

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

KS State Board of Healing Arts

**In the Matter of** )  
**DONALD G. SCHMITT, L.R.T.** )  
 )  
**Kansas License No. 22-04912** )  
\_\_\_\_\_ )

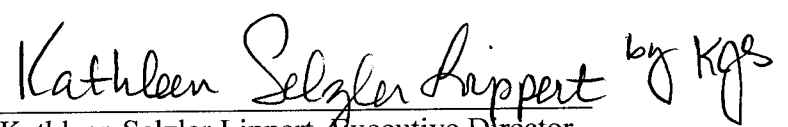
**Docket No. 15-HA00116**

**ORDER NUNC PRO TUNC**

**NOW**, on this 8<sup>th</sup> day of June, 2015, the Board finds that the *Ex Parte* Emergency Order of Suspension issued June 5, 2015, erroneously stated in paragraph 3 that on August 19, 2014, a Petition alleging that Licensee committed violations of the Radiologic Technologists Practice Act and requesting disciplinary action against Licensee's license was filed by Petitioner. The actual date on which the Petition was filed is June 5, 2015. The *Ex Parte* Emergency Order of Suspension is hereby amended to reflect the Petition's correct filing date of June 5, 2015.

**IT IS SO ORDERED.**

**KANSAS STATE BOARD OF HEALING ARTS**

  
Kathleen Selzler Lippert, Executive Director

**CERTIFICATE OF SERVICE**


I, the undersigned, hereby certify that a true copy of the foregoing **Order Nunc Pro Tunc** was served this 8th day of June, 2015 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Donald G. Schmitt, LRT  
**Confidential**  
St. Mary's, KS 66536

and a copy was delivered to the office of:

Jane Weiler, Associate Litigation Counsel  
Anne Barker Hall, 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.

  
\_\_\_\_\_  
Cathy Brown, Executive Assistant

**FILED**  
JUN 05 2015

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

KS State Board of Healing Arts

**In the Matter of** )  
**DONALD G. SCHMITT, L.R.T.** )  
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**Kansas License No. 22-04912** )  
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**Docket No. 15-HA00116**

**EX PARTE EMERGENCY ORDER OF SUSPENSION**

NOW, on this 5<sup>th</sup> day of June, 2015, this matter comes before the Presiding Officer, Richard A. Macias, J.D., upon a Motion for *Ex Parte* Emergency Order of Suspension and Emergency Proceedings filed by Associate Litigation Counsel Jane E. Weiler and Anne Barker Hall on behalf of the Petitioner, Kansas State Board of Healing Arts (“Board”).

Upon review of the Motion and attached exhibits filed in the agency record, the Presiding Officer hereby finds, concludes and orders as follows:

1. Donald G. Schmitt, L.R.T. (“Licensee”) is presently licensed to engage in the practice of radiologic technology in the State of Kansas.

2. Licensee was granted such license based on his agreement to a non-disciplinary Consent Order which was filed with the Board in KSBHA Docket No. 15-HA00067 on February 24, 2015. The Consent Order was entered to resolve concerns regarding Licensee having driven a vehicle under the influence of alcohol on four occasions. The Consent Order required, in part, that: **Confidential**

**Confidential**

***Ex Parte* Emergency Order of Suspension  
Donald G. Schmitt, LRT  
KSBHA Docket No. 15-HA00116**

In the Consent Order, Licensee further agreed to immediately surrender his license if he **Confidential** or failed to comply with the Consent Order or **Confidential** **Confidential**

3. On August 19, 2014, Petitioner filed a Petition alleging that Licensee committed violations of the Radiologic Technologists Practice Act and requesting disciplinary action against Licensee's license. The grounds for discipline in the Petition are also set forth in the pending Motion.

4. This is a motion for an emergency order pursuant to 77-536, under which the Presiding Officer is authorized to issue an order without notice and hearing, and may temporarily suspend a license if the Presiding Officer finds that an immediate danger exists to the public health, safety, or welfare.

5. The Motion for an emergency order alleges that there are grounds for discipline against Licensee's license pursuant to: K.S.A. 65-7313(a)(3) **Confidential**

**Confidential** K.S.A. 65-7313(a)(4) **Confidential** to such a degree that in the opinion of the Board continued practice by Licensee would constitute a danger to the public's health and safety; K.S.A. 65-7313(a)(1) for being guilty of fraud or deceit in the procurement or holding of a license; and K.S.A. 65-7313(a)(8), as further defined by K.A.R. 100-73-(6)(h) for committing unprofessional conduct by engaging in conduct likely to deceive, defraud or harm the public.

6. With respect to the present Motion seeking an emergency suspension based on K.S.A. 77-536's requirement of "an immediate danger to the public health, safety or welfare," the Presiding Officer concludes that the alleged violation of K.S.A. 65-7313(a)(1) is not relevant

to the proceedings at hand, but should be considered when a decision is rendered on the underlying Petition.

7. In support of finding there is an immediate danger to the public health, safety or welfare, Petitioner has shown evidence that that since Licensee entered into the Consent Order with the Board, he has been **Confidential** **Confidential** and that **Confidential** **Confidential** indicated Licensee was not presently safe to practice radiologic technology. Furthermore, Licensee's **Confidential** subsequent to entering into the Consent Order violated its requirement **Confidential**

8. The Presiding Officer concludes that there is clear and convincing evidence demonstrating that Licensee **Confidential** has violated his Consent Order with the Board; and has been found **Confidential** of safely practicing radiologic technology.

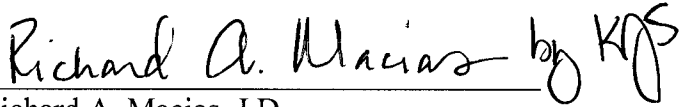
9. Based upon evidence shown, the Presiding Officer further concludes that Licensee's continued practice of radiologic technology creates an immediate danger to the public health, safety or welfare and should be emergently suspended on a temporary basis pending an evidentiary hearing to determine if there is adequate cause for the suspension to remain in effect during the proceedings on the underlying Petition.

**IT IS THEREFORE ORDERED** that Licensee's license to practice radiologic technology is hereby emergently **SUSPENDED** on a temporary basis pending an evidentiary hearing to determine if there is adequate cause for the suspension to remain in effect during the proceedings on the underlying Petition.

**Ex Parte Emergency Order of Suspension**  
**Donald G. Schmitt, LRT**  
**KSBHA Docket No. 15-HA00116**

**IT IS SO ORDERED.**

**KANSAS STATE BOARD OF HEALING ARTS**

  
Richard A. Macias, J.D.  
Presiding Officer

**NOTICE OF RIGHTS**

This is an emergency order. An emergency order is effective when rendered. A party to an agency proceeding may seek judicial review of an emergency order by filing a petition in the District Court as authorized by K.S.A. 77-601 *et seq.* A petition for judicial review is not timely unless filed within 30 days following service of an 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, Lower Level- Suite A, Topeka, Kansas 66612.

**CERTIFICATE OF SERVICE**

I certify that a true copy of the foregoing *Ex Parte* Emergency Order of Suspension was served this 5th day of June, 2015 by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Donald G. Schmitt, LRT  
**Confidential**

St. Mary's, KS 66536

and a copy was hand-delivered to the office of:

Jane Weiler, 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.

  
\_\_\_\_\_  
Jennifer Cook  
Legal Assistant