A. 77-542, the Summary Order notified Licensee that if a written request for a hearing was not filed within fifteen (15) days following service of the Summary Order, the Summary Order would become effective as a Final Order of the Board, without further notice, upon the expiration of the time for requesting a hearing. The Summary Order required any written request for hearing to be mailed to Kathleen Selzler Lippert, at 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

6. Pursuant to K.S.A. 2010 Supp. 77-531, the Summary Order was served upon Licensee by mailing a copy of the Summary Order to Licensee at Licensee's last known address of record with the Board, via United States Certified Mail, postage prepaid.

7. On September 14, 2011, the Summary Order was returned to the Board, post-stamped "return to sender," and was marked with a new address: confidential Lincoln, NE 68516.

8. The Board sent the Summary Order via certified mail to confidential Lincoln, NE 68516. On September 30, 2011, the Board received a certified mail receipt dated September 26, 2011 and signed by "Thomas Niday."

9. A written request for hearing was not received by the Executive Director within fifteen (15) days following service of the Summary Order.

10. Pursuant to K.S.A. 77-530, the Summary Order became effective as a Final Order without further notice on October 14, 2011.

II. Applicable Law

11. Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*
12. Physical Therapy Practice Act, K.S.A. 65-2901, *et seq.*
13. K.A.R. 100-29-12(a)(18) defines “unprofessional conduct” as conduct likely to deceive, defraud, or harm the public.
14. K.S.A. 65-2916(c) states, in pertinent part:

The board, in addition to any other penalty prescribed under the provisions of article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the provisions of article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. ...

III. Conclusions of Law

15. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding
16. The Summary Order filed in this matter on September 26, 2011 became effective as a Final Order without further notice or Board action on October 14, 2011.
17. By repeatedly practicing as a physical therapist without benefit of an active license, Licensee engaged in conduct that could deceive, defraud or harm the public, in violation of K.A.R. 100-29-12(a)(18), and K.S.A. 65-2916(c).

IV. Order

IT IS THEREFORE ORDERED that the Summary Order filed in the above-captioned matter has become a Final Order.

IT IS FURTHER ORDERED that Licensee is hereby publicly censured for violating the Physical Therapy Practice Act by practicing physical therapy in Kansas without benefit of an active license.

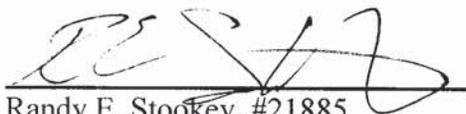
IT IS FURTHER ORDERED that, prior to the Board granting Licensee an active license to practice physical therapy in Kansas, Licensee shall complete, and submit to the Board, evidence of satisfactory completion of an additional twelve (12) contact hours of continuing education credits. Such evidence of satisfactory completion of the twelve contact hours of continuing education credits shall be sent to: Compliance Coordinator, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

IT IS FURTHER ORDERED that the Board shall maintain jurisdiction over this matter to issue any future order(s) deemed necessary and appropriate.

IT IS SO ORDERED THIS 20th DAY OF OCTOBER, 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts

Prepared and Approved by:


Randy E. Stookey, #21885
Assistant General Counsel
Kansas State Board of Healing Arts

NOTICE OF RIGHTS

PLEASE TAKE NOTICE that this is a Final Order. A Final Order is effective upon service, and service of a Final Order is complete upon mailing. Pursuant to K.S.A. 77-529, Licensee may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, 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, the Board's Executive Director, at 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 Assessing Penalty and Public Censure** was served this 26th day of October, 2011 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Jeana Marie Niday, P.T.
confidential

Lincoln, NE 68516

Jeana Marie Niday, P.T.
confidential

Salina, Kansas 67401

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, KS 66612

Melissa Massey, Compliance Monitor
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

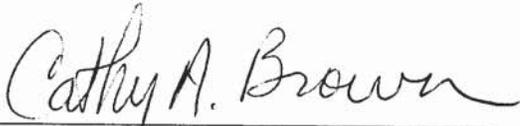
Jessica Bryson, Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

and an electronic courtesy copy was sent to:

Office of the General Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, KS 66612
mowens@ksbha.ks.gov

and the original was filed with the office of the Executive Director:

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



Cathy Brown
Executive Assistant