

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

FILED
APR 25 2005
KS State Board of Healing Arts

In the Matter of)
)
NANCY J. WICKER, O.T.) Docket No. 05-HA-
Kansas License No. 17-00577)
_____)

CONSENT ORDER

COMES NOW the Kansas State Board of Healing Arts (“Petitioner”), by and through Stacy L. Cook and Diane L. Bellquist, and Nancy J. Wicker, O.T. (“Licensee”), *pro se*, and move the Board for approval of a Consent Order affecting Licensee’s license to practice as an occupational therapist in the State of Kansas. The parties stipulate and agree to the following:

1. Licensee’s last known mailing address to the Board is 619 Alabama, Lawrence, Kansas 66044.

2. Licensee is or has been entitled to engage in the practice of occupational therapy, having been issued License No. 17-00577 on approximately June 15, 1990. Licensee has held a current license to engage in the practice of occupational therapy in the State of Kansas, having last renewed her license on approximately April 1, 2004. 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.

4. This Consent Order and the filing of such document are in accordance with the applicable law and the Board may enter into an informal settlement of this matter as provided in K.S.A. 77-505, without the necessity of proceeding to a formal hearing.

5. Upon approval, the provisions in this Consent Order shall constitute the findings of the Board, and this Consent Order shall be the Board's Final Order.

6. The Kansas Occupational Therapy Practice Act is constitutional on its face and as applied in this case.

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

8. 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.

9. The terms and conditions of the Consent Order are entered into between the undersigned parties that 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.

10. Licensee altered and/or falsified the records of five (5) patients.

11. Licensee recorded that she provided treatments to certain patients when in fact, she did not perform treatments on the patients on those specific occasions.

12. Pursuant to K.S.A. 65-5410(a), the Board may take disciplinary action against Licensee's license.

13. According to K.S.A. 77-505, the Board has the authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

14. In lieu of conducting formal proceedings, Licensee, by her signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary measures regarding her license as an occupational therapist:

- (a) Licensee agrees to be publicly censured for altering and/or falsifying patient records; and
- (b) Licensee shall be fined in the amount of five hundred dollars (\$500.00). Such fine is payable to the "Kansas State Board of Healing Arts" in monthly payments of fifty dollars (\$50.00) for the initial four (4) months, after which the monthly payment shall increase to one-hundred dollars (\$100.00) for each of the following three (3) months. The initial payment is due on or before May 2, 2005, with the remainder of the monthly payments due on or before the first day of each month thereafter. In the event that the Board does not receive a payment due and owing, the fine shall become immediately due and payable in full upon written notice by the Board to Licensee stating that payment has not been received.

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

16. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Occupational Therapy 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 Occupational Therapy Practice Act.

17. 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 and 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.

18. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to the National Practitioner Databank and any other reporting entities requiring disclosure of the Consent Order.

19. 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.

20. 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 or settlement.

21. Licensee, by her 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 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.

22. Licensee acknowledges that she has read this Consent Order and fully understands the contents.

23. Licensee acknowledges that this Consent Order has been entered into freely and voluntarily.

24. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be sent by certified mail addressed to the Kansas State Board of Healing Arts, Attn: Diane L. Bellquist, 235 S. Topeka Boulevard, Topeka, Kansas 66603-3068.

25. 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.

26. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order. 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.

27. 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:

- (a) Licensee is hereby publicly censured for altering and/or falsifying patient records; and
- (b) Licensee shall be fined in the amount of five hundred dollars (\$500.00). Such fine is payable to the "Kansas State Board of Healing Arts" in monthly payments of fifty dollars (\$50.00) for the initial four (4) months, after which the monthly payment shall increase to one-hundred dollars (\$100.00) for each of the following three (3) months. The initial payment is due on or before May 2, 2005, with the remainder of the monthly payments due on or before the first day of each month thereafter. In the event that the Board does not receive a payment due and owing, the fine shall become immediately due and payable in full upon written notice by the Board to Licensee stating that payment has not been received.

IT IS SO ORDERED on this 25 day of April, 2005.

FOR THE KANSAS STATE BOARD
OF HEALING ARTS:

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

PREPARED AND APPROVED BY:

Diane L. Bellquist _____
Stacy L. Cook #16385
Diane L. Bellquist #20969
Kansas State Board of Healing Arts
235 S. Topeka Boulevard
Topeka, Kansas 66603-3065
(785) 296-7413

AGREED TO BY:

/s/ _____
Nancy Wicker, O.T.
Licensee

CERTIFICATE OF SERVICE

I, Diane Bellquist, hereby certify that a true and correct copy of the foregoing CONSENT ORDER was served on the 25th day of April, 2005 by United States mail, first-class postage pre-paid and addressed to:

Nancy J. Wicker, O.T.
619 Alabama
Lawrence, Kansas 66044

And the original was hand-delivered to:

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

_____/s/_____
Diane L. Bellquist