

BEFORE THE BOARD OF HEALING ARTS OF
THE STATE OF KANSAS

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JUN 16 2009

KS State Board of Healing Arts]

In the Matter of)
)
MARK S. SCHRYER, L.R.T.)
Kansas License No. 22-01501)
_____)

KSBHA Docket No. 09-HA 00205

CONSENT ORDER

COME NOW, the Kansas State Board of Healing Arts (“Board”) by and through Kathleen Selzler Lippert, Litigation Counsel (“Petitioner”), and Mark S. Schryer, L.R.T. (“Licensee”), *pro se*, and move the Board for approval of a Consent Order affecting Licensee’s license to practice as a Licensed Radiological Technologist in the State of Kansas. The parties stipulate and agree to the following:

1. Licensee’s current mailing address as provided to the Board is 2114 Country Hills Road, Salina, Kansas 67401.
2. Licensee is or has been entitled to actively engage in the practice of Licensed Radiological Technology in the State of Kansas, having been issued License No. 22-01501 on approximately October 30, 2005. Licensee holds an active current license, having last renewed his license on or about October 1, 2008.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of Licensed Radiological Technicians, 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.

5. The Kansas Radiologic Technologists Practice Act is constitutional on its face and as applied in this case.

6. Licensee agrees that, in considering this matter, the Board is not beyond its jurisdiction as provided by law.

7. 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.

8. 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.

9. At all relevant times hereto, Licensee has held an active current license to practice radiologic technology in the State of Kansas.

10. The investigative information and status of the pending action in this matter were fully reviewed and considered by the Board members who served on Disciplinary Panel No. 23. Disciplinary Panel No. 23 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

11. In approximately January 2008, Licensee practiced as a Licensed Radiologic Technologist at Salina Regional Health Center ("SRHC").

12. On or about January 31, 2008, Patient #1, a sixty-eight (68) year old male was at SRHC for a magnetic resonance angiography/magnetic resonance imaging ("MRA/MRI") procedure.

13. Licensee performed Patient #1's MRA/MRI procedure.

14. During the MRA/MRI procedure, Patient #1 received burns to his outer arms above the elbow, which caused second degree burns.

15. In approximately July 2007, a similar incident occurred at SRHC when Licensee performed an MRI on a patient. During the MRI procedure, the patient complained of burning.

16. Following the MRI procedure, the patient's elbow area was red and warm to the touch.

17. An incident report was filed with SRHC following each incident.

18. On approximately February 13, 2008, a determination was made by SRHC that Licensee should no longer be allowed to work in the MRI department. SRHC took adverse action against Licensee's hospital privileges.

19. Licensee has hereby committed acts in violation of the Radiologic Technologists Practice Act, as set forth in K.S.A. 65-7301, as follows:

- a. K.S.A. 65-7313(8), as further defined by K.A.R. 100-73-6(d), in that Licensee was sanctioned by a medical care facility for acts or conduct which would constitute grounds for denial, limitation, suspension, or revocation; and

b. K.S.A. 65-7313(10), Licensee has committed an act(s) of negligence while performing as a license holder.

20. Pursuant to K.S.A. 65-7313(a), as further defined by 65-2863a, the Board may revoke, suspend, censure, reprimand, impose a fine or otherwise limit Licensee's license for violations of the radiologic technologists act.

21. As set forth in K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

22. In lieu of the conclusion of formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to disciplinary action against his license to engage in the practice of radiologic technology:

LIMITATION/EDUCATION

- a. Licensee's license to practice as a Licensed Radiologic Technologist is hereby limited. Licensee shall not perform any MRI procedures until he obtains further training on MRI procedures and can demonstrate that he is competent to perform the procedure to the satisfaction of the Board;
- b. The Board designates N/A as a Presiding Officer to review and approve / disapprove education courses as required by this Consent Order; and
- c. Licensee shall provide proof of completion of the training / education course prior to being released from the limitation(s) placed on his license.

23. Licensee's failure to comply with the provisions of the Consent Order may result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

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

25. Licensee hereby releases the Board, its employees and agents, from any and all claims, including but not limited to, those damages, actions, liabilities and causes of action, both administrative and civil, including the Kansas Act for judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* This release shall forever discharge the Board 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 Board, its employees or agents, arising out of acts leading to the execution of this Consent Order or the content of this Consent Order.

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

27. 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.

28. 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.

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

30. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

31. All correspondence or communication between Licensee and the Board relating to the limitation terms contained in this Consent Order shall be by certified mail addressed to the Kansas Board of Healing Arts, **Attn: COMPLIANCE COORDINATOR**, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

32. 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. Any violation will also be considered a violation of this Consent Order and may subject Licensee to further disciplinary action by the Board.

33. 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. 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.

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

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board, and is the Order of the Board.

IT IS FUTHER ORDERED that Licensee's license is hereby limited, commencing upon the filing of this Consent Order with the Board. The terms of such limitation shall be as follows:

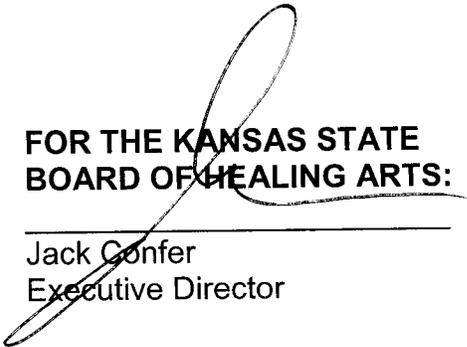
LIMITATION/EDUCATION

- a. Licensee's license to practice as a Licensed Radiologic Technologist is hereby limited. Licensee shall not perform any MRI procedures until he obtains further training on MRI procedures and can demonstrate that he is competent to perform the procedure to the satisfaction of the Board;

- b. The Board designates N/A as a Presiding Officer to review and approve / disapprove education courses as required by this Consent Order; and
- c. Licensee shall provide proof of completion of the training / education course prior to being released from the limitation(s) placed on his license.

IT IS SO ORDERED.

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



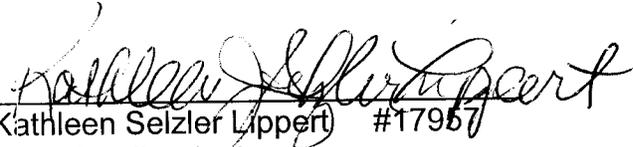
Jack Confer
Executive Director

6-16-09
Date


Mark S. Schryer, L.R.T.
Licensee

5-15-09
Date

PREPARED AND APPROVED BY:



Kathleen Seizler Lippert #17957
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing **CONSENT ORDER** was served this 16th day of June, 2009, by depositing the same in the United States mail, first class, postage prepaid, and addressed to the following:

Mark S. Schryer, L.R.T.
2114 Country Hills Road
Salina, Kansas 67401

and a copy was hand-delivered to:

Kathleen Selzler Lippert, Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

Melissa Massey, Compliance Coordinator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

and the original was hand-delivered for filing to:

Jack Confer, Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603



Signature