

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

**F I L E D**

APR 29 2003

KANSAS STATE BOARD OF  
HEALING ARTS

In the Matter of )  
 )  
**Anita Vernon, R.T.** )  
Kansas License No. 16-01645 )  
\_\_\_\_\_ )

Docket No. 03-HA-64

**CONSENT ORDER**

**COME NOW**, the Kansas State Board of Healing Arts ("Board") by and through Kelli J. Benintendi, Associate 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 the healing arts, specifically 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 Kansas, having been issued license number 15-01645 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 and monitoring by

**Confidential**

8. Pursuant to K.S.A. 65-5510(a)(2), there are grounds for initiation of disciplinary action by the Board due to Licensee's commission of certain acts that violate the respiratory therapy act. K.S.A. 65-5502, *et seq.* Specifically, Licensee has committed unprofessional conduct as set forth in K.S.A. 65-5510(a)(4), by violating the terms of her previous Stipulation with the Board in Confidential

9. The Board may revoke or suspend a license to practice respiratory therapy when the Licensee has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. See K.S.A. 65-5510(a)(2). Pursuant to K.S.A. 77-505, the Board may enter into an informal settlement of this matter in lieu of revoking or suspending Licensee's license.

10. 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.

11. 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.

12. 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 against her license:

**CENSURE**

- (a) For Licensee's acts of unprofessional conduct in violating the terms of her previous Stipulation with the Board, Licensee is hereby publicly censured;

**MONITORING**

- (b) Confidential

(c)

(d)

(e)

(f)

(g)

13. This Order constitutes a limitation on Licensee's license as a respiratory therapist, and shall remain in place for a minimum of three (3) years. In order to remove the limitation from said license, Licensee must file a written request to the Board for termination of the limitation.

14. Licensee's failure to comply with the provisions of this Consent Order will result in the Board initiating disciplinary action to immediately suspend or revoke Licensee's license pursuant to and in compliance with the Kansas administrative procedure act.

15. 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 violations of the respiratory therapy practice act.

16. 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 Consent Order or the content of this Consent Order.

17. 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.

18. 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.

19. 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.

20. 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 proceeding on the basis that the Board member has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

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

22. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Kelli J. Benintendi, 235 S. Topeka Blvd., Topeka, Kansas 66603-3068.

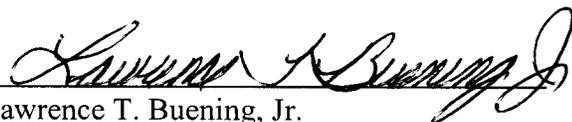
23. Licensee shall obey all federal, state and local laws and rules governing the practice of respiratory therapy in the State of Kansas that may be in place at the time of execution of the Consent Order or may become effective subsequent to the execution of this document.

24. 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.

**IN WITNESS WHEREOF**, the parties have executed this agreement on this 29<sup>th</sup> day of

April, 2003.

KANSAS STATE BOARD OF HEALING ARTS



Lawrence T. Buening, Jr.  
Executive Director

April 29, 2003  
Date

*Anita Vernon*

Anita Vernon, R.T.  
Licensee

\_\_\_\_\_  
Date

Prepared By:

*Kelli J. Benintendi*

Kelli J. Benintendi #16032  
Associate Counsel  
Kansas State Board of Healing Arts  
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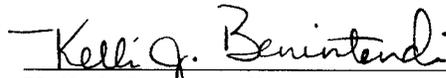
**CERTIFICATE OF SERVICE**

I, Kelli J. Benintendi, Associate Counsel, Kansas State Board of Healing Arts, hereby certify that I served a copy of the above CONSENT ORDER by depositing the same in the U.S. mail, postage prepaid, on this the 29<sup>th</sup> day of April, 2003, addressed to:

Anita Vernon, R.T.  
132 West 12<sup>th</sup> Avenue, #12  
Emporia, Kansas 66801

and the original was hand-delivered to:

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

  
\_\_\_\_\_  
Kelli J. Benintendi  
Associate Counsel