

FILED

JUN 16 2014

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts *[Signature]*

In the Matter of:)
)
Tanika D. Valentine, L.R.T.)
Kansas License No. Pending)

Docket No. 14-HA00058

CONSENT ORDER

COME NOW, the Kansas State Board of Healing Arts, (“Board”), by and through Jessica A. Bryson, Associate Litigation Counsel, and Anne Barker Hall, Associate Litigation Counsel (“Respondent”), and Tanika D. Valentine, L.R.T. (“Applicant”) by and through Megan L. Lewis of Holbrook and Osborn, P.A., and move the Board for approval of a *Consent Order* affecting Applicant’s license to practice as a radiologic technologist in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant’s last known mailing address to the Board is: **Confidential**
Confidential Manhattan, Kansas 66502.
2. On or about July 11, 2013, Applicant submitted to the Board an application for licensure in radiologic technology. Such application was deemed complete and filed with the Board on November 6, 2013.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulated the practice of the healing arts, specifically the practice of radiology technology. K.S.A 65-7301 *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 Radiologic Technologists Practice Act is constitutional on its face and as applied in the case. Applicant agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.
6. Applicant voluntarily and knowingly waives her right to a hearing. Applicant 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. Applicant voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised in 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. Applicant 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. 65-7313 to take action with respect to Applicant's license under the Kansas Radiologic Technologists Practice Act, K.S.A 65-7301, *et seq.*
9. In her application for licensure, Applicant answer "yes" to disciplinary question 12(t).

10. Applicant disclosed that, in September 2012, she was arrested for Driving under the Influence (DUI) and that, in April 2013, she entered into a Diversion Agreement for the DUI.

11. Applicant explained that she had had three alcoholic drinks at work along with a couple shots of alcohol when she started to feel drunk. She stated that she went outside to text her fiancé for a ride home, but she said that she blacked out and does not remember walking to her car, driving to a field, and parking.

12. Confidential

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Confidential

23. Applicant appeared before the Board on December 13, 2013, for the Board's ratification of a proposed, prior consent order. During the hearing, Applicant provided testimony regarding the November 22, 2013, Confidential The prior consent order was withdrawn pending further negotiations.

24. Confidential

25. Confidential

26. Confidential

27. Confidential

29. Applicant acknowledges that if formal hearing proceedings were conducted and Applicant presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Applicant has violated the Kansas Radiologic Technologists Practice Act with respect to the above allegations. Applicant further waives her right to right to dispute or otherwise contest allegations contained in the above paragraphs in any further proceeding before this Board.
30. A protective order is hereby entered to protect all confidential information under 42 CFR Part II and K.S.A. 65-4925.
31. Applicant's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-7313(a)(8) as further defined by K.A.R. 100-73-6(h).
32. Applicant's acts, if proven, constitute an attempt to obtain a license through fraud or misrepresentation as set forth in K.S.A. 65-7313(a)(1).
33. Pursuant to K.S.A 65-7313, the Board may revoke, suspend, limit, censure or place under probationary conditions Applicant's license for violations of the Kansas Radiologic Technologists Practice Act.
34. 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.
35. All pending investigation materials in KSBHA Investigative Case Number 14-00141 regarding Applicant were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 28. Disciplinary Panel No. 28 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

36. Applicant further understand and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Applicant 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 Applicant's license to practice radiologic technology in the State of Kansas. Applicant hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Applicant 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, Applicant 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 Radiologic Technologists Practice Act, K.S.A. 65-7301 *et seq.*
37. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Radiologic Technologists 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 Radiologic Technologists Practice Act.
38. Applicant 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): alleged damages, actions, liabilities, both administrative and civil and to include

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 Applicant has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Applicant shall not commence to prosecute, cause, or permit to be prosecuted any action or proceeding of any description against the Releasees.

39. Applicant further understands and agrees that upon signature by Applicant, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.
40. The 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.
41. Applicant 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 Applicant is not present. Applicant 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.
42. Applicant, by signature to this document, waives any objection to the participation of the Board member, 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.

43. Applicant acknowledges that she has read this Consent Order and fully understands the contents.
44. Applicant acknowledges that this Consent Order has been entered into freely and voluntarily.
45. All correspondence or communications between Applicant 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.
46. Applicant shall obey all federal, state, and local laws and rules governing the practice of radiologic technology 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.
47. Upon execution of this Consent Order by affixing a Board authorized signature below, the provision of this Consent Order shall become a Final Order under K.S.A. 77-505. 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.
48. This Consent Order constitutes disciplinary action.
49. The Board may consider all aspects of this Consent Order in any future matter regarding Applicant.

50. In lieu of conducting a formal proceeding, Applicant, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action on her license to engage in the practice of radiologic technology:

CENSURE

51. Applicant is publicly censured for violating the Kansas Radiologic Technologists Practice Act.

MONITORING

52. Confidential

53. Confidential

54. Confidential

55. Confidential

56. Applicant agrees to immediately surrender her license if she experiences a relapse or fails to comply with this Consent Order or Confidential in any manner.

57. Confidential

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59. Confidential

60. Confidential

66. Confidential

61. Confidential

COSTS

62. Applicant is hereby ordered to pay the Board's incurred COSTS in conducting these proceedings under the Kansas Administrative Procedure Act in the amount of \$ 784.90. The total amount of \$ 784.90 shall be due on or before August 1, 2014.

63. In the alternative, Applicant may make monthly payments of \$ 65.40 for eleven (11) months with a twelfth (12th) and final monthly payment of \$ 65.50 for a total of \$ 784.90 to be paid over twelve (12) months. The initial payment is due on or before July 15, 2014, with the remainder of the monthly payments due on or before the fifteenth (15th) day of each month thereafter.
64. In the event that the Board does not receive a payment due and owing, the total amount of the assessed COSTS still due shall become immediately due and payable in full upon written notice by the Board to Applicant stating that payment has not been received.
65. Applicant shall make all payments payable to the Kansas State Board of Healing Arts and send all payments to the attention of:

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson Lower Level-Suite A
Topeka, Kansas 66612

TIMEFRAME

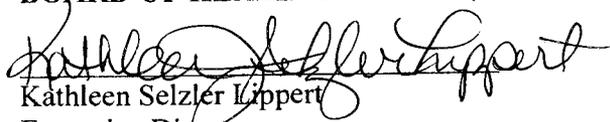
66. The above monitoring and counseling provisions are not self-terminating. After a period of three (3) years, Applicant may request modification or termination of the provisions. For any period of time that Applicant is not actively practicing radiologic technology in Kansas, the monitoring provisions and counseling provisions will remain in effect but will be tolled and not counted towards reducing the three (3) year timeframe.

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusion 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 13 day of June, 2014.

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

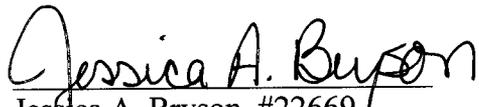

Kathleen Selzler Lippert
Executive Director

6/13/14
Date

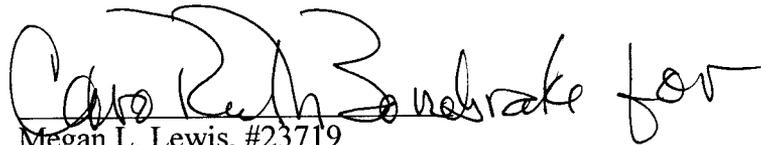

Tanika D. Valentine, L.R.T.,
Applicant

5/30/2014
Date

PREPARED AND APPROVED BY:



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Anne Barker Hall, #23672
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Megan L. Lewis, #23719
Holbrook & Osborn, P.A.
7400 West 110th Street, Suite 600
Overland Park, Kansas 66210
913-342-2500

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 16th day of June, 2014 to the following:

Tanika D. Valentine, L.R.T.
Applicant
Confidential

Manhattan, Kansas 66502

Megan L. Lewis
Holbrook & Osborn, P.A.
7400 West 110th Street, Suite 600
Overland Park, Kansas 66210

And the original was filed with:

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

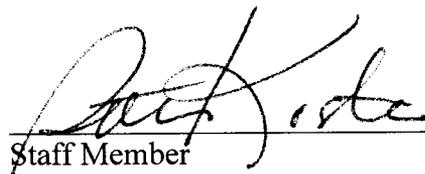
And a copy was hand-delivered to:

Jessica A. Bryson
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level- Suite A
Topeka, Kansas 66612

Katy Lenahan
Licensing Administrator
Kansas Board of Healing Arts
800 SW Jackson, Lower Level Suite A
Topeka, Kansas 66612

General Counsel's Office
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
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Staff Member