

# EFFECTIVE AS A FINAL ORDER

DATE: 10/11/17

FILED

CD

SEP 22 2017

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

KS State Board of Healing Arts

In the Matter of

Christopher T. Roy, A.T.  
Kansas License No. 24-00388

KSBHA Docket No. 18-HA 00014

### SUMMARY ORDER

NOW ON THIS 19 day of Sept, 2017, 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.

Pursuant to K.S.A 77-542, this Summary Order shall become effective as a Final Order, without further notice, if no written request for hearing is made within fifteen (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. Christopher T. Roy ("Licensee") was originally issued license number 24-00388 to practice athletic training in the state of Kansas on January 9, 2003. Licensee's current license designation is active, and such license was last renewed on or about November 29, 2016.
2. Licensee's last known mailing address to the Board is: [REDACTED]  
Goddard, Kansas 67052.
3. Licensee has practiced as an athletic trainer in the state of Kansas for approximately fourteen (14) years.
4. Licensee has practiced and continues to practice at Mid-American Orthopedics in Wichita, Kansas since 2010.

5. Licensee is the Athletic Training Program Director and manager for the WorkSTEPS program at Mid-America Orthopedics in Wichita, Kansas.
6. Licensee did not submit practice protocols pertaining to the WorkSTEPS assessments in years 2012, 2013, 2014, 2015, and partially 2016.
7. Since approximately 2011, Licensee, through Mid-America Orthopedics, has conducted WorkSTEPS post-offer employment testing in which athletic trainers conduct all parts of the assessment.
8. Through Licensee's attorney, Licensee submitted a response to the Board in letter dated December 2, 2016, indicating approximately one-hundred thirteen (113) post-offer comprehensive evaluations and fit-for-duty evaluations were completed since 2011.
9. Through Licensee's attorney, Licensee indicated he has responsibilities for all aspects of the WorkSTEPS program from job analysis to WorkSTEPS protocol compliance.
10. Licensee's Addendum to Athletic Trainer's Responsible Physician and Protocol dated July 18, 2016, indicates John R. Babb, M.D. as the responsible physician for Licensee's performance of musculoskeletal evaluations on "industrial athletes/workers in the state of Kansas following the protocol set forth by WorkSTEPS. This musculoskeletal evaluation is a hands-on objective evaluation to evaluate posture, flexibility, joint laxity, joint changes (crepitus), ROM manual muscle strength, and lower extremity reflexes as part of pre-employment, post-offer, and fit-for-duty testing for area employers."
11. Licensee conducted examinations on individuals who are not athletes and the examinations do not relate to athletic activity for the purposes of completion of post-offer comprehensive evaluations and fit-for-duty evaluations.

### **Applicable Law**

12. K.S.A. 65-6902(b), “‘Athletic training’ means the practice of injury prevention, physical evaluation, emergency care and referral or physical recondition relating to athletic activity.”

13. K.S.A. 65-6911 of the Athletic Trainers Act states in pertinent part:

“(a) 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 for any of the following reasons:

(5) incompetence, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of an athletic trainer;

(6) violation of, or assisting or enabling any individual to violate, any provision of this act or any rule and regulation adopted under such act;

(8) negligent or intentional violation of the provisions of this act or the rules and regulations adopted under this act; and

(10) the individual has committed unprofessional conduct as defined by rules and regulations adopted by the board.”

14. 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.”

15. K.A.R. 100-69-7(e), “providing services as an athletic trainer without practice protocols or contrary to the practice protocols filed with the board.”

### **Conclusions of Law**

16. The Board finds Licensee violated K.S.A. 65-6911(a)(5), by committing incompetence in the performance of the functions or duties of an athletic trainer by conducting post-offer

comprehensive evaluations, fit-for-duty examination, and/or an examination to determine matching of physical demand levels of a specific job to the physical capabilities of a prospective employee, who is not an athlete and does not relate to athletic activity, which falls outside the scope of “athletic training” as defined in K.S.A. 65-6902(b).

17. The Board finds Licensee violated K.S.A. 65-6911(a)(6), by assisting or enabling any individual to violate, any provision of this act or any rule and regulation adopted under such act wherein Licensee as the Athletic Training Program Director and manager for the WorkSTEPS program at Mid-America Orthopedics in Wichita, Kansas assisted and/or enabled athletic trainers to conduct post-offer comprehensive evaluations, fit-for-duty examinations, and/or an examinations to determine matching of physical demand levels of a specific job to the physical capabilities of a prospective employee, who is not an athlete and does not relate to athletic activity, which falls outside the scope of “athletic training” as defined in K.S.A. 65-6902(b).
18. The Board finds Licensee violated K.S.A. 65-6911(a)(8), by negligently or intentionally violating the provisions of this act or the rules and regulations adopted under this act wherein Licensee committed violations of K.S.A. 65-6911(a)(5), K.S.A. 65-6911(a)(6), and K.A.R. 100-69-9(a).
19. The Board finds Licensee violated K.S.A. 65-6911(a)(10), as further defined by K.A.R. 100-26-7(e), by committing unprofessional conduct as defined by the rules and regulations adopted by the board wherein Licensee provided services as an athletic trainer without practice protocols or contrary to the practice protocols filed with the board.

20. The Board finds Licensee violated K.A.R. 100-69-9(a), by failing to provide to the Board practice protocols pertaining to the WorkSTEPS assessments in years 2012, 2013, 2014, and 2015.
21. The Board has jurisdiction over Licensee as well as the subject matter of this proceeding and such proceeding is held in the public interest.
22. Based on the facts and circumstances set forth herein, 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 law and the protection of the public interest does not require the Board to give notice and opportunity to participate to person other than Licensee.

**IT IS, THEREFORE, ORDERED** that Licensee is **PUBLICLY CENSURED** for violating K.S.A. 65-6911(a)(5), K.S.A. 65-6911(a)(6), K.S.A. 65-6911(a)(8), K.S.A. 65-6911(a)(10), K.A.R. 100-69-9(a), and K.A.R. 100-69-7(e) of the Athletic Trainers Act.

**IT IS FURTHER ORDERED** that all correspondence or communication between Licensee and the Board relating to the Summary 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.

**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 11<sup>th</sup> day of October, 2017 by depositing the same in the United States Mail, first-class, postage prepaid, and addressed to:

Mark R. Maloney  
Licensee Attorney  
1617 N. Waterfront Pkwy., Suite 400  
Wichita, KS 67206

And a copy was hand-delivered to:

Reese H. Hays, Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

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

Office of the 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