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AUG 17 2016

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
)
ROGER I. BUSH, L.R.T.)
)
Kansas License No. 22-00911)

Docket No. 16-HA 00004

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Joseph S. Behzadi, Associate Litigation Counsel, ("Petitioner"), and Roger I. Bush, L.R.T. ("Licensee"), *pro se*, and move the Board for approval of a Consent Order affecting Licensee's license to practice as a radiologic technologist in the State of Kansas.

The Parties stipulate and agree to the following:

1. Licensee's last known mailing address to the Board is: Confidential Benton, Kansas 67017.
2. Licensee is or has been entitled to practice as a radiologic technologist in the State of Kansas, having been issued License No. 22-00911 on approximately October 3, 2005. Licensee's license is active, having last renewed such license on approximately August 27, 2015.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of radiologic technologists. K.S.A. 65-7301 *et seq.* and K.S.A. 65-7302.
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, 65-7313, and 65-2838. Upon approval, these stipulations shall

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constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. The Kansas Radiologic Technologist 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 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. 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 pursuant to K.S.A. 65-7313(a)(8) as defined by and K.A.R. 100-73-6(h) to take action with respect to Licensee's license under the Kansas Radiologic Technologist Act, K.S.A. 65-7301, *et seq.*

9. On or about April 13, 2015, Licensee was convicted of Driving Under the Influence of Alcohol or Drugs (“DUI”), Class B, non-person Misdemeanor in Butler County Kansas.

10. On or about May 4, 2015, the Journal Entry of Misdemeanor Conviction and Sentencing was filed.

- a. The Journal Entry of Misdemeanor Conviction and Sentencing delineates the following conditions:
- b. Licensee is to obtain a drug/alcohol evaluation and follow recommendations;
- c. Attend a DUI victim panel;
- d. Submit to random blood, breath, and urinalysis testing;
- e. Not possess or consume alcohol or drugs and shall not enter taverns and/or establishments that serve liquor, malt beverages, or illegal drugs;
- f. Not be associated with alcoholics, illegal drug users, or people who make alcohol and/or illegal drugs available;
- g. Gain (maintain) employment;
- h. All of the standard probation provisions;
- i. Pay all costs, fines, fees, and restitution associated with the case, if applicable;
- j. Not drive unless legally licensed, insured, and vehicle(s) is properly registered; and
- k. Report to a Court Services officer for six (6) months while on probation.

11. Additionally, the conviction of DUI impacted Licensee's driver's license status including a suspension from April 22, 2015, through May 22, 2015, and restriction from May 23, 2015, through November 20, 2015.

12. The underlying criminal conduct arose from an incident that occurred on or about August 9, 2014:

- a. At approximately 1920 hours, Officer Tyler D. Burt was on patrol in El Dorado State Park, Butler County, Kansas;
- b. Officer Burt observed a green SUV traveling at a high rate of speed;
- c. As the vehicle was coming around a curve in the road, the vehicle ran off the road with both passenger side tires;
- d. The vehicle then swerved out of the ditch into the oncoming traffic lane;
- e. Officer Tyler attempted to stop the vehicle; however, the vehicle did not stop immediately and ran a stop sign;
- f. The vehicle traveled approximately one-quarter of a mile prior to pulling over;
- g. The driver of the vehicle was identified as Licensee;
- h. Officer Burt determined Licensee appeared to be intoxicated and Licensee admitted to drinking a "couple" of beers;
- i. Licensee submitted to standard field sobriety tests, which Licensee failed;
- j. Licensee submitted to a preliminary breath test which resulted in a B.A.C. of 0.111;
- k. Licensee submitted to the Intoxilyzer 8000 breath test which resulted in a B.A.C. of 0.109;
- l. Both results are over the Kansas legal limit of 0.08; and

m. Licensee was arrested for DUI.

Confidential

20. Licensee's acts, if proven, constitute unprofessional conduct as set forth in K.S.A. 64-7313.

21. Licensee violated K.S.A. 65-7313(a)(8) for committing acts of unprofessional conduct.

22. Licensee further violated K.S.A. 65-7313(a)(8), as further defined by K.A.R. 100-73-6(h), for committing conduct likely to harm the public.
23. Pursuant to K.S.A. 65-7313, the Board may revoke, suspend, limit, censure, reprimand or fine pursuant to K.S.A. 65-2863a, or otherwise sanction Licensee's license for violations of the Kansas Radiologic Technologist Act.
24. 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.
25. All of the materials in KSBHA Investigative Case Number 16-00055 regarding Licensee, were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel. Disciplinary Panel No. 31 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.
26. 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 as a radiologic technologist in the State of 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 Radiologic Technologist Act, K.S.A. 65-7301 *et seq.*

27. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Radiologic Technologist 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 Technologist Act.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. Licensee acknowledges that he has read this Consent Order and fully understands the contents.

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

35. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suite A

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Topeka, Kansas 66612

36. Licensee shall obey all federal, state and local laws and rules governing radiologic technologists 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.

37. 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.

38. This Consent Order constitutes public non-disciplinary action.

39. A protective order is hereby entered to protect all confidential information under 42 CFR Part II and K.S.A. 65-4925.

40. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

41. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public non-disciplinary action against his license to engage in the practice as a radiologic technologist:

MONITORING

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Confidential

47. Licensee will furnish a copy of this Consent Order to each and every state in which he holds licensure or applies for licensure and to an appropriate work site supervisor or personnel Confidential

48. Licensee shall immediately notify the Board or its designee of any citation, arrest or charge filed against him or of any conviction for any traffic or criminal offense excluding speeding and/or parking violations.

49. Licensee shall at all times keep Board staff informed of all his current practice locations, addresses and telephone numbers. Licensee shall provide the above information in writing to the Board within ten (10) days of any such change.

50. Licensee agrees to pay all of the costs incurred for the performance of his monitoring, evaluation, and treatment.

TIMEFRAME

51. The above monitoring provisions are not self-terminating. After a period of one (1) year from the date of the approval of this Consent Order, Licensee may request modification or termination of the provisions. For any period of time that Licensee is not actively practicing as a radiologic technologist in Kansas, the monitoring provisions will remain in effect but will be tolled and not counted towards reducing the one (1) 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 SO ORDERED on this 16 day of Aug, 2016.

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


Kathleen Selzler Lippert

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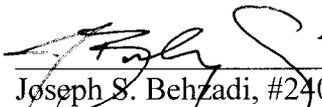
Executive Director

8/10/16
Date


Roger I. Bush, L.R.T.
Licensee

6/10/16
Date

PREPARED AND APPROVED BY:


Joseph S. Behzadi, #24065
Associate Litigation Counsel
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800 SW Jackson Ave, Lower Level Ste A
Topeka, Kansas 66612
(785) 296-8022
(785) 368-8210-fax
joseph.behzadi@ks.gov

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 17th day of August, 2016, to the following:

Roger I. Bush, L.R.T.
Confidential

Benton, Kansas 67017

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:

Joseph S. Behzadi
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas Board of Healing Arts
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