

AUG 19 2020

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KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of)
Kelli L. Pair, O.T.A.) Docket No. 21-HA 00022
Kansas License No. 18-01441)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Tammie L. Mundil, Deputy Litigation Counsel ("Petitioner"), and Kelli L. Pair, O.T.A. ("Licensee"), and move the Board for approval of a Consent Order affecting Licensee's license to practice as an occupational therapy assistant in Kansas. The Parties stipulate and agree to the following:

- 1. Licensee's last known mailing address to the Board is: CONFIDENTIAL
CONFIDENTIAL
2. Licensee is entitled to practice as an occupational therapy assistant in Kansas, having been issued original license number 18-01441 on May 3, 2017. Licensee's current license status is Cancelled - Failure to Renew, having last renewed such license on or about March 30, 2018.
3. The Board has received information and investigated the same, and has reason to believe there are grounds to take action under the Kansas Occupational Therapy Practice Act, K.S.A. 65-5401 et seq.
4. The facts offered in support of this Consent Order are as follows:
a. On March 26, 2019, Licensee documented treatment not rendered to several patients on March 11, 2019.

- b. Licensee claimed to have been onsite at a Key Rehab facility in Columbus, Kansas (Medicalodge of Columbus) from 5:11 PM until 8:22 PM (3 hours and 11 minutes) on March 11, 2019 and documented providing 2 hours and 55 minutes of patient care to 5 patients.
- c. According to the User Activity Report ("UAR") generated by Rehab Optima (the clinical and billing software used by Key Rehab, also known as "ROX"), Licensee clocked in at 5:11 PM and her last onsite computer entry was recorded at 6:44 PM.
- d. Licensee had entered treatment charges for 4 of her 5 patients documenting 2 hours and 10 minutes of treatment time when she had only been in the building for 1 hour and 33 minutes. Licensee failed to clock out on March 11, 2019.
- e. The UAR showed the Licensee logged into ROX on March 11, 2019, from a remote location on a non-Key Rehab computer at 7:59 PM and at 8:01 PM documented 45 minutes of treatment time for her 5th patient.
- f. The UAR showed that the IP Address and name of the computer that did not belong to Key Rehab were **CONFIDENTIAL** and **CONFIDENTIAL**. The IP Address belonged to INTEGRIS Health, Licensee's full-time employer.
- g. On March 13, 2019, Licensee admitted she remembered driving to Key Rehab on March 11, 2019, but did not remember driving home.

h.

5. 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. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

6. The Board is the sole and exclusive administrative agency in Kansas authorized to regulate the practice of the healing arts, and specifically the practice of occupational therapy. K.S.A. 65-5401 *et seq.*

7. The Kansas Occupational 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 to take action with respect to Licensee's license under the Kansas Occupational Therapy Practice Act, K.S.A. 65-5401 *et seq.*

11. Licensee acknowledges that if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses, or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Kansas Occupational Therapy Practice Act with respect to the above allegations. Licensee further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

12. Licensee violated K.S.A. 65-5410 by committing acts of unprofessional conduct, as defined by K.A.R. 100-54-5(c), (h), and t. Specifically:

a. Practicing occupational therapy without reasonable skill and safety because
CONFIDENTIAL

then working at Key Rehab

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CONFIDENTIAL
K.A.R. 100-54-5(c).

This is unprofessional conduct as defined by

b. Licensee was sanctioned or disciplined by a peer review committee or medical care facility for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a license under K.S.A.

65-5410 and amendments thereto in that Licensee was dismissed from her employment with Key Rehab after the events of March 11, 2019. This is unprofessional conduct as defined by K.A.R. 100-54-5(h).

- c. Licensee failed to keep written records justifying the course of treatment for patients on March 11, 2019. This is unprofessional conduct as defined by K.A.R. 100-54-5(t).

13. Under K.S.A. 65-5410, the Board may reprimand, limit, suspend, censure, impose administrative fines, revoke, or otherwise sanction Licensee's license for violations of the Kansas Occupational Therapy Practice Act.

14. According to K.S.A. 77-505 and K.S.A. 65-2838, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

15. All pending investigation materials in KSBHA CONFIDENTIAL regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 35 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

16. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice as a licensed occupational therapy assistant in Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any

such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on her own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.*, and the Kansas Occupational Therapy Practice Act K.S.A. 65-5401 *et seq.*

17. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Occupational Therapy Practice Act 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.

18. 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 for 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.

19. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.

20. 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.

21. 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.

22. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel 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.

23. Licensee acknowledges she has read this Consent Order and fully understands the contents.

24. Licensee acknowledges this Consent Order has been entered into freely and voluntarily.

25. Licensee shall obey all federal, state and local laws and rules governing the practice of occupational therapy assistants in 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.

26. 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. 77-505 and 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.

27. Licensee shall immediately notify the Board or its designees of any citation, arrest or charge filed against her or any conviction for any traffic or criminal offense excluding speeding and/or parking violations.

28. Licensee shall immediately notify the Board or its designee of any complaint filed, or investigation opened, by the proper licensing authority of another state, territory, District of Columbia, or other county, or by a peer review body, a health care facility, a professional association or society, or by a governmental agency.

29. Licensee shall at all times keep Board staff informed of her current practice locations addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten days of any such change.

30. This Consent Order constitutes **public disciplinary action**.

31. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

32. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against her license to practice as an occupational therapy assistant.

PUBLIC CENSURE

33. Licensee is hereby publicly censured for violating the Kansas Occupational Therapy Practice Act.

IT IS FURTHER 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 as a Final Order of the Board.

IT IS SO ORDERED on this 19th day of August, 2020.

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

Tucker Poling, Acting Executive Director

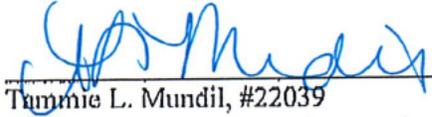
8/19/2020
Date

Kelli L. Pair, O.T.A.
Licensee

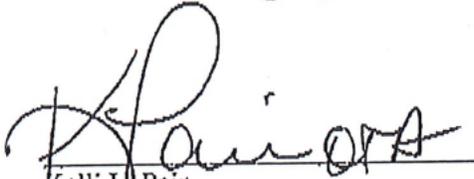
8/10/20
Date

Consent Order
Kelli L. Pair, O.T.A.

PREPARED AND APPROVED BY:



Tammie L. Mundil, #22039
Deputy Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612
Phone: 785-368-8212
Fax: 785-368-8210
Tammie.L.Mundil@ks.gov



Kelli L. Pair
Licensee

CONFIDENTIAL

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served a true and correct copy of the Consent Order by United States mail, postage prepaid, on this 19th day of August, 2020, to the following:

Kelli L. Pair, O.T.A.
Licensee
CONFIDENTIAL

And the original was hand-filed with:

Tucker Poling, Acting Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

Tammie L. Mundil
Deputy Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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


KSBHA Staff

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