

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED
SEP 09 2019 *JL*

KS State Board of Healing Arts

In the Matter of)
)
DANIEL E. O'CONNELL A.T.)
Kansas License No. 24-00722)
_____)

Docket No. 19-HA00085

JOURNAL ENTRY SUSTAINING SUMMARY ORDER

On August 9, 2019, the parties appeared before the Kansas Board of Healing Arts ("Board") for a Conference Hearing on the Summary Order filed May 1, 2019, in the above captioned matter. M. Katie Baylie, Associate Litigation Counsel, appeared on behalf of the Board. Daniel E. O'Connell, A.T. ("Licensee") appeared in person, *pro se*.

Board members Dr. Balderston, Dr. Hutchins, and Mr. Kelly, recused themselves from participating in the Board deliberations and decision in this matter, as these members served on the Disciplinary Panel. Courtney Manly, Assistant General Counsel, was also recused.

Pursuant to the authority granted to the Board by the Kansas Healing Arts Act, K.S.A. 65-2801, et seq., the athletic trainers licensure act, K.S.A. 65-6901, et seq., and in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, et seq., the Board enters this Final Order in the above-captioned matter. After reviewing Summary Order, the agency record, hearing the arguments of the parties, and being duly advised in the premises, the Board **SUSTAINS** the Summary Order publicly censuring Licensee as the final order of the Board.

IT IS SO ORDERED this 9th day of September 2019.

KANSAS STATE BOARD OF HEALING ARTS


Kathleen Selzler Lippert, Executive Director

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 State Board of Healing Arts, 800 SW Jackson St., Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the above and foregoing order, by depositing the same in the United States mail, postage prepaid, and emailed, on this 9th day of Sept 2019 addressed to:

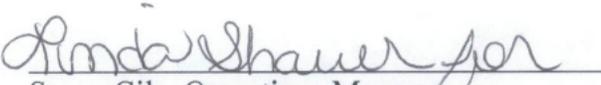
Daniel E. O'Connell
CONFIDENTIAL

Jose Portela
The Beckham Group
3400 Carlisle, Suite 550
Dallas, Texas 75204

And copies were delivered to:

M. Katie Baylie
Associate Litigation 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:


Susan Gile, Operations Manager

MAY 01 2019



KS State Board of Healing Arts

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

**In the Matter of
DANIEL E. O'CONNELL, A.T.**

Docket No. 19-HA 00084

Kansas License No. 24-00722

SUMMARY ORDER

NOW ON THIS 1st day of May 2019, 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.

Under K.S.A 77-537 and K.S.A. 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for a hearing is made within 15 days of service. 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. Daniel E. O'Connell, AT ("Licensee") was issued License No. 24-00722 on August 20, 2010. Licensee last renewed his license on or about November 14, 2018. Licensee's license status is currently Active.

2. Licensee's last known mailing address to the Board is:

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3. During all times relevant to the facts set forth in this Summary Order, Licensee held an Active license to practice as an athletic trainer in Kansas.

**Summary Order
Daniel E. O'Connell, A.T.**

4. Licensee's renewal applications dated November 13, 2015, November 16, 2016, and November 16, 2017, reflected Dr. Gary L. Harbin, M.D., license number 04-17244, as Licensee's supervising physician.

5. Licensee did not submit a practice protocol designating Dr. Gary Harbin as Licensee's supervising physician until July 27, 2018.

Applicable Law

6. Under K.S.A. 65-6906(d):

As a condition of performing the functions and duties of an athletic trainer in this state, each licensed athletic trainer shall file a practice protocol with the board. The practice protocol shall be signed by each person licensed by the board to practice the healing arts who will delegate to the athletic trainer acts which constitute athletic training and shall contain such information as required by rules and regulations adopted by the Board.

7. Under K.A.R. 100-69-9:

(a) As a condition of providing services as an athletic trainer in this state that constitute the practice of the healing arts, each athletic trainer licensed by the board shall file a practice protocol with the board on a form issued by the board.

(b) Each practice protocol shall contain the following information:

(1) The name, license number, signature, and date of signature of any person licensed to practice the healing arts who will delegate to the athletic trainer any professional responsibilities that constitute the practice of the healing arts;

(2) a description of the functions and procedures delegated to the athletic trainer that constitute the practice of the healing arts;

(3) a statement from a person licensed to practice the healing arts specifying those acts that have been delegated to the athletic trainer in the absence or unavailability of the licensee; and

(4) a statement that the board will be provided with any changes or amendments to the practice protocol within 10 days after any changes or amendments have been made.

8. The board may deny, suspend, limit, refuse to renew, place on probation, reprimand or revoke any license granted under the athletic trainers licensure act or take other disciplinary action as the board may deem proper if the individual has violated any provision of this act or any rule and regulation adopted under such act, or committed unprofessional conduct as defined by rules and regulations adopted by the board. *See* K.S.A. 65-6911(a)(6) and K.S.A. 65-6911(a)(10).
9. “Unprofessional conduct,” as used in the athletic trainers licensure act, is defined as, among other things, “providing services as an athletic trainer without practice protocols or contrary to the practice protocols filed with the board.” *See* K.A.R. 100-69-7(e).

Conclusions of Law

10. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
11. The Board finds that Licensee violated K.S.A. 65-6911(a)(6), in that Licensee violated the athletic trainers licensure act by failing to conform to K.S.A. 65-6906(d) and K.A.R. 100-69-9, in that Licensee, over the course of approximately three years, provided services as an athletic trainer without filing proper and accurate protocols with the Board.
12. The Board finds that Licensee violated K.S.A. 65-6911(a)(10), as further defined by K.A.R. 100-69-7(e), in that Licensee, over the course of approximately three years, provided services as an athletic trainer without practice protocols and/or contrary to the practice protocols filed with the Board.
13. Based on the facts and circumstances set forth herein, the use of summary proceedings in this matter is appropriate, and 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 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.

IT IS HEREBY ORDERED that Licensee is issued a **PUBLIC REPRIMAND** for violations of the Kansas athletic trainers licensure act.

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 1st day of May 2019.

**KANSAS STATE BOARD
OF HEALING ARTS**



Kathleen Selzler Lippert
Executive Director

NOTICE OF RIGHTS
(Pursuant to K.S.A. 77-542)

Licensee is entitled to a hearing pursuant to K.S.A. 77-537 and K.S.A. 77-542 of the Kansas Administrative Procedure Act (“KAPA”). If Licensee desires a hearing, within 15 days from the date of service of this Order, Licensee must file a written request for a hearing with the office of the Board’s Executive Director at:

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

If Licensee requests a hearing, the Kansas State Board of Healing Arts will notify the Licensee of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing before commencement of the same. If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing pursuant to K.S.A. 77-542. Pursuant to K.S.A. 77-613(e), the Executive Director is the agency officer designated to receive service of petition for judicial review on behalf of the agency.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the foregoing Summary Order was served this 1st day of May 2019 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Daniel E. O'Connell

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Licensee

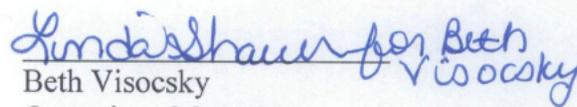
and copies were delivered to:

General Counsel
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, Kansas 66612

Courtney E. Manly
Associate Litigation 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:

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


Beth Visocsky
Operations Manager