

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
)
James M. Stephens, II, A.T.) Docket No. 16-HA 00014
Kansas License No. 24-00754)

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Jessica A. Bryson, Associate Litigation Counsel (“Respondent”), and James M. Stephens, II, A.T. (“Licensee”), *pro se*, and move the Board for approval of a Consent Order affecting Licensee’s license to practice as an Athletic Trainer in the State of Kansas. The Parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: **Confidential** Highland, Kansas 66035.
2. Licensee is, or has been, entitled to engage in the practice of athletic training in the State of Kansas, having been issued License No. 24-00754 on March 23, 2011. Licensee’s license was cancelled for failing to renew it on December 31, 2014.
3. On or about January 15, 2015, Licensee submitted to the Board an application for reinstatement of licensure to practice as an athletic trainer.
4. Licensee’s application for reinstatement of licensure was granted on February 18, 2015. Based on information obtained during the application process, a separate investigation was opened to investigate whether Licensee practiced as an athletic trainer without a license.

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5. 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 athletic trainers. K.S.A. 65-6901 *et seq.*
6. 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.
7. The Kansas Athletic Trainers Licensure 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.
8. 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 substantive and procedural motions and defenses that could be raised if an administrative hearing were held.
9. 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.

10. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-6903(a) and K.S.A. 65-6911 to take action with respect to Licensee's license under the Kansas Athletic Trainers Licensure Act, K.S.A. 65-6901 *et seq.*
11. In Licensee's application for reinstatement filed January 15, 2015, Licensee disclosed working as the Interim Head Athletic Trainer at Highland Community College from January 1, 2015, to January 20, 2015.
12. As the Interim Head Athletic Trainer, Licensee's job duties were to assist with practices and game coverage, which included taping and treating athletes.
13. Additionally, Licensee used the letters "ATC" after his name as well as the title "Interim Head Athletic Trainer" in connection with his name when he was not licensed.
14. 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 Athletic Trainers Licensure 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.
15. Licensee violated K.S.A. 65-6903(a) by practicing as an athletic trainer at Highland Community College without being properly licensed to practice as an athletic trainer.

16. Licensee violated K.S.A. 65-6903(a) by using the initials “ATC” after his name and the phrase “Interim Head Athletic Trainer” in connection with his name when he was not properly licensed by the Board.
17. Licensee violated K.S.A. 65-6911(a)(5) by misrepresenting or fraudulently representing herself as being properly licensed as an athletic trainer at Highland Community College while providing his services to meet the functions and duties required of an athletic trainer at Highland Community College without being properly licensed to practice as an athletic trainer.
18. Applicant violated K.S.A. 65-6911(a)(8) by negligently or intentionally practicing as an athletic trainer at Highland Community College without being properly licensed.
19. Pursuant to K.S.A. 65-6911, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee’s license to practice as an athletic trainer.
20. 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.
21. All pending investigation materials in KSBHA Investigative Case Number 15-00535 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board’s Disciplinary Panel No. 29. Disciplinary Panel No. 29 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
22. 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 as an athletic trainer 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 Athletic Trainers Licensure Act, K.S.A. 65-6901 *et seq.*

23. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Athletic Trainers Licensure 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 Athletic Trainers Licensure Act.

24. 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.

25. 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.
26. 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.
27. 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.
28. 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.

29. Licensee acknowledges that he has read this Consent Order and fully understands the contents.
30. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.
31. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to:
- Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson Lower Level-Suite A
Topeka, Kansas 66612
32. Licensee shall obey all federal, state and local laws and rules governing the practice of athletic trainers 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.
33. 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.
34. This Consent Order constitutes public disciplinary action.
35. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

36. In lieu of conducting a formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public disciplinary action on his license to engage in the practice of athletic training:

CENSURE

37. By practicing as an athletic trainer without being licensed as well as for using the letters “ATC” and “Interim Head Athletic Trainer” in connection with his name, Licensee is **PUBLICLY CENSURED** for violating the Kansas Athletic Trainers Licensure Act.

ESSAY

38. Licensee is hereby ordered to write an essay to the Board for public dissemination.

39. The essay shall address the following information:

- a. A discussion regarding the importance of regulating the profession of athletic training through licensure;
- b. A discussion regarding the importance of knowing what a profession’s scope of practice allows; and a
- c. A discussion regarding the consequences of practicing without a license.

40. The essay must be at least 500 words, type-written, 12-point font, and double-spaced.

41. Licensee shall properly cite throughout his paper using either the APA or MLA formats, include a “Works Cited” or “References” page, and provide all supporting documentation (e.g. articles, websites, etc.) with his essay.

42. Such essay will be subject to review by the Disciplinary Panel or the Disciplinary Panel’s designee for acceptance.

43. The essay must be submitted on or before August 31, 2015, and mailed to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Ste. A
Topeka, Kansas 66612

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 20 day of Aug, 2015.

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

Confidential

Kathleen Selzer Lippert //
Executive Director

8/20/15
Date

Confidential

James M. Stephens, A.T.
Licensee

5/25/15
Date

PREPARED AND APPROVED BY:

Jessica A. Bryson

Jessica A. Bryson, #22669
Associate Litigation Counsel
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Email: jbryson@ksbha.ks.gov

RECEIVED
MAY 27 2015
KSBHA

Consent Order
James M. Stephens II, A.T.

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 August, 2015, to the following:

James M. Stephens, A.T.
Licensee
Confidential
Highland, Kansas 66035

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 delivered to:

Jessica A. Bryson
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

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



Staff Member