

FILED
FEB 14 2019
KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)
) KSBHA Docket No. 19-HA 00056
Jonathan R. Young, P.T.)
Kansas License No. 11-04016)

CONSENT ORDER

COMES NOW, the Kansas Board of Healing Arts ("Board"), by and through J. Todd Hiatt, Associate Litigation Counsel, and Jonathan R. Young, P.T. ("Licensee"), *pro se*, and move the Board for approval of a Consent Order affecting Licensee's license to practice physical therapy in the state of Kansas. The Parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is: [REDACTED] Wichita, Kansas 67212.
2. Licensee is or has been entitled to engage in the practice of physical therapy in Kansas, having been issued License No. 11-04016 on approximately September 30, 2009. Licensee's license is currently active.
3. The Board is the sole exclusive administrative agency in the State of Kansas authorized to regulate the practice of the healing arts, specifically the practice of physical therapy. K.S.A. 65-2901 *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 and 65-2838. Upon approval, these stipulations shall constitute final the Board's Final Order.

Consent Order
Jonathan R. Young, P.T.

5. The Kansas Physical Therapy Act is constitutional on its face and as applied in the case. Licensee agrees that in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

6. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his 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 substantive and procedural motions and defenses that could be raised if 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. Licensee 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 under K.S.A. 65-2912(a)(5), K.A.R. 100-29-12(a)(18) and K.A.R. 100-29-12(a)(21) to take action with respect to Licensee's license under the Kansas Physical Therapy Act, K.S.A. 65-2901, *et seq.*

9. The facts supporting the allegations in this Consent Order are as follows:

- a. On or about October 12, 2017, the Board received a complaint from the corporate compliance officer for Key Rehabilitation informing the Board that Licensee had been terminated for falsifying billing records for services provided at two facilities.
- b. Licensee provided physical therapy services to patients at Prairie Sunset Home ("PSH") and Wheatlands Health Care Center ("Wheatlands").

- c. On or about September 26, 2017, Licensee was scheduled to see eight patients at Wheatlands and two patients at PSH. At approximately 8:00 a.m. the Program Coordinator at Wheatlands noticed Licensee arrived to treat patients at the facility. At approximately 11:00 a.m., the Program Coordinator noticed Licensee's absence although he was still clocked in as if still providing services at the facility.
- d. When Licensee was asked of his whereabouts by the Regional Supervisor of Key Rehabilitation, he stated he was at Wheatlands. He reported he was at Wheatlands from 8:45 a.m. to 1:30 p.m., reflecting the computer logs, but the reports from the Program Coordinators at both facilities confirm this is inaccurate.
- e. Licensee admitted to returning home to chart patients he had seen that morning and intended to return that afternoon to treat patients. Further, he admitted to being at home when the Regional Supervisor at Key Rehabilitation contacted him.

10. Licensee's acts constitute unprofessional conduct as set forth in K.S.A. 65-2912(a)(5), as further defined by K.A.R. 100-29-12(a)(18), in that Licensee committed an act of unprofessional conduct by committing conduct likely to deceive, defraud, or harm the public.

11. Licensee acts constitute unprofessional conduct as set forth in K.S.A. 65-2912(a)(5), as further defined by K.A.R. 100-29-12(a)(21), in that Licensee committed an act of unprofessional conduct by obtaining any fee by fraud, deceit, or misrepresentation.

12. Pursuant to K.S.A. 65-2912, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license, and pursuant to K.S.A. 65-2912(a) the Board has the authority to impose administrative fines for violations of the Kansas Physical Therapy Act.

13. According to K.S.A. 65-2912 and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

14. All pending investigation materials in KSBHA Investigation No. 18-00302 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 33 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

15. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee 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 Licensee's license to practice physical therapy in Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee 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, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his 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 Physical Therapy Act, K.S.A. 65-2901 *et seq.*

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

17. Licensee 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 those alleged damages, actions, liabilities,

both administrative and civil, including 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 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 any entities authorized to receive 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 of settlement.

21. Licensee, by signature to this document, waives any objection to the participation of the Board members, 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.

22. Licensee acknowledges he has read this Consent Order and fully understands the contents.
23. Licensee acknowledges this Consent Order has been entered into freely and voluntarily.
24. Licensee shall obey all federal, state, and local laws and rules governing the practice of physical therapy in 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.
25. 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. 65-2912. 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.
26. This Consent Order constitutes **public disciplinary action**.
27. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.
28. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action against his License to engage in the practice of physical therapy:

PUBLIC CENSURE

29. Licensee is hereby **publicly censured** for violating the Kansas Physical Therapy Act.

EDUCATION: BILLING COURSE

30. Licensee shall attend and successfully complete the Documentation and Coding Excellence program through Coding & Compliance Initiative, Inc., or an otherwise Board-approved continuing education course covering ethical billing practices and medical record keeping, on or before **September 30, 2019**, unless otherwise approved by the Board.

31. Licensee shall provide proof of enrollment in the seminar within ten (10) days of enrollment.
32. All costs associated with this course shall be at the Licensee's own expense to include, but is not limited to, the cost of the course, the cost of travel to and from the course, and the cost of accommodations while attending the course.
33. Licensee shall provide proof of successful completion of the above continuing education course covering ethical billing practices to the Compliance Coordinator within thirty (30) days of successfully completing the course.
34. These hours shall be in addition to those continuing education hours required for renewal of licensure.
35. Proof of successful completion of the approved course shall be submitted by sending the same to:

Kansas Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level, Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

EDUCATION: EBAS COURSE/EXAM

36. Licensee shall attend and successfully complete the **Ethics and Boundaries Assessment Services (EBAS) course and examination covering Fraud** on or before **December 31, 2019**, unless an extension is requested by Licensee and approved by the Board's Compliance Coordinator.
37. Licensee shall provide proof of enrollment in the seminar within ten (10) days of enrollment.

38. All costs associated with this course shall be at the Licensee's own expense to include, but is not limited to, the cost of the course, the cost of travel to and from the course, and the cost of accommodations while attending the course.

39. Licensee shall provide proof of successful completion of the above EBAS course to the Compliance Coordinator within thirty (30) days of successfully completing the course.

40. These hours shall be in addition to those continuing education hours required for renewal of licensure.

41. Proof of successful completion of the approved course shall be submitted by sending the same to:

Kansas Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level, Suite A
Topeka, Kansas 66612
KSBHA_compliancecoordinator@ks.gov

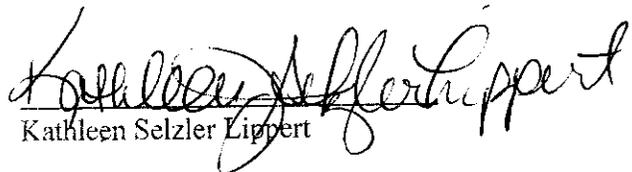
TIMEFRAME

42. This Consent Order is not self-terminating. Licensee must complete the Board approved **billing course and EBAS course** before he can request termination of the Consent Order.

IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS ORDERED on this 14 day of Feb 2019.

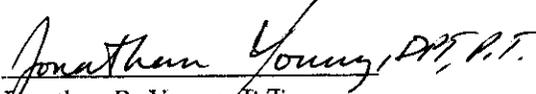
**FOR THE KANSAS STATE BOARD OF
HEALING ARTS:**


Kathleen Selzler Lippert

Consent Order
Jonathan R. Young, P.T.

Executive Director

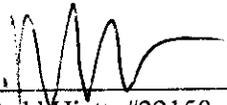
Date


Jonathan R. Young, P.T.
Licensee

1-8-19

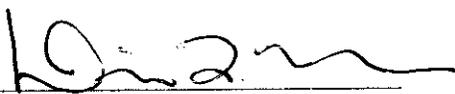
Date

PREPARED AND APPROVED BY:



J. Todd Hiatt, #22150
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Ave, Lower Level, Suite A
Topeka, Kansas 66612
Phone: (785) 296-8371
Fax: (785) 368-8210

AGREED TO BY:



Diane L. Bellquist #20969
Joseph, Hollander & Craft, LLC
1508 SW Topeka Boulevard
Topeka, Kansas 66612
Attorney for Licensee

Consent Order
Jonathan R. Young, P.T.

CERTIFICATE OF SERVICE

I, the undersigned hereby certify that a true and correct copy of the Consent Order by United States mail, postage prepared, on this 14th day of Feb, 2019, to the following:

Jonathan Young, P.T.
Licensee
[REDACTED]
Wichita, Kansas 67212

Diane L. Bellquist
Joseph, Hollander & Craft, LLC
1508 SW Topeka Boulevard
Topeka, Kansas 66612
Attorney for Licensee

And the original was filed with:

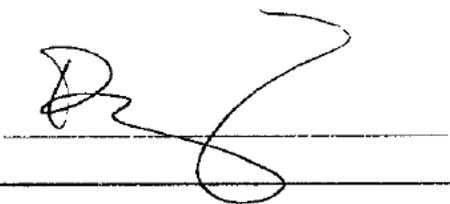
Kathleen Selzler Lippert
Executive Director
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level, Suite A
Topeka, Kansas 66612

And a copy was hand-delivered to:

J. Todd Hiatt
Associate Litigation Counsel
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
Topeka, Kansas 66612

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



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