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

KS State Board of Healing Arts

In the Matter of

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Docket No. 10-HA-00102

ANN MARIE SWINK, L.R.T.

Kansas License No. 22-01246

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts (“Board”) by and through Julia A. Mowers, Associate Litigation Counsel (“Petitioner”), and Ann Marie Swink, L.R.T. (“Licensee”), and move the Board for approval of a Consent Order affecting Licensee’s license to practice as a Radiologic Technologist in the State of Kansas. The parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is: 309 South 6th St., Neodesha, Kansas 66757.
2. Licensee is or has been entitled to practice of Radiologic Technology in the state of Kansas, having been issued License No. 22-01246 on or about October 24, 2005. Licensee’s current license status is active.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of radiologic technology, K.S.A. 65-7301, *et seq.*
4. This Consent Order and the filing of such document are in accordance with applicable law as provided by K.S.A. 77-505 and 65-5503, and the Board has jurisdiction to enter into the Consent Order. 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. Licensee agrees that, in considering this matter, the Board is not 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 are grounds pursuant to K.S.A. 65-7313(a)(1), to take action with respect to Licensee's license under the Radiologic Technologists Practice Act, K.S.A. 65-7301 *et seq.*

9. On or about October 18, 2009, Licensee submitted an application for renewal of her radiologic technologist license.

10. K.S.A. 65-7307 and K.A.R. 100-73-7 require that, as a condition of renewal of the radiologic technologist license, each licensee must have completed at least 12 hours of continuing education and provide evidence of completion of such education to the Board upon its request.

11. As part of the renewal process, Licensee certified that she had read and achieved compliance with the rules governing continuing education, and that documentation of her continuing education would be maintained for a three-year period and produced to the Board upon its request.

12. The Board mailed the Licensee a certified letter on November 24, 2009 requesting that the Licensee provide, no later than December 24, 2009, proof of completion of these continuing education requirements.

13. Licensee contacted the Board on December 1, 2009 and stated that she did not have proof of the hours requested and indicated that she wished to cancel her radiologic technologist license. Licensee was informed at this time that the Board was unable to cancel her license and that she would need to request a hearing from the Board on this matter.

14. On December 30, 2009, the Board mailed Licensee a second certified letter requesting evidence of completion of her continuing education requirements by January 18, 2010.

15. Licensee has failed to provide documented evidence of 12 hours of continuing education since April 1, 2007.

16. On January 21, 2010, a Summary Order was filed which issued a fine of \$100.00 to Licensee and required her to provide documentation of her continuing education hours within 15 days.

17. Licensee timely requested a hearing on the Summary Order.

18. Licensee remains unable to locate or provide any evidence of completion of her required continuing education hours.

19. Licensee indicates that she is not currently employed as a radiologic technologist and does not anticipate ever being employed as one again. Licensee wishes to cancel her license as a radiologic technologist.

20. Licensee has violated K.S.A. 65-7307(c), by failing to provide evidence of satisfactory completion of 12 hours of continuing education.

21. Pursuant to K.S.A. 65-7313, the Board has grounds to deny, revoke, suspend, limit, or censure Licensee's license to practice radiologic technology and impose administrative fines for violations of the Radiologic Technologists Practice Act.

22. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-7313(a)(3).

23. Licensee acknowledges that if formal proceedings were conducted and Licensee presented no exhibits, witnesses, or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Radiologic Technologists Practice Act with respect to the abovementioned allegations.

24. Licensee waives her right to contest the allegations contained in the abovementioned paragraphs in any further proceeding before this Board, and consents to a finding that there are grounds for discipline against her license.

25. According to K.S.A. 77-505 of the Kansas Administrative Procedure Act, the Board has authority to enter into this Consent Order without necessity of proceeding to a formal hearing.

26. In lieu of conducting formal proceedings and/or the making of findings by the Board, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary measures against her license as a radiologic technologist in Kansas:

a. Licensee hereby **SURRENDERS** her radiologic technologist license effective upon filing of this Consent Order with the Board; and

b. Such surrender shall be treated as a revocation for all purposes, including reporting of such action.

27. 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 initiate formal proceedings based upon known or unknown allegations of violations of the Radiologic Technologists Practice Act.

28. 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 Stipulation or the content of this Stipulation.

29. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and may be reported to any reporting entities authorized to receive disclosure of this 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. Licensee by signature to this document, waives any objection to the participation of the Board members 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 they have 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 its contents.

26. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become a Final Order. 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.

27. The Board may consider all aspects of this Consent Order in any future matter regarding the Licensee, including any application for reinstatement of licensure.

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.

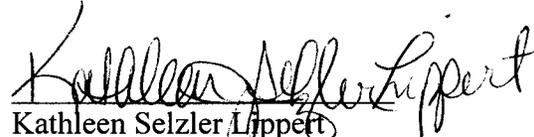
IT IS FUTHER ORDERED that:

- a. Licensee hereby **SURRENDERS** her radiologic technologist license effective upon filing of this Consent Order with the Board; and

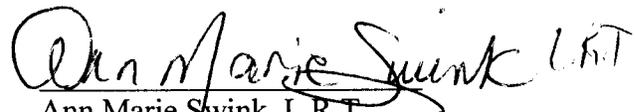
b. Such surrender shall be treated as a revocation for all purposes, including reporting of such action.

IT IS SO ORDERED.

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


Kathleen Selzler Lippert
Acting Executive Director

3-16-10
Date


Ann Marie Swink, L.R.T.
Licensee

3-5-10
Date

PREPARED BY:



Julia A. Mowers #23741
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-8022

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing **CONSENT ORDER** was served this 18th day of March, 2010, by depositing the same in the United States mail, postage prepaid, and addressed to the following:

Ann Marie Swink, L.R.T.
309 S. 6th St.
Neodesha, Kansas 66757

and a copy was hand-delivered to:

Julia A. Mowers
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

and a courtesy copy was hand-delivered to:

Katy Lenahan
Licensing Administrator
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603

and the original was filed with the office of:

Kathleen Selzler Lippert
Acting Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068