

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

**FILED**

DEC 13 2007

KS State Board of Healing Arts

In the Matter of )  
 )  
ELIAS C. TOLENTINO, O.T.A. ) Docket No. 08-HA-00035  
 )  
Kansas License No. 18-00373 )

**FINAL ORDER FOLLOWING CONFERENCE HEARING**

NOW, on this 8th day of December, 2007, comes on for conference hearing before the Kansas State Board of Healing Arts (“Board”) the request for retroactive reinstatement of license filed by Elias C. Tolentino, O.T.A. (“Licensee”). Dan Riley, Associate Counsel, appears for the Board. Licensee appears in person *pro se*.

After reviewing the file, hearing the arguments of Mr. Riley, hearing the testimony of Licensee and being otherwise duly advised in the premises, the Board makes the following findings and orders:

1. Licensee was originally issued license number 18-00373 to practice as an occupational therapy assistant in the state of Kansas on May 4, 1998.
2. Licensee failed to renew his license for the period April 1, 2007 through March 31, 2008, prior to its expiration. Licensee’s license expired March 31, 2007, and was canceled for failure to renew on May 1, 2007.
3. On May 7, 2007, the Board received Licensee’s renewal application which was determined to be incomplete. On May 15, 2007, the Board received Licensee’s check and additional information and the renewal application was determined to be complete and his license was reinstated effective May 21, 2007.

4. By completion of the Reinstatement of Canceled License form received May 30, 2007, Licensee requested retroactive reinstatement of his license back to April 1, 2007.

5. Licensee states that he was out of the country during the renewal period, but that his wife notified him he had received a second notice of renewal. Licensee also states that he saw patients on a regular basis before learning that his license had expired and he saw approximately 12 patients after learning that his license had been cancelled.

6. On September 25, 2007, the Executive Director of the Board issued a Summary Order approving the Licensee's request for retroactive reinstatement and assessed a civil fine in the amount of \$356.25, computed in accordance with Board Policy Statement No. 04-01 (revised June 18, 2007), payable within 30 days of the effective date of the order.

7. By letter dated October 10, 2007 and filed October 15, 2007, Licensee requested a hearing on the Summary Order within the time for requesting a hearing and, therefore, the Summary Order did not become effective.

8. The Board finds that there are additional mitigating circumstances related to family illness and Licensee being out of the country during the renewal period that justify deviation from the fine computed in accordance with Board Policy Statement No. 04-01 (revised June 18, 2007).

9. Licensee's request for retroactive reinstatement of license should be granted and the status of Licensee's license should be modified and retroactively reinstated on active status effective April 1, 2007.

10. For his inadvertence and mistake for practicing as an occupational therapy assistant in the state of Kansas after his license was canceled, Licensee should be

assessed a civil fine in the amount of \$150, to be payable within 30 days of the effective date of this order.

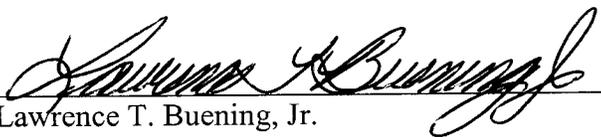
**IT IS THEREFORE ORDERED** that license number 18-00373 should be retroactively reinstated for the period April 1, 2007 to May 21, 2007, be considered to have been continuously on active status during such period of time, and the records of the Board be modified to reflect such retroactive reinstatement.

**IT IS FURTHER ORDERED** that Licensee be assessed a civil fine in the amount of \$150, payable within 30 days of the effective date of this order, for his practice as an occupational therapy assistant in the state of Kansas while his license was canceled.

**PLEASE TAKE NOTICE** that this is a Final Order. A Final Order is effective upon service. A party to an agency proceeding may seek judicial review of a Final Order by filing a petition in District Court as authorized under the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any such petition must be served upon the Board addressed to the Executive Director, 235 S. Topeka Boulevard, Topeka, Kansas 66603. A request for reconsideration is not a prerequisite to judicial review.

**DATED** this 13<sup>th</sup> day of December, 2007.

**KANSAS STATE BOARD OF HEALING ARTS**

  
Lawrence T. Buening, Jr.  
Executive Director