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KANSAS STATE BOARD OF
HEALING ARTS

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

In the Matter of)
)
ANITA VERNON, R.T.)
Kansas License No. 16-01645)
_____)

Docket No. 04-HA-22

CONSENT ORDER

COMES NOW the Kansas State Board of Healing Arts (“Board”), by and through Stacy L. Cook, Litigation Counsel (“Petitioner”), and Anita Vernon, R.T. (“Licensee”), *pro se*, and stipulate and agree to the following:

1. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of respiratory therapy. K.S.A. 65-5501 *et seq.*

2. Licensee is or has been entitled to engage in the practice of respiratory therapy in the State of Kansas, having been issued license number 16-01645 on August 13, 1994, and last renewing such license on March 21, 2003.

3. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into this Consent Order, as provided by K.S.A. 77-505, and Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction.

4. The Kansas respiratory therapy practice act is constitutional on its face and as applied in this case.

5. On or about October 22, 2001, Licensee and the Board entered into a Stipulation and Agreement and Enforcement Order (“Stipulation”) with the Board for a censure [REDACTED]

[REDACTED]

6. On or about September 17, 2002, Licensee had a positive urine drug screen for alcohol.

7. Licensee immediately ceased practicing respiratory therapy [REDACTED] [REDACTED] including entering into a full monitoring agreement on September 29, 2002.

8. In April 2003, the Board approved a consent order signed by Licensee. Pursuant to that order, Licensee was to abstain from using alcohol or drugs. Licensee agreed to submit to random tests. Licensee also agreed that she would immediately surrender her license if she had a positive test for alcohol or drugs. The Board concluded that a surrender of Licensee's license would constitute a revocation.

9. On August 12, 2003, Licensee submitted to a test for alcohol or drugs. The test result was positive for alcohol.

10. On December 10, 2003, the Board filed a Final Order suspending Licensee's license for a period of seven days. The Board ordered that the April 2003 order would continue in effect, but that the order would be modified to assure that Licensee was not a threat to the public through the use of alcohol. A presiding officer was appointed to conduct further proceedings to determine the necessary modifications to Licensee's license.

11. On or about January 6, 2004, Licensee had a positive drug screen for alcohol.

12. Pursuant to K.S.A. 65-5510(a)(2) and (a)(4), there are grounds to revoke Licensee's license. In addition, in paragraph 12(d) of the Consent Order filed on April 29, 2003, Licensee agreed to immediately surrender her license and cease practicing respiratory therapy in the event Licensee has a positive drug or alcohol test result.

13. Licensee voluntarily and knowingly waives her right to a hearing pursuant to K.S.A. 65-5510(b) and under the Kansas administrative procedure act, K.S.A. 77-501 *et seq.* 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.

14. 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.

15. In lieu of the conclusion of formal proceedings, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action with respect to her license to engage in respiratory therapy:

- a. Licensee surrenders her license to practice respiratory therapy. Such a surrender shall be treated as a revocation for all purposes, including

reporting. Licensee may not apply for reinstatement of her license until three years after the date the Consent Order is filed with the Board;

- b. Licensee agrees that if she applies for reinstatement of her license, such application will be considered by the Board in accordance with the provisions of K.S.A. 65-2844. Further, Licensee's application will be governed by Vakas v. The Kansas State Board of Healing Arts, 248 Kan. 589 (Kan. 1991), and all applicable statutes, laws, and rules and regulations regarding qualification for licensure and reinstatement.

16. Licensee's surrender is effective when she signs the Consent Order.

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

17. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the respiratory therapy 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 violation of the respiratory therapy practice act.

18. 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.

19. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record, and shall be reported to all reporting entities requiring disclosure of this Consent Order.

20. 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.

21. 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.

22. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel, 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.

23. Licensee acknowledges that she has read this Consent Order, fully understands the contents and has freely and voluntarily entered in to the same.

24. 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.

25. Licensee shall obey all federal, state and local laws and rules governing the practice of respiratory 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.

26. 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. 65-5510(a). 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.

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 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 respiratory therapy.

- a. Licensee surrenders her license to practice respiratory therapy. Such a surrender shall be treated as a revocation for all purposes, including reporting. Licensee may not apply for reinstatement of her license until three years after the date the Consent Order is filed with the Board;
- b. Licensee agrees that if she applies for reinstatement of her license, such application will be considered by the Board in accordance with the provisions of K.S.A. 65-2844. Further, Licensee's application will be governed by Vakas v. The Kansas State Board of Healing Arts, 248 Kan. 589 (Kan. 1991), and all applicable statutes, laws, and rules and regulations regarding qualification for licensure and reinstatement; and

IT IS SO ORDERED on this _____ day of January, 2004.

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

Lawrence T. Buening, Jr.
Executive Director

PREPARED AND APPROVED BY:

Stacy L. Cook #16385
Litigation Counsel
Kansas Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

AGREED TO BY:

Anita Vernon, R.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 pre-paid, on this _____ day of
January, 2004 to the following:

Anita Vernon, R.T
132 West 12th Avenue, #12
Emporia, Kansas 66801

and the original was hand-delivered to:

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

Stacy L. Cook