

FILED 

JAN 30 2013

KS State Board of Healing Arts

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

In the Matter of)
MARK J. SWEENEY, A.T.)
)
Kansas License No. 24-00766)
_____)

KSBHA Docket No. 13-HA00011

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. Mark J. Sweeney, A.T. (“Licensee”) has, since approximately August 9, 2011, maintained License No. 24-00766 to practice as an Athletic Trainer in the State of Kansas.
2. Licensee’s mailing addresses of record to the Board is: 1500 E Tall Tree Road, 38-206, Derby, Kansas 67037.
3. On or about January 1, 2012, Licensee’s license was cancelled for failure to renew. Licensee reinstated his license on May 17, 2012.
4. Licensee practiced as an athletic trainer in Kansas from January 1 through March 5, 2012, without being properly licensed.
5. On or about September 4, 2012, Executive Director Selzler Lippert, in accordance with K.S.A. 77-514, and as authorized by K.S.A. 65-6901, *et seq.*, issued a Summary Order publicly censuring Licensee’s license to practice as an athletic trainer in the State of Kansas for violating the Athletic Trainers Licensure Act, specifically K.S.A. 65-6903(a) and K.S.A. 65-6911(a)(8).

6. 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.

7. Pursuant to K.S.A. 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.

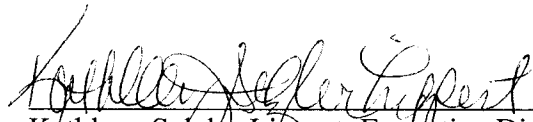
8. Pursuant to K.S.A. 77-512, 77-526, and 77-530, the Summary Order became effective as a Final Order on January 22, 2013.

9. 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 September 24, 2012.

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

IT IS SO ENTERED THIS 30th DAY OF JANUARY, 2013, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


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

CERTIFICATE OF SERVICE

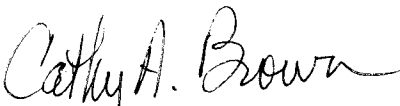
I, the undersigned, hereby certify that on this 30th day of January, 2013, a true and correct copy of the above and foregoing **JOURNAL ENTRY OF FINAL ORDER** was deposited in the United States mail, postage prepaid, and addressed to:

Mark J. Sweeney, A.T.
1500 E Tall Tree Road, 38-206
Derby, Kansas 67037

and a copy was hand delivered to:

Jessica Bryson, 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

SEP 04 2012

KS State Board of Healing Arts

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

In the Matter of)
MARK J. SWEENEY, A.T.)
)
Kansas License No. 24-00766)
_____)

KSBHA Docket No. 13-HA 00014

SUMMARY ORDER

NOW ON THIS 4th day of Sept, 2012, 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. Mark J. Sweeney, A.T. (“Licensee”) was originally issued license number 24-00766 to practice as an Athletic Trainer in the State of Kansas on August 9, 2011. Licensee’s license is currently active.
2. Licensee’s last known mailing address as provided to the Board is: 1500 E. Tall Tree Road 38-208, Derby, Kansas 67037.
3. On or about March 5, 2012, the Board received an application from Licensee for reinstatement of his athletic trainer license. Licensee’s license had been cancelled for “failure to renew” on January 1, 2012.
4. In his application for reinstatement, Licensee lists all professional activities since

the cancellation of his license. Licensee states that he has been employed as the Head Athletic Trainer for the Wichita Thunder in Wichita, Kansas, from “10/2011 To Present.”

5. Licensee’s license was reinstated on May 17, 2012. Licensee practiced in Kansas from January 1, 2012, through March 5, 2012, as an Athletic Trainer without being properly licensed.

Applicable Law

6. K.S.A. 65-6902(b) states: “‘Athletic training’ means the practice of injury prevention, physical evaluation, emergency care and referral or physical reconditioning relating to athletic activity.”
7. K.S.A. 65-6903(a) states: “It shall be unlawful for any person who is not licensed under this act as an athletic trainer or whose license has been suspended or revoked to use, in connection with such person’s name or place of business, the words: ‘Athletic trainer’ or ‘athletic trainer licensed’ or ‘licensed athletic trainer’ or ‘certified athletic trainer’ or the letters ‘A.T.’ or ‘A.T.L.’ or ‘L.A.T.’ or ‘ATC,’ or any other words, letters, abbreviations, or insignia indicating or implying that such person is an athletic trainer, or who in any way orally, or in writing, in print or by sign, directly or by implication represents oneself as an athletic trainer.”
8. K.S.A 65-6909(c) states: “At least 60 days before the expiration of the license of an athletic trainer, the board shall notify the licensee of the expiration by mail, addressed to the licensee’s last mailing address, as noted upon the board’s records. If the licensee fails to pay the renewal fee and submit an application at least 30 days prior to the date of expiration of the license, the licensee shall be given a second notice that the licensee’s license will expire and the license may be renewed only if an additional renewal fee is received by the board within the 30-day period following the date of expiration and that if both fees are not received by the date of expiration the license shall be canceled for failure to renew and shall be reissued only after the athletic trainer has been reinstated under subsection (d).
9. K.S.A. 65-6911(a)(8) allows the Board to deny, suspend, limit, refuse to renew, place on probation, reprimand, or revoke any license granted under the athletic trainers licensure act or take other disciplinary action as the Board may deem appropriate if it finds that the licensee has committed a negligent or intentional violation of the provisions of this act or the rules and regulations adopted under this act.

Conclusions of Law

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

11. The Board finds that Licensee practiced as an Athletic Trainer without being licensed from January 1, 2012, through March 5, 2012.

12. The Board finds that by practicing as an Athletic Trainer without being properly licensed, Licensee committed a negligent or intentional violation of the provisions of the Athletic Trainers Licensure Act pursuant to K.S.A. 65-6911(a)(8).

13. That by continuing to engage in the practice of an athletic trainer from January 1, 2012 through March 5, 2012, without being properly licensed, Licensee was in violation of K.S.A. 65-6903(a).

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, Mark J. Sweeney, A.T.

IT IS, THEREFORE, ORDERED that Licensee is hereby **PUBLICLY CENSURED** for practicing as an Athletic Trainer between January 1, 2012, through March 5, 2012, without being properly licensed.

NOTICE AND OPPORTUNITY FOR HEARING

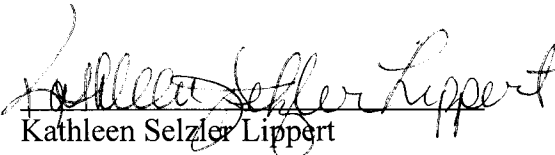
PLEASE TAKE NOTICE that this is a Summary Order. A party to whom a Summary Order is issued may file a written request for a hearing pursuant to K.S.A. 77-542 within 15 days following service of the Summary Order. Such written request shall also state the legal and/or

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 4th day of Sept, 2012.

Kansas State Board of Healing Arts


Kathleen Selzler Lippert
Executive Director

Certificate of Service

I, Cathy Brown, certify that the foregoing Summary Order was served this 4th day of Sept., 2012, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

Mark J. Sweeney, A.T.
1500 E. Tall Tree Road 38-208
Derby, KS 67037

PERSONAL & CONFIDENTIAL

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

Melissa Massey
Compliance Monitor
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, KS 66612

Jessica A. Bryson
Associate 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
Interim Executive Director
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level – Suite A
Topeka, KS 66612



Cathy Brown