

FILED *CHB*
OCT 20 2016
KS State Board of Healing Arts

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

In the Matter of)
) Docket No. 17-HA 00018
Bret A. Press, L.R.T.)
Kansas License No. 22-00337)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Susan R. Gering, Associate Litigation Counsel (“Petitioner”), and Bret A. Press, L.R.T. (“Licensee”), by and through his counsel James E. Rumsey, and move the Board for approval of a Consent Order affecting Licensee’s license to practice as a radiologic technologist in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: [REDACTED] Kansas City, Missouri 64114.
2. Licensee is or has been entitled to engage in practice as a radiologic technologist in the State of Kansas, having been issued License No. 22-00337 on approximately September 7, 2005. Licensee’s license is active and was last renewed on or about September 22, 2015.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts, specifically the practice of radiology technology. K.S.A. 65-7301 *et seq.*
4. 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.

Consent Order
Bret A. Press, L.R.T.

5. The Kansas Radiologic Technologists Practice Act is constitutional on its face and as applied in the case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his 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.
7. 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.
8. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A.65-7313 to take action with respect to Licensee's license under the Kansas Radiologic Technologists Practice Act, K.S.A. 65-7301, *et seq.*
9. In his 2015 application for renewal, Licensee answered "yes" to disciplinary question 6(b) that he had been "arrested, charged with or convicted of any felony, misdemeanor, or the military equivalent? This includes a diversion or plea to a felony, misdemeanor or the military equivalent."
10. On September 9, 2015, Licensee's attorney submitted a response on Licensee's behalf.

11. Licensee disclosed that, in 2015, he was arrested for Driving Under the Influence (DUI); Refusing a Preliminary Breath Test; and Failing to Dim Headlights; and that, in October 2015, he was convicted by his plea of no-contest to Driving Under the Influence of Alcohol, as first offense.

12. [REDACTED]

13. On October 19, 2015, Licensee completed a mandated Victim Impact Panel Class.

14. On October 23, 2015, an Order for Supervised Probation was entered, requiring Licensee in part to agree to abstain from use of alcohol or any illegal drugs; to pay all financial obligations in the case; follow the recommendations of Professional Treatment Services and attend a DUI Victim Impact Panel Class; and serve 48 hours in jail. Licensee's probation was for the period of twelve (12) months.

15. [REDACTED]

[REDACTED]

[REDACTED]

16. Also, in the September 9, 2015, response letter, it was disclosed that Licensee had two prior DUI events that Licensee had not previously reported to the Board.
17. First, on or about September 21, 2002, police stopped Licensee for “improper driving on a laned roadway.” During the stop the officer noted that Licensee showed signs of impairment, and Licensee tested over the legal limit of intoxication in the State of Kansas on the Preliminary Breath Test.
18. Licensee was subsequently arrested and transported to Leavenworth County Jail for DUI.
19. On November 3, 2003, Licensee entered into a DUI Diversion agreement and the matter was dismissed on November 20, 2003.
20. Second, on or about June 27, 1992, an officer stopped Licensee for speeding 73 miles per hour (MPH) in a 55 MPH zone. Upon contact with Licensee the officer noted a strong odor of alcohol. Licensee was subjected to field sobriety testing and showed signs of impairment as well as testing over the legal limit of intoxication in the State of Kansas Preliminary Breath Test.
21. On June 27, 1992, Licensee was arrested for DUI and transported to the Douglas County Jail where he submitted to a breath test that resulted with a BAC level of .19.
22. On or about August 28, 1992, Licensee entered a plea to Count II. Licensee was ultimately placed on probation for the term of one (1) year from August 27, 1992, instead of serving thirty (30) days in jail. As a result of his probation, Licensee was required to pay the costs associated with the matter, abstain from use of alcohol, not drive in violation of any suspension or restriction of his license, and complete Alcohol Information School.

23. [REDACTED]

24. [REDACTED]

25. [REDACTED]

26. 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 Radiologic Technologists Practice Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

27. A protective order is hereby entered to protect all confidential information under 42 CFR Part II and K.S.A. 65-4925.

28. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-2313(a)(8) as further defined by K.A.R. 100-73-6(h).
29. Pursuant to K.S.A. 65-7313, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license for violations of the Kansas Radiologic Technologists Practice Act.
30. According to K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.
31. All pending investigation materials in KSBHA Investigative Case Number 16-00192 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 31. Disciplinary Panel No. 31 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
32. 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 radiologic technology in the State of 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 his 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 Radiologic Technologists Practice Act, K.S.A. 65-7301 *et seq.*

33. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Radiologic Technologists 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 Radiologic Technologists Practice Act.
34. 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 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.
35. 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.

36. 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.
37. 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.
38. 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.
39. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
40. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
41. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Compliance Coordinator, 800 SW Jackson, Lower Level-Suite A, Topeka, Kansas 66612.

42. Licensee shall obey all federal, state and local laws and rules governing the practice of radiologic technology in the State of 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.
43. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order under K.S.A. 77-505. 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.
44. This Consent Order does not constitute disciplinary action.
45. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
46. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following non-disciplinary action on his license to engage in the practice of radiologic technology:

MONITORING

47. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

48. [REDACTED]

49. [REDACTED]

50. [REDACTED]

51. [REDACTED]

52. Licensee will furnish a copy of this Consent Order to each and every state in which he holds licensure or applies for licensure and to an appropriate work site supervisor or personnel [REDACTED]

53. Licensee shall immediately notify the Board or its designee of any citation, arrest or charge filed against him or of any conviction for any traffic or criminal offenses.

54. Licensee shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.

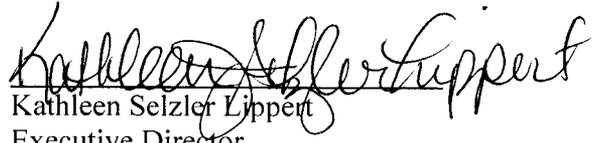
TIMEFRAME

55. The above monitoring provisions are not self-terminating. After a period of one (1) years, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing radiologic technology in Kansas, the monitoring provisions will remain in effect but will be tolled and not counted towards reducing the one (1) year timeframe.

IT IS THEREFORE 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 19 day of Oct, 2016.

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

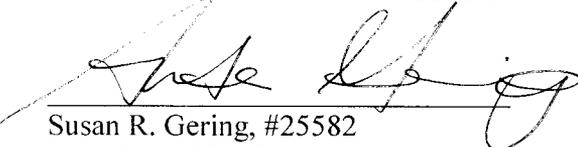

Kathleen Selzler Lippert
Executive Director

10/19/16
Date

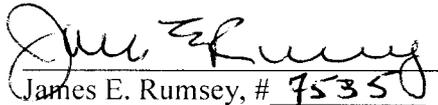

Bret A. Press, L.R.T.
Licensee

8/10/16
Date

PREPARED AND APPROVED BY:


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 8-10-16
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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 20th day of October, 2016, to the following:

Bret A. Press, L.R.T.
Licensee
[REDACTED]
Kansas City, Missouri 64114

James E. Rumsey
Attorney for Licensee
840 B. Connecticut P.O. Box 612
Lawrence, Kansas 66044

And the original was hand-filed with:

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

And a copy was hand-delivered to:

Susan R. Gering
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800 SW Jackson, Lower Level-Suite A
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General Counsel's Office
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