



MAY 26 2023

KS State Board of Healing Arts

BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

In the Matter of)	
)	
)	KSBHA Docket No. <u>23- HA00031</u>
Francine E. Keene, R.T.)	
Kansas License No. 16-05479)	

CONSENT ORDER TO SURRENDER LICENSE
IN LIEU OF REVOCATION

COMES NOW Disciplinary Panel #37, a duly constituted committee of the Kansas State Board of Healing Arts (“Board”), by and through C. Sebastian Thomas Orosco, Associate Litigation Counsel, and Francine E. Keene. (“Licensee”), and moves the Board for approval of this Consent Order affecting Licensee’s license to respiratory therapy in Kansas. The parties agree and stipulate to the following:

1. Licensee’s last known mailing address as provided to the Board is: **CONFIDENTIAL**

CONFIDENTIAL . Licensee’s last known e-mail address known to the Board is: **CONFIDENTIAL** .

2. Licensee is and has been entitled to engage in the practice of respiratory therapy in Kansas, having been issued license No. 16-05479 on or about February 11, 2022. Licensee’s license is currently Active.

3. At all times relevant to the allegations set forth in this Consent Order Licensee has held an Active license to practice respiratory therapy in the State of Kansas.

4. This Consent Order is based on the following facts, which the parties agree to and stipulate to be true and relevant to the requested relief:

Consent Order for Surrender of License in Lieu of Revocation
Francine E. Keene, RT
License No. 16-05479

a. **CONFIDENTIAL**

b.

c.

d.

VIOLATION(S) OF THE KANSAS RESPIRATORY THERAPY ACT

5. Licensee has committed conduct in violation of the Kansas Respiratory Therapy Act and/or applicable rules and regulations adopted by the board. Specifically, Licensee has violated:

- a. K.S.A. 65-5510(a)(4), in that Licensee violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the Board. **CONFIDENTIAL**

CONFIDENTIAL

- b. K.S.A. 65-5510(a)(2) and **CONFIDENTIAL** , in that Licensee is unable to practice respiratory therapy without reasonable skill and safety because of

CONFIDENTIAL

MISCELLANEOUS PROVISIONS

6. 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 Respiratory Therapy 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.

7. 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. 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 is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice of respiratory therapy. K.S.A. 65-5501 *et seq.*

9. 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.

10. 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.

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

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

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

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

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

20. 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. 65-2838. 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.

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

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

SURRENDER OF LICENSE TO PRACTICE RESPIRATORY THERAPY

23. In lieu of conducting a formal proceeding, Licensee agrees to surrender Kansas license No. 16-05479. Such surrender will be treated as a revocation for all purposes, including reporting.

24. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the provisions of K.S.A. 65-2844. Further, Licensee's application will be governed by *Vakas v. The Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991), and all applicable statutes, law, rules and regulations regarding qualifications for licensure and reinstatement.

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

26. Approving the proposed Consent Order will resolve **CONFIDENTIAL** without the need for litigation, thereby promoting judicial efficacy and making good use of limited resources. Furthermore, approving the proposed Consent Order will further the Board's mission of protecting the public against the unprofessional, improper, unauthorized, and unqualified practice of the healing arts, including the practice of respiratory therapy, by immediately removing Licensee's authority to practice as a respiratory therapist in Kansas.

IT IS THEREFORE ORDERED that this Consent Order and agreement of the parties contained herein is hereby adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board, and Licensee's license to practice respiratory therapy is hereby SURRENDERED.) (KC 9/20/23)

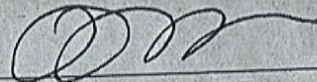
IT IS SO ORDERED on this 26th day of May, 2023.

FOR THE KANSAS STATE
BOARD OF HEALING ARTS:

Susan Hele

5/26/2023

Date



Francine E. Keene, RT
Licensee

March 31st 2023

Date

PREPARED AND RESPECTFULLY SUBMITTED BY:

/s/ C. Sebastian Orosco

C. Sebastian Thomas Orosco, #24605
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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the **CONSENT ORDER FOR SURRENDER OF LICENSE IN LIEU OF REVOCATION** by () placing the same in the U.S. mail, postage prepaid, () facsimile to the phone numbers listed below, and that the transmission was reported as complete and without error and that the facsimile machine complied with Supreme Court Rule 119(b)(3), via e-mail to the e-mail addresses listed below, or () hand delivery, on this the 20th day of May, 2023, to the following:

Francine E. Keene, RT

CONFIDENTIAL

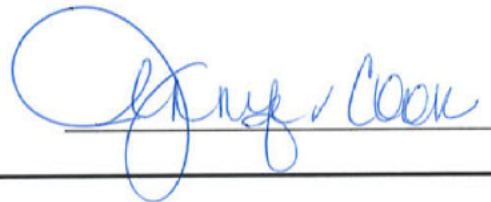
Licensee

C. Sebastian Thomas Orosco, #24605
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And the original was hand-filed with:

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