

**EFFECTIVE AS A
FINAL ORDER**

DATE: 11/13/13

FILED
OCT 23 2013
KS State Board of Healing Arts

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

In the Matter of)
ASHLEY M. POST, O.T.A.)
Kansas License No. 18-00846)
_____)

KSBHA Docket No. 14-HA00054

SUMMARY ORDER

NOW ON THIS 23 day of Oct, 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. Ashley M. Post, O.T.A. ("Licensee") was originally issued license number 18-00846 to practice as an Occupational Therapy Assistant in the State of Kansas on May 30, 2012. Licensee's license is currently active.

2. Licensee's last known mailing address as provided to the Board is: **Confidential**
Confidential Salina, Kansas 67401.

3. On May 1, 2013, Licensee's license was cancelled for "failure to renew."

4. On or about July 5, 2013, the Board received Licensee's application seeking reinstatement of her occupational therapy assistant license.

5. In her application for reinstatement, Licensee lists all professional activities since

the cancellation of her license. Licensee stated that she had been providing therapy services at Reliant Rehab from May 1, 2013, to June 21, 2013, for approximately 232 hours without a current active license in the State of Kansas.

6. Licensee's license was reinstated and considered active on July 25, 2013.

7. Licensee practiced in Kansas from May 1, 2013, through June 12, 2013, as an Occupational Therapy Assistant without being properly licensed.

Applicable Law

8. K.S.A. 65-5402(b) states: "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, a licensed podiatrist, a licensed dentist, a licensed physician assistant, or a licensed advanced practice registered nurse working pursuant to the order or direction of a person licensed to practice medicine and surgery, a licensed chiropractor, or a licensed optometrist, individuals who have a disease or disorder, impairment, activity limitation or participation restriction that interferes with their ability to function independently in daily life roles and to promote health and wellness."

9. K.S.A. 65-5412(a) states: "Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-5409, and amendments thereto. The board may establish additional requirements for licensure renewal which provide evidence of continued competency."

10. K.S.A. 65-5412(b) states: "At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the license has been reinstated under subsection (c)."

11. K.S.A. 65-5412(c) states: “Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.”
12. K.S.A. 65-5414(a) states: “It shall be unlawful for any person who is not licensed under this act as an occupation therapist or an occupational therapy assistant or whose license has been suspended or revoked to use, in connection with such person’s name or place of business, the words ‘occupational therapist,’ ‘licensed occupational therapist,’ ‘occupational therapist licensed,’ ‘occupational therapy assistant,’ ‘licensed occupational therapy assistant,; or the letters, ‘O.T.,’ ‘L.O.T.,’ ‘O.T.L.,’ ‘O.T.A.’ or ‘L.O.T.A’ or any other words, letters, abbreviations or insignia indicating or implying that such person is an occupational therapist or an occupational therapy assistant or who in any way, orally, in writing, in print or by sign, directly or by implication, represents oneself as an occupational therapist or an occupational therapy assistant.”
13. K.S.A. 65-5410(a) 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 application for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public.”
14. K.S.A. 65-5410(a)(2): states that “unprofessional conduct” includes “being guilty of unprofessional conduct as defined by rules and regulations adopted by the board[.]”
15. K.A.R. 100-54-5(o) states that “unprofessional conduct” may be defined as “committing conduct likely to deceive, defraud, or harm the public[.]”
16. K.S.A. 65-5410(a)(5) states that “unprofessional conduct” may be defined as “violating any provision of this act.”
17. K.S.A. 65-5410(c) states: “The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for unprofessional conduct in an amount not to exceed \$ 5,000 for the first violation All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state

treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.”

Applicable Board Policy

18. Board Policy 04-01 states that, for a non-Healing Arts professional who practices without a license between one (1) and sixty (60) days, the licensee should be fined \$ 150.00.

Conclusions of Law

19. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

20. The Board finds that Licensee practiced as an Occupational Therapy Assistant without being licensed from May 1, 2013, through June 21, 2013.

21. The Board finds that Licensee represented herself as an Occupational Therapy Assistant without being licensed from May 1, 2013, through June 21, 2013.

22. The Board finds that by practicing as an Occupational Therapy Assistant without being properly licensed, Licensee committed unprofessional conduct in violation of the provisions of the Occupational Therapy Practice Act pursuant to K.S.A. 65-5410(a)(2) as further defined by K.A.R. 100-54-5(o).

23. Additionally, the Board finds that by practicing as an Occupational Therapy Assistant without being properly licensed, Licensee committed unprofessional conduct in violation of the provisions of the Occupational Therapy Practice Act pursuant to K.S.A. 65-5410(a)(5).

24. The Board further finds that by continuing to engage in the practice of an Occupational Therapy Assistant as well as representing herself as an Occupational Therapy Assistant from May 1, 2013, through June 21, 2013, without being properly licensed, Licensee was in violation of K.S.A. 65-5414(a).

13. 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, Ashley M. Post, O.T.A.

IT IS, THEREFORE, ORDERED that Licensee is hereby assessed a **CIVIL FINE** in the amount of \$ 150.00 for practicing as an Occupational Therapy Assistant and representing herself as an Occupational Therapy Assistant between May 1, 2013, and June 21, 2013, without being properly licensed. Such fine is due in full within thirty (30) days of this order becoming a Final Order.

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 23 day of Oct, 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 13th day of Nov., 2013 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Ashley M. Post, O.T.A.
Confidential
Salina, KS 67401

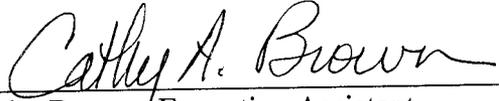
And a copy was hand-delivered to:

Jessica Bryson, 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

Kelli Stevens, 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