

F I L E D
OCT 20 2003
KANSAS STATE BOARD OF
HEALING ARTS

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
KRISTIN L. TILLERY, O.T.) Docket No. 04-HA-07
Kansas License No. 17-00847)
_____)

CONSENT ORDER

COMES NOW the Kansas State Board of Healing Arts ("Board") by and through Stacy L. Cook, Litigation Counsel ("Petitioner"), and Kristin L. Tillery, ("formerly Kristin Teters"), O.T. ("Licensee"), by and through attorney Don Strole, and move the Board for approval of a Consent Order affecting Licensee's license to practice occupational therapy in the State of Kansas. The parties stipulate and agree to the following:

1. Licensee's last known address to the Board is 15174 W. 132nd Street Olathe, Kansas 66062.
2. Licensee is or has been entitled to engage in the practice of occupational therapy in the State of Kansas, having been issued license No. 17-00847 on approximately October 9, 1993. Licensee last renewed her license on March 25, 2003. Licensee's 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 occupational therapy. K.S.A. 65-5401.
4. This Consent Order and the filling 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 Occupational Therapy Practice Act is constitutional on its face and as applied in this case.

6. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

7. 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.

8. 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.

9. In November 2002, Licensee was informed that she was required to submit proof of a current chest x-ray.

10. The Board has filed a Petition on July 25, 2003 alleging that Licensee subsequently provided to her supervisor a document purporting to be proof of a chest x-ray in 2002. The document was a note written by physician.

11. The document was actually the same document Licensee submitted in 2001, with the date altered to 2002.

12. Licensee submitted a falsified document to her employer regarding the chest x-ray.

13. In December 2002, Paragon Rehabilitation terminated Licensee for falsifying the chest x-ray document.

14. The Licensee specifically denies these allegations, but to avoid the time, expense and uncertainty of a hearing agrees to enter into this Consent Order.

15. Such conduct would be in violation of the Occupational Therapy Practice Act, K.S.A. 65-5401, including but not limited to:

- a. K.S.A. 65-5410(a), unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public;
- b. K.S.A. 65-5410(a)(4), violating any lawful order or rule and regulation of the board, as further defined by K.A.R. 100-54-5(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 registration under K.S.A. 65-5410; and
- c. K.S.A. 65-5410(a)(4), violating any lawful order or rule and regulation of the board, as further defined by K.A.R. 100-54-

5(p), committing conduct likely to deceive, defraud, or harm the public.

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.

17. In lieu of the conclusion of 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 action with respect to her license to engage in the practice of occupational therapy:

a. Licensee hereby agrees to a fine of five hundred dollars (\$500.00). Such fine is due and payable to the Board of Healing Arts on or before November 18, 2003.

18. Licensee's failure to comply with the provisions of the Consent Order will result in the Board taking further disciplinary action as the Board deems appropriate according to the Kansas Administrative Procedure Act.

19. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Healing Arts 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 Healing Arts Act.

20. Licensee hereby releases the Board, its individual members (in their official and personal capacities), 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 Act for Judicial Review and Civil Enforcement of Agency Actions, 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 the American Occupational Therapy Association and any other reporting entities requiring 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. Licensee, by signature to this document, waives any objection to the participation of the Board members in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member in any future proceedings on the basis that the Board member 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.

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: Stacy L. Cook, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

28. Licensee shall obey all federal, state and local laws and rules governing the practice of occupational 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 an Order under K.S.A. 65-2838. 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. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact and conclusions of law.

IT IS FURTHER ORDERED that in lieu of the conclusion of formal proceedings and/or making of findings by the Board, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following limitations and disciplinary action with respect to her license to engage in the practice of occupational therapy:

- a. Licensee hereby agrees to a fine of five hundred dollars (\$500.00). Such fine is due and payable to the Board of Healing Arts on or before November 18, 2003.

IT IS SO ORDERED on this 20TH day of ___October___, 2003.

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

____/s/_____
Lawrence T. Buening, Jr.
Executive Director

PREPARED AND APPROVED BY:

/s/ _____
Stacy L. Cook #16385
Litigation Counsel
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-30065

/s/ _____
Don Strole #11105
16 East 13th Street
Lawrence, Kansas 66044

AGREED TO BY:

/s/ _____
Kristin Tillery, O.T.
Licensee

CERTIFICATE OF SERVICE

I Stacy L. Cook, do 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 October, 2003 to the following:

Kristin L. Tillery, O.T.
15174 W. 132nd Street
Olathe, Kansas 66062

Don Strole
16 East 13th Street
Lawrence, Kansas 66044

and the original was hand-delivered to:

Lawrence T. Buening, Jr.
Executive Director
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3068

 Hester H. Jay for
Stacy L. Cook