FILED

AUG 25 2016

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of	)	
	)	Docket No. 17-HA-00006
Melissa D. Williams, P.T.	)	
Kansas License No. 11-03143	)	

CONSENT ORDER

COMES NOW, the Kansas State Board of Healing Arts, ("Board"), by and through Tracy Fredley, Associate Litigation Counsel ("Respondent"), and Melissa D. Williams, 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: 2302 N. Sand Plum, Wichita, Kansas 67205.
2. On or about June 6, 2016, Applicant submitted to the Board an application for change of designation/type. Such application was deemed complete and filed with the Board on August 23, 2016.
3. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate 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 the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

5. The Kansas Physical Therapy 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 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. 65-2912(a)(5), as further defined by K.A.R. 100-29-12(a)(28) to take action with respect to Licensee's license under the Kansas Physical Therapy Practice Act, K.S.A. 65-2901, *et seq.*
9. On or about February 12, 2002, Licensee applied for and received an original license to practice physical therapy in the State of Kansas.
10. On or about January 5, 2015, Licensee changed her license designation from active to exempt. Licensee then renewed her license as exempt on or about November 24,

2015. Licensee has held an exempt license from January 5, 2015 to the present date.

11. However, Licensee disclosed that she has been employed as a physical therapist at NovaCare Rehabilitation/Select Physical Therapy in Derby, Kansas, from August 26, 2013 to the present date.

12. The job description for her physical therapist position states in pertinent part that Licensee will "evaluate, treat, and direct treatment for patients for whom physical therapy is medically necessary." The job summary states that the individual "implements, with minimal supervision, high quality physical therapy services for patients, caregivers and facilities in accordance with the principles and practices of physical therapy and with NovaCare Rehabilitation/Select Physical Therapy policies and procedures."

13. Licensee receives compensation from NovaCare Rehabilitation/Select Physical Therapy for her services as a physical therapist.

14. On or about May 12, 2016, Licensee sent an email to Board staff stating that she did not know her license was exempt, and that she thought her license was "active all along!" while working for NovaCare Rehabilitation/Select Physical Therapy.

15. Licensee acknowledges that, if formal hearing proceedings were conducted and Licensee presented no exhibits, witnesses or other evidence, the Board has sufficient evidence to prove that Licensee has violated the Kansas Physical Therapy Practice Act with respect to the above allegations. Licensee further waives her right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

16. Licensee violated K.S.A. 65-2912(a)(5), as further defined by K.A.R. 100-29-12(a)(28), because she engaged in unprofessional conduct, by practicing outside of the scope of her exempt license.
17. Pursuant to K.S.A. 65-2910(f)(1) an exempt license is issued to "a person who is not regularly engaged in the practice of physical therapy in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice."
18. Further, pursuant to K.S.A. 65-2910(f)(3), an exempt licensee is not prohibited from engaging in services as a "paid employee or unpaid volunteer of: (A) a local health department as defined by K.S.A. 65-241, and amendments thereto, or (B) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto."
19. In this case, Licensee's employer is not considered a local health department or indigent health care clinic. Licensee has been engaged in the full-time practice of physical therapy and she is receiving compensation for her physical therapy services. Thus, she has been practicing outside of the scope of her exempt license since on or about January 5, 2015.
20. Pursuant to K.S.A. 65-2912, the Board may revoke, suspend, limit, privately or publicly censure or place under probationary conditions Licensee's license.
21. According to K.S.A.65-2838(b) 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.
22. Disciplinary Panel No. 31 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 as a phyisical therapist 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 Physical Therapy Practice Act, K.S.A. 65-2901 *et seq.*

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

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. 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.

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. Licensee shall obey all federal, state and local laws and rules governing the practice of a physical therapist 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.

33. 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. 65-2838. 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.

34. This Consent Order constitutes **public disciplinary action**.

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

36. Licensee understands that a Temporary License shall be issued based upon Applicant signing this Consent Order, paying the temporary license fee, and abiding by the terms of this Consent Order. Licensee further understands that the Temporary License is only effective until a conference hearing is held by the Board on ratification of this Consent Order and that if the Board fails to ratify this Consent

Order, the Temporary License shall immediately expire at the conclusion of such hearing. If the Board ratifies this Consent Order, Licensee shall be issued a permanent license under the terms of this Consent Order.

37. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following public disciplinary action against her license to engage in the practice of physical therapy:

CENSURE

38. Upon Licensee being granted an Active License to practice physical therapy in accordance with this Consent Order, Licensee is hereby **Publicly Censured** for practicing outside of the scope of her exempt license in the State of Kansas, in violation of K.S.A. 65-2912(a)(5), as further defined by K.A.R. 100-29-12(a)(28).

FINE

39. Licensee is hereby ordered to pay a CIVIL FINE pursuant to K.S.A. 65-2916(c) in the amount of $2,000.00. The total amount of $2,000.00 shall be paid, in full, to the Board on or before December 30, 2016.

40. In the event that the Board does not receive a payment due and owing, the total amount of the levied CIVIL FINE still due and owing shall become immediately due and payable in full upon written notice by the Board to Licensee stating that payment has not been received.

41. Licensee shall make all payments in the form of a cashier's check or money order payable to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson, Lower Level-Suite A,
Topeka, Kansas 66612

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 25 day of Aug, 2016.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

Kathleen Selzler Lippert
Kathleen Selzler Lippert
Executive Director

8/25/16
Date

Melissa D. Williams PT
Melissa D. Williams, P.T.
Applicant

8/22/16
Date

Received Time Aug. 22. 2016 11:37AM No. 1703

PREPARED AND APPROVED BY:

Tracy Fredley, #25467
Associate Litigation Counsel
Kansas Board of Healing Arts
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Topeka, Kansas 66612
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F: 785-368-8210
tracy.fredley@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 25th day of August, 2016, to the following:

Melissa D. Williams, P.T.
Confidential
Wichita, KS 67205

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:

Tracy Fredley
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson, Lower Level-Suite A
Topeka, Kansas 66612

General Counsel's Office
Kansas Board of Healing Arts
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Topeka, Kansas 66612

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Cathy A. Brown