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DEC 17 2014
KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of:	)	
	)	
Virginia L. Loebach, L.R.T.	)	**Docket No. 15-HA** 00048
Kansas License No. 22-00984	)	

CONSENT ORDER FOR SURRENDER

COME NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Susan R. Gering, Associate Litigation Counsel ("Petitioner"), and Virginia L. Loebach, 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 Salina, Kansas 67401.
2. Licensee was entitled to engage in the practice as a radiologic technologist in the State of Kansas, having been issued Licensee No. 22-00984 on approximately October 6, 2005. Licensee's license to practice is currently Cancelled for Failure to Renew as of November 1, 2014.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulated the practice of the healing arts, specifically the practice of radiology 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. 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 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 in 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 to take action with respect to Licensee's license under the Kansas Radiologic Technologists Practice Act, K.S.A 65-7301 *et seq*.

9. Confidential

Confidential

10. The incident occurring on February 20, 2014, involved an eighty-seven (87) year old female patient whom Licensee performed an x-ray on, but failed to use the correct right and left markers. Licensee asked the patient what side her problem was on and subsequently marked the x-ray based on the patient's description.

11. Licensee then proceeded to place a right CR marker where patient indicated her problem was, slipped the image into the machine, accepted it, and sent it to be read.

12. The patient's thoracentesis was actually on the left side, not the right side as marked by Licensee. Licensee's error was discovered and corrected with no adverse outcome to the patient.

13. Confidential

14. On or about February 28, 2014, Licensee was terminated from employment with Salina Regional Health Center.

15. On or about July 21, 2014, the Board received a letter from the American Registry of Radiologic Technologists (ARRT) indicating that the ARRT Ethics Committee revoked Licensee's certificate after investigating and reviewing the HIPAA violation that occurred during Licensee's employment at Salina Regional Health Center.

16. Licensee's acts constitute unprofessional conduct as set forth in K.S.A. 65-7313(a)(6) in that Licensee has undertaken or engaged in any practice beyond the scope of duites permitted.

17. Licensee's acts constitute unprofessional conduct as set forth in K.S.A. 65-7313(a)(8), as further defined by K.A.R. 100-73-6(d), in that Licensee was terminated by Salina Regional Health Center for Confidential

Confidential

18. Licensee's acts constitute unprofessional conduct as set forth in K.S.A. 65-7313(a)(8), as further defined in K.A.R. 100-73-6(g), in that Licensee willfully betrayed confidential information when she violated HIPAA.

19. Licensee's acts constitute unprofessional conduct as set forth in K.S.A. 65-7313(a)(8), as further defined in K.A.R. 100-73-6(h), in that Licensee's conduct surrounding her termination from Salina Regional Health Center is likely to deceive, defraud, or harm the public.

20. Pursuant to K.S.A 65-7313, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license for violations of the Kansas Radiologic Technologists Practice Act.

21. 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.

22. All pending investigation materials in KSBHA Investigative Case Number 15-00029 regarding Licensee were fully reviewed and considered by the Board members who serve on the Board's Disciplinary Panel No. 29. Disciplinary Panel

No. 29 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

23. 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 radiologic technology 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 her 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.*

24. 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.

25. 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): alleged damages, actions, liabilities, both administrative and civil and to include 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.

26. 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.

27. The 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.

28. 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.

29. 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.

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

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

32. Upon execution of this Consent Order by affixing a Board authorized signature below, the provision of this Consent Order shall become a Final Order under K.S.A. 77-505. 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.

33. This Consent Order constitutes public disciplinary action.

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

35. In lieu of conduction a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following disciplinary action on her license to engage in the practice of radiologic technology:

SURRENDER OF LICENSE

36. Licensee hereby **SURRENDERS** her license to practice as a radiologic technologist effective upon filing of this Consent Order with the Board. Such

surrender of licensure shall be treated as a revocation for all purposes, including reporting such action.

37. Licensee agrees that if she applies for reinstatement of her license, such application will be considered by the Board in accordance with the provisions of K.A.R. 100-73-8. Further, Licensee's application will be governed by Vakas v. The Kansas State Board of Healing Arts, 248 Kan. 589 (Kan. 1991), and all applicable statutes, laws and rules and regulations regarding the qulifications for licensure and reinstatement.

38. Licensee shall be required to pay the fee for reinstatement of a revoked license with any application for reinstatement.

39. Licensee agrees that in the event she applies for reinstatement of her license, the allegations contained in this Consent Order will be considered as findings of fact and conclusions of law.

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

IT IS THEREFORE ORDERED that Licensee's license is revoked effective upon filing of this Consent Order

IT IS SO ORDERED on this 17 day of Dec, 201_.

FOR THE KANSAS STATE
BOARD OF HEALING ARTS:

Kathleen Selzler Lippert
Executive Director

12/17/14
Date

Virginia L. Loebach, L.R.T.
Licensee

12-13-14
Date

PREPARED AND APPROVED BY:

Susan R. Gering, #25582
Associate Litigation Counsel
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KSBHA

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 December, 201_ to the following:

Viriginia L. Loebach, L.R.T.
Licensee
Confidential
Salina, Kansas 67401

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 delivered to:

Susan R. Gering
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level- Suite A
Topeka, Kansas 66612

Compliance Coordinator
Kansas State Board of Healing Arts
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Katy Lenahan
Licensing Administrator
Kansas State Board of Healing Arts
800 SW Jackson, Lower Level Suite A
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Cathy A. Brown
Staff Member