

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

In the Matter of )  
 )  
Guillermo G. Zuniga, L.R.T. ) Docket No. 13-HA 00027  
Kansas License No. Pending )

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**CONSENT ORDER**

**COMES NOW**, the Kansas State Board of Healing Arts, (“Board”), by and through Jessica A. Bryson, Associate Litigation Counsel (“Petitioner”), and Guillermo G. Zuniga, L.R.T. (“Applicant”), *pro se*, and move the Board for approval of a Consent Order affecting Applicant’s license to practice radiologic technology in the State of Kansas. The Parties stipulate and agree to the following:

1. Applicant’s last known mailing address to the Board is: 612 E 117<sup>th</sup> Terrace, Kansas City, Missouri 64131.
2. On or about May 4, 2012, Applicant submitted to the Board an application for licensure in radiologic technology. Such application was deemed complete and filed with the Board on November 5, 2012.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of radiologic 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 his right to a hearing. Applicant 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. Applicant voluntarily and knowingly agrees to waive all possible 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. 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 his application for licensure, Applicant answered "yes" to Disciplinary Questions 12(t) and 12(u).

- a. Disciplinary Question 12(t) asks: “Have you ever been arrested? Do not include minor traffic or parking violations or citations except those related to a DUI, DWI or a similar charge. You must include all arrests including those that have been set aside, dismissed or expunged or where a stay of execution has been issued.”
  - b. Disciplinary Question 12(u) asks: “Have you ever been charged with a crime, indicted, convicted of a crime, imprisoned, or placed on probation (a crime includes both Class A misdemeanors and felonies)? You must include all convictions including those that have been set aside, dismissed or expunged or where a stay of execution has been issued.”
10. Applicant disclosed that he was charged with Driving Under the Influence of Alcohol (DUI) in May 2011 and was convicted of the DUI, after pleading guilty to it, in December 2011.
11. On June 20, 2012, a letter was sent to Applicant at his mailing address of record from the Board noting that court documentation showed that he had been convicted of a prior offense, which had not been disclosed, and requested additional information as to what the offense was and why he did not disclose the previous offense. **Confidential**
- Confidential**
12. On June 28, 2012, Board staff emailed Applicant in response to his phone call to the Board. The email shows Board staff requesting Applicant’s new mailing address, and it shows that the June 20, 2012, letter from the Board was attached to

the message. The email further notes that his application will be considered pending until the Board received the requested information from him **Confidential**

13. On June 28, 2012, Applicant responded to the Board's email by only providing the Board with his current mailing address.

14. On July 9, 2012, Board staff again emailed Applicant regarding the information that had been requested of him. Applicant was asked, "How soon may I expect your response?" **Confidential**

**Confidential**

15. No response was received to the July 9, 2012, email from Board staff.

16. On July 13, 2012, Board staff re-sent Applicant the letter that was sent to him on June 20, 2012.

17. No response was received to the July 13, 2012, letter to Applicant.

18. **Confidential**

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23. On August 10, 2012, Board staff attempted to contact Applicant via telephone. A voice message was left requesting that Applicant contact the Board.

24. Confidential

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26. On September 21, 2012, Applicant submitted a letter to the Board. The letter described his two DUI offenses.

27. 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 his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

28. A protective order is hereby entered to protect all confidential information under 42 CFR Part II, K.S.A. 65-2836(i), and K.S.A. 65-4925.
29. Applicant's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 65-7313.
30. Applicant violated K.S.A. 65-7313(a)(1) by committing deceit in the procurement of a license; specifically, Applicant failed to disclose that he had received a DWI in May 2006.
31. Applicant violated K.S.A. 65-7313(a)(8), as further defined by K.A.R. 100-73-6(c), by failing to furnish the Board, or to its representatives, any information legally requested by the Board. Specifically, Applicant was asked on multiple occasions to disclose what prior offense he had been convicted of and why he failed to disclose it. Applicant failed to completely respond to the Board's request in that he never identified whether the May 2006 DWI was the previous offense for which he was convicted or whether there was some other offense of which he was convicted.
32. Applicant violated K.S.A. 65-7313(a)(8), as further defined by K.A.R. 100-73-6(h), by committing conduct likely to deceive, defraud, or harm the public. Specifically, Applicant is currently serving two (2) years of probation for his conviction of the May 2011 DWI. Despite agreeing to not consume or possess alcohol while on probation, Applicant violated the public's trust and consumed alcohol in April 2012 while still on probation. This conduct is likely to harm the

public because Applicant is violating a Court order that has the purpose of ensuring the public's safety.

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 12-00652 regarding Applicant, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 27 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
36. Applicant further understands 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 as a radiologic technologist 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 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 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 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 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. 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.
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 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.
43. Applicant acknowledges that he 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 communication 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 provisions of this Consent Order shall become a Final Order under K.S.A. 77-526. 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. Applicant understands that a Temporary License shall be issued based upon Applicant's signing this Consent Order, paying the temporary license fee, abiding by the terms of this Consent Order, and meeting any and all procedural and technical requirements for temporary licensure. If the Board fails to ratify this Consent Order, the Temporary License shall immediately expire at the conclusion of the conference hearing. If the Board ratifies this Consent Order, Applicant's temporary licensure shall continue to remain in effect so that such license will only be in effect for a total of 180 days from the date of issue as required by

K.S.A. 65-7305(b). Once Applicant meets the criteria for permanent licensure, a permanent license will be issued if the Board ratifies this Consent Order.

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

**CENSURE**

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

**MONITORING**

53. **Confidential**

54. Confidential

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**TIMEFRAME**

60. The above monitoring 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 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, conclusions 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 7<sup>th</sup> day of November, 2012.

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

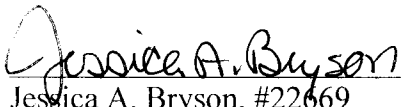
Kathleen Selzler Lippert  
Kathleen Selzler Lippert  
Executive Director

11/7/12  
Date

Guillermo G. Zuniga  
Guillermo G. Zuniga, L.R.T.  
Applicant

10/30/2012  
Date

PREPARED AND APPROVED BY:



Jessica A. Bryson, #22669

Associate Litigation Counsel

Kansas Board of Healing Arts

800 SW Jackson Ave, Lower Level Ste A

Topeka, Kansas 66612

785-296-8022

**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 7<sup>th</sup> day of November, 2012, to the following:

Guillermo G. Zuniga, L.R.T.  
Applicant  
612 E 117<sup>th</sup> Terrace  
Kansas City, MO 64131

And the original was hand-filed with:

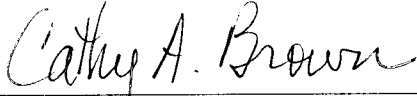
Kathleen Selzler Lippert  
Executive Director  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

And a copy was hand-delivered to:

Jessica A. Bryson  
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Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
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Melissa Massey  
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Staff Member