

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

FILED *CRD*
JAN 29 2013

KS State Board of Healing Arts

In the Matter of)
BONNY SHIVELY, O.T.A.)
)
Kansas License No. 18-00127)
_____)

KSBHA Docket No. 13-HA00037

JOURNAL ENTRY OF FINAL ORDER

COMES NOW the Kansas State Board of Healing Arts (“Board”), by and through its Executive Director, Kathleen Selzler Lippert, a duly authorized representative of the Board, in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, as amended, and upon due consideration of the agency record and applicable laws and being otherwise duly advised in the premises, makes the following determinations:

1. Bonny Shively, O.T.A. (“Licensee”) has, since approximately December 11, 1992, maintained License No. 18-00127 to practice as an Occupational Therapy Assistant in the State of Kansas.
2. Licensee’s mailing addresses of record to the Board is: 321 Kunkle Drive, Ellsworth, Kansas 67439.
3. On or about January 4, 2013, Executive Director Selzler Lippert, in accordance with K.S.A. 2010 Supp. 77-514, and as authorized by K.S.A. 2010 Supp. 65-5501, *et seq.*, issued a Summary Order publicly censuring Licensee’s license to practice as an occupational therapy assistant in the State of Kansas for violating the Occupational Therapy Practice Act and regulations promulgated thereunder, specifically K.S.A. 65-5410(a), further defined by K.A.R. 100-54-5(h), for being sanctioned or disciplined by a peer review committee, or medical care facility for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of licensure under K.S.A. 65-5410, and amendments thereto; 100-54-

5(o) for conduct likely to deceive, defraud, or harm the public; and 100-54-5(r) for obtaining any fee by fraud, deceit, or misrepresentation.

4. Pursuant to K.S.A. 77-542, the Summary Order notified Licensee that if a written request for hearing was not filed within 15 days following service of the Summary Order, the Summary Order would become effective as a Final Order of the Board upon expiration of the time for requesting a hearing.

5. Pursuant to K.S.A. 2010 Supp. 77-531, the Summary Order was served upon Licensee by mailing a copy of the Summary Order to Licensee at Licensee's last known mailing address of record, via United States Mail, first-class postage prepaid.

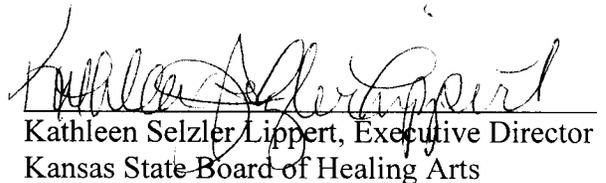
6. Pursuant to K.S.A. 77-512, 77-526, and 77-530, the Summary Order became effective as a Final Order on January 22, 2013.

7. As of the date of filing of this Journal Entry, Licensee has not requested a hearing on the Summary Order.

IT IS THEREFORE ORDERED that the Summary Order filed in the above-captioned matter on January 4, 2013, became effective as Final Order on January 22, 2013.

IT IS FURTHER ORDERED that Licensee's license to practice as an occupational therapist assistant in the State of Kansas is hereby **PUBLICLY CENSURED** as provided in the January 4, 2013 Summary Order.

IT IS SO ENTERED THIS 22nd **DAY OF JANUARY, 2013, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**


Kathleen Selzler Lippert, Executive Director
Kansas State Board of Healing Arts

CERTIFICATE OF SERVICE

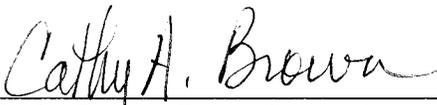
I, the undersigned, hereby certify that on this 29th day of January, 2013, a true and correct copy of the above and foregoing **JOURNAL ENTRY OF FINAL ORDER** was deposited in the United States mail, postage prepaid, and addressed to:

Bonny Shively, O.T.A.
321 Kunkle Drive
Ellsworth, KS 67439

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

and the original was filed with the office of the Executive Director.



Cathy Brown, Executive Assistant

BEFORE THE BOARD OF HEALING ARTS OF THE STATE OF KANSAS

In the Matter of)
BONNY SHIVELY, O.T.A.)
)
Kansas License No. 18-00127)
_____)

Docket No. 13-HA 00037

SUMMARY ORDER

NOW ON THIS 3rd day of Jan, 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. On December 11, 1992, Bonny Shively, O.T.A. (Licensee) was issued license number 18-00127 to practice as an occupational therapy assistant. Licensee currently has an active license to practice as an occupational therapy assistant. At all times relevant to the facts below, Licensee's license was active.
2. Licensee's last known mailing address as provided to the Board is 321 Kunkle Drive, Ellsworth, Kansas 67439.
3. On or about August 5, 2011, Licensee was scheduled to work for Key Rehab and provide treatment to Patient #1, an eighty-eight year old male.
4. On August 5, 2011, Licensee documented that she had provided thirty (30)

minutes of treatment to Patient #1 that day, when in fact, Patient #1 expired that day at approximately 10:45 a.m. before Licensee had an opportunity to provide any treatment.

5. Licensee told the Regional Vice President for Key Rehab that she had charged thirty (30) minutes for August 5, 2011, for the time spent reviewing a catalog looking for positioning equipment for Patient #1 and not for treatment provided.

6. Time spent reviewing a catalog looking for positioning equipment is not a reimbursable treatment. Reimbursable treatment requires one-on-one patient-therapist contact. In Licensee's written response to the Board, Licensee acknowledged that "in order to bill a [patient], you must be with the [patient], one on one."

7. Licensee's contract with Key Rehab was terminated following this incident due to her wrongful documentation.

8. All pending investigation materials regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. The Disciplinary Panel authorized and directed the issuance of this Summary Order and the specific sanctions pursuant to the Board Guidelines.

Applicable Law

9. K.S.A. 65-5410 states in pertinent part:

(a) The license of an occupational therapist may be denied, refused to be renewed, suspended, revoked, limited, or the license may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

(2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board.

10. K.A.R. 100-54-5 states in pertinent part:

“Unprofessional conduct” means any of the following:

- (h) being sanctioned or disciplined by a peer review committee or medical care facility for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a licensee under K.S.A. 65-5410 and amendments thereto.
- (o) conduct likely to deceive, defraud, or harm the public.
- (r) obtaining any fee by fraud, deceit, or misrepresentation.

Conclusions of Law

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

12. The Board finds that Licensee violated K.S.A. 65-5410(a), further defined by K.A.R. 100-54-5(h), for being sanctioned or disciplined by a peer review committee, or medical care facility for acts or conduct that would constitute grounds for denial, refusal to renew, suspension, or revocation of a licensure under K.S.A. 65-5410 and amendments thereto; 100-54-5(o) for conduct likely to deceive, defraud, or harm the public; and 100-54-5(r) for obtaining any fee by fraud, deceit, or misrepresentation.

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, Bonny Shively, O.T.A.

IT IS, THEREFORE, ORDERED that: Licensee is hereby **PUBLICLY CENSURED**.

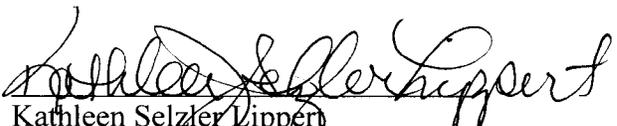
NOTICE AND OPPORTUNITY FOR HEARING

PLEASE TAKE NOTICE that this is a Summary Order. A party to whom a Summary Order is issued may file a written request for a hearing pursuant to K.S.A. 77-542 within 15 days following service of the Summary Order. Such written request shall also state the legal and/or factual basis upon which the party opposes this Order. If a hearing is not requested, the Summary Order shall become effective as a Final Order of the Board upon expiration of the time for requesting a hearing. A written request for hearing must be addressed and mailed to Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson Lower Level, Suite A, Topeka, KS 66612.

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 3rd day of Jan., 2013.

Kansas State Board of Healing Arts


Kathleen Selzler Lippert
Executive Director

Certificate of Service

I certify that the foregoing Summary Order was served this 4th day of January, 2013, by depositing the same in the United States Mail, via certified mail, postage prepaid, and addressed to:

Bonny Shively, O.T.A.
321 Kunkle Drive
Ellsworth, KS 67439

and a copy was hand-delivered to:

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

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

and the original was filed with the office of the Executive Director:

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



Cathy Brown
Executive Assist