

p. 1/5

BEFORE THE BOARD OF HEALING ARTS KS State Board of Healing Arts
OF THE STATE OF KANSAS

In the Matter of)	
)	Docket No. 13-HA 00049
Annette F. Stucky, P.T.)	
Kansas License No. 11-01068)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Jessica A. Bryson, Associate Litigation Counsel ("Petitioner"), and Annette F. Stucky, P.T., ("Licensee"), *pro se*, and move the Board for approval of a Consent Order affecting Licensee's license to practice physical therapy 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
Wichita, Kansas 67206.
2. Licensee has been entitled to engage in the practice of physical therapy in the State of Kansas, having been issued License No. 11-01068 on approximately October 28, 1983. Licensee's license was cancelled by operation of law for failing to renew on February 1, 2012. On or about October 25, 2012, Applicant submitted to the Board an application to reinstate her licensure to practice physical therapy. Such application was deemed complete and filed with the Board on February 27, 2013.
3. 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 physical therapy. K.S.A. 65-2901 *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 Physical Therapy Practice 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.
6. Licensee voluntarily and knowingly waives her right to a hearing. Licensee voluntarily and knowingly waives her 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.
7. 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.
8. The Board has received information and investigated the same, and has reason to believe that there may be grounds pursuant to K.S.A. 65-2912 to take action with

respect to Licensee's license under the Kansas Physical Therapy Practice Act, K.S.A. 65-2901, *et seq.*

9. Confidential

10. Confidential

11. Licensee also disclosed that she had last actively practiced physical therapy on March 13, 2011.

12. 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 Applicant has violated the Kansas Physical Therapy Practice Act with respect to the above allegations. Licensee further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

13. A protective order is hereby entered to protect all confidential information under Confidential K.S.A. 65-2836 Confidential

14. Due to the length of time Licensee has been absent from the active practice of physical therapy as well as Confidential the Board may

require additional testing, training or education as the Board may deem necessary to establish Applicant's present ability to practice with reasonable skill and safety pursuant to K.S.A. 65-2910.

15. Pursuant to K.S.A. 65-2912, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license.

16. 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 in order to establish provisions to ensure that Licensee is capable of safely practicing physical therapy in Kansas.

17. All pending investigation materials in KSBHA Investigative Case Number 13-00327 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 27 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

18. 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 physical therapy 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 her 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 Physical Therapy Practice Act, K.S.A. 65-2901, *et seq.*

19. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Physical Therapy 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 Kansas Physical Therapy Practice Act.

20. 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.

21. 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.
22. 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.
23. 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.
24. By signing this document, Licensee, 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.
25. Licensee acknowledges that she has read this Consent Order and fully understands the contents herein.
26. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

27. All correspondence or communication between Licensee and the Board relating to the Consent 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.
28. Licensee shall obey all federal, state and local laws, and rules governing the practice of physical therapy 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.
29. 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. 77-526. 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.
30. This Consent Order does not constitute disciplinary action.
31. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
32. Licensee understands that a Temporary License shall be issued based upon Licensee's signing of this Consent Order, paying the temporary license fee, and abiding by the terms of this Consent Order. Licensee further understands the Temporary License is only effective until a conference hearing is held by the Board on ratification of this Consent Order, and if the Board fails to ratify this Consent Order, the Temporary License shall immediately expire at the conclusion

of such hearing. If the Board ratifies this Consent Order, Licensee shall be issued an active license under the terms of this Consent Order.

33. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following non-disciplinary action as a condition to being granted licensure to engage in the practice of physical therapy:

Confidential

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38. Licensee agrees that if Confidential determines that Licensee is not safe to practice physical therapy, her license will be suspended until the Board and/or its designee has conducted a hearing on the issue. The suspension will automatically

be in effect when Board staff provides notice to the Executive Director and
Licensee **Confidential**

The Board will attempt to serve
Licensee personally, but if not successful, service by facsimile or electronic mail
will be sufficient. The Board and/or its designee shall conduct a hearing within
ten (10) business days after the suspension is effective. The hearing will be
conducted to determine whether the suspension should continue. Licensee agrees
to follow any recommendations set forth **Confidential**
Licensee may request a hearing before the Board and/or its designee if she
contests any of the recommendations **Confidential**

39.

40. **Confidential**

MONITORING

41. Licensee shall not practice physical therapy unless she complies with each of the
following:

- a) Licensee agrees to have a Board-approved practice monitor, to review the
practices and procedures of Licensee to ensure compliance with
community and ethical standards. This practice monitor shall be a
Kansas-licensed physical therapist, and Licensee shall bear all expenses
associated with the practice monitor.

- b) On or before April 12, 2013, Licensee shall submit the curriculum vitae of a proposed practice monitor and a plan of supervised practice for approval to the Board.
- c) The practice monitor shall submit monthly reports (May 15th, June 15th, July 15th, August 15th, September 15th, and October 15th) to the Board on a form provided by Board staff. Such reports shall include a summary of whether Licensee is seeing patients, documenting appropriately in the patient record, and practicing physical therapy in an appropriate manner. Licensee is responsible for ensuring that the practice monitor's reports are submitted by the monthly deadlines.
- d) All reports required pursuant to this Consent Order shall be submitted to the Board of Healing Arts, Attention: Complaint Coordinator, 800 SW Jackson, Lower Level-Suite A., Topeka, Kansas 66612.
- e) Licensee agrees to follow all recommendations of the practice monitor.
- f) The Board designates Disciplinary Panel #27 to review and approve/disapprove the proposed practice supervisor and his/her plan of supervised practice.
- g) Licensee's practice of physical therapy shall be supervised for a minimum of six (6) months.
- h) For any period(s) of time that Licensee is not actively practicing physical therapy in Kansas, the monitoring provisions of this Consent Order shall be tolled and not be counted in reducing the required timeframe for monitoring.

- i) Licensee will furnish a copy of this Consent Order to each and every state in which she holds licensure or applies for licensure and to the appropriate worksite supervisor or personnel.
- j) Licensee shall at all times keep Board staff informed of all her current practice locations, addresses, and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.

TIMEFRAME

42. The above monitoring and ^{Confidenti}_{al} provisions are not self-terminating:
- a) After a period of six (6) months, Licensee may request modification or termination of the provision requiring a practice monitor.
 - b) After a period of one (1) year, Licensee may request modification or termination of the provision requiring ^{Confidential}
43. For any period of time that Licensee is not actively practicing physical therapy in Kansas, the monitoring and ^{Confidenti}_{al} provisions will remain in effect but will be tolled and not counted towards reducing the timeframes.

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 FURTHER ORDERED that upon meeting all technical requirements for licensure, Applicant shall be granted a license, pursuant to the conditions above.

IT IS SO ORDERED on this 4th day of March, 2013.

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

Kathleen Selzler Lippert
Kathleen Selzler Lippert
Executive Director

3/4/13
Date
Confidential

Annette F. Stucky, P.T.
Licensee

2/25/2013
Date

PREPARED AND APPROVED BY:

Jessica A. Bryson
Jessica A. Bryson, #22669
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level Ste A
Topeka, Kansas 66612
785-296-8022

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 4th day of March, 2013, to the following:

Annette F. Stucky, P.T.

Applicant
Confidential

Wichita, Kansas 67206

And the original was hand-filed with:

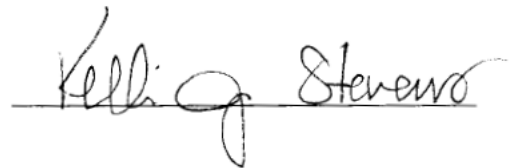
Kathleen Selzler Lippert
Executive Director
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

Jessica A. Bryson
Associate Litigation Counsel
Kansas Board of Healing Arts
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Melissa Massey
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