

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

KS State Board of Healing Arts

<b>In the Matter of</b>	)	
	)	<b>Docket No.: 22-HA00043</b>
<b>Kyle A. Strong, RT</b>	)	
<b>Kansas License No. 16-05478</b>	)	

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**FINAL ORDER**  
**GRANTING MOTION FOR SUMMARY JUDGEMENT**

This matter comes before the Presiding Officer of the Kansas State Board of Healing Arts (“Board”), R. Jerry DeGrado, D.C., a member of the agency head appointed to preside pursuant to K.S.A. 77-514(g), on a Motion for Summary Judgement (“Motion”) filed on November 3, 2023, on behalf of Disciplinary Panel #37 of the Board (“Petitioner” or “DP #37”) against the license of Kyle A. Strong, RT (“Licensee”) to practice respiratory therapy in Kansas. Upon consideration of the agency record, including all filings and exhibits, the Presiding Officer finds, concludes, and orders as follows:

**I. Procedural Summary**

1. On or about June 10, 2022, a Qualified Protective Order (“QPO”) was issued in this case that continues in effect for the duration of this matter. An Amended Qualified Protective Order was granted on September 19, 2022.

*Petition*

2. On or about June 9, 2022, a Petition was filed in this case alleging that Licensee had violated provisions of the Kansas Respiratory Therapy Practice act, K.S.A. 65-5501 *et seq.*

*Emergency Order - Temporary Suspension*

3. On or about June 14, 2022, an Emergency Order of Temporary Suspension and Emergency Proceedings was filed suspending the Kansas respiratory therapy (“RT”) license (No. 16-05478) of Licensee. The suspension was temporary pending further proceedings or orders of the Board.

*Proposed Default Order*

4. On or about July 14, 2022, a Proposed Default Order was issued holding Licensee in default for failing to appear at the July 12, 2022, hearing on the emergency suspension of his RT license. The Proposed Default Order continued the suspension of Licensee’s RT license pending litigation on the underlying Petition.

*Licensee’s Request to  
Vacate Proposed Default Order*

5. On or about July 14, 2022, Licensee emailed the Board stating, among other things: (1) the Board had not heard Licensee’s side of the story, including the harassment and neglect that Licensee was subject to while working as an RT at **CONFIDENTIAL**; (2) Licensee was unable to attend the July 12, 2022, hearing due to work; and (3) requesting the Board to schedule another time for Licensee to rebut the allegations against him.

*Final Order*

6. On or about August 2, 2022, the Proposed Default Order became effective as a Final Order and continued the suspension of Licensee’s RT license pending litigation on the underlying Petition. The Final Order stated:

“[T]here is no other alternative to ensure public safety than for the suspension of Licensee’s license to remain in place pending litigation on the underlying Petition for discipline. The Presiding Officer has determined

there is reasonable cause to believe grounds exist for disciplinary action under K.S.A. 65-5510, K.S.A. 65-5510(a)(4), K.S.A. 65-5510(a)(2) as further defined by K.A.R. 100-55-5<sup>CONFID</sup>, and K.S.A. 65-5510(a)(2) as further defined by K.A.R. 100-55-5<sup>CONFID</sup>. The Presiding Officer also finds the immediate continuation in practice by Licensee would constitute an imminent danger to the public health and safety because he has been determined to be unsafe to practice, and Licensee has failed to controvert any of this to date.”

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#### *Motion to Stay Litigation*

7. On or about September 19, 2022, a Journal Entry Granting Petitioner’s Motion for Protective Order and to Stay Litigation was filed. The journal entry granted: (1) an Amended Qualified Protective Order and (2) stayed litigation in this matter until May 30, 2023 - 30 days after expiration of Licensee’s Kansas RT license. The journal entry stated that Licensee had agreed, as part of the negotiations in this case, to let his RT license cancel for failure to renew.

#### *Status Conference - Stay of Litigation Continued*

8. On or about January 24, 2023, a video Status Conference was conducted by the Presiding Officer. DP #37 appeared by Matthew Gaus, Deputy Litigation Counsel, and Todd Hiatt, Litigation Counsel. Licensee appeared *pro se*. The transcript of the Status Conference documents: (1) Licensee opposing letting his license cancel for failure to renew and stating he sought a new hearing to get his license back; followed by (2) Licensee reverting to his original position of letting his license expire. Several comments by Licensee referred to his lack of understanding the legal proceedings and Counsel for DP #37 encouraged Licensee to seek private counsel to advise him regarding same. Licensee did not ask for or retain private legal counsel. At the conclusion of the Status Conference there was no change to the September 19, 2022, Journal Entry issuing a stay of litigation until May 30,

2023.

*Expiration of RT License*

9. On or about March 31, 2023, Licensee allowed his Kansas RT license to expire under suspension.

*Motion for Summary Judgement*

10. On or about November 3, 2023, DP #37 filed a Motion for Summary Judgement that was served by U.S. Mail, postage prepaid and via email to Licensee at the following address:

Kyle A. Strong, R.T.

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11. The envelope containing the Motion for Summary Judgement served by mail on Licensee at the above address was returned by U.S. Mail to the Board's Topeka office on November 22, 2023. The U.S. Mail Return to Sender label listed an alternate address for Licensee at

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. On or about November 22, 2023,

Board staff mailed the envelope and Motion to Licensee at the alternate address.

12. The agency record contains no response from Licensee regarding the Motion for Summary Judgement.
13. The Motion for Summary Judgement states there is no issue of material fact as to whether Licensee's acts and conduct constitute violations of the Kansas Respiratory Therapy Practice act, K.S.A. 65-5501 *et seq.*, specifically, violations of K.S.A. 65-5502(b)(4), K.S.A. 65-5510(a)(2), as further modified by K.A.R. 100-55-5<sup>CONFID</sup> and/or K.A.R. 100-55-5<sup>CONFID</sup>, and K.S.A. 65-5510(a)(2), as further modified by K.A.R. 100-55-5<sup>CONFID</sup>.
14. The Motion for Summary Judgement section "Statement of Uncontroverted Facts" is

incorporated by reference herein as if set forth in full in this Final Order.

## II. Statement of Law

15. The Board has jurisdiction to implement a disciplinary proceeding if the individual was a licensee at the time of the alleged misconduct, although the license from the Board may have expired at the time the disciplinary petition was filed. Jurisdiction of the Board does not depend on the status of a person's license on the date a disciplinary proceeding is filed. *Friedman v. Kansas State Board of Healing Arts*, 296 Kan. 636, 643, 294 P.3d 287 (2013).
16. "Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. The trial court is required to resolve all facts and inferences which may reasonably be drawn from the evidence in favor of the party against whom the ruling is sought. When opposing a motion for summary judgment, an adverse party must come forward with evidence to establish a dispute as to a material fact. In order to preclude summary judgment, the facts subject to the dispute must be material to the conclusive issues in the case. On appeal, we apply the same rules and when we find reasonable minds could differ as to the conclusions drawn from the evidence, summary judgment must be denied." *Foxfield Villa Associates, LLC v. Robben*, 57 Kan.App.2d 122, 126, 449 P.3d 1210 (2019) quoting *Patterson v. Cowley County, Kansas*, 307 Kan. 616, 621, 413 P.3d 432 (2018).
17. "An issue of fact is not genuine unless it has legal controlling force as to the controlling issue. A disputed question of fact which is immaterial to the issue does not



preclude summary judgment. In other words, if the disputed fact, however resolved, could not affect the judgment, it does not present a “genuine issue” for purposes of summary judgment.” *Foxfield Villa Associates, LLC v. Robben*, 57 Kan.App.2d 122, 126, 449 P.3d 1210 (2019) quoting *Northern Natural Gas Co. v. ONEOK Field Services Co.*, 296 Kan. 906, 934, 296 P.3d 1106 (2013).

18. A party opposing the motion for summary judgment must file a response within 21 days after the motion is served or a responsive pleading is due, whichever is later. K.S.A. 60-256(c)(B).
19. K.S.A. 65-5510(a)(4) states the board may deny, refuse to renew, suspend, revoke, or limit a license or the licensee may be publicly or privately censured where the licensee has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct includes violating any lawful order or rule and regulation of the board.
20. K.S.A. 65-5510(a)(2) provides that unprofessional conduct may be defined by Board regulations and as such, Board regulation K.A.R. 100-55-5<sup>CONFIDENTIAL</sup> defines unprofessional conduct as practicing respiratory therapy without reasonable skill and safety<sup>CONFIDENTIAL</sup>  
<sup>CONFIDENTIAL</sup>

### **III. Findings and Conclusions of Law**

21. The following chain of events is uncontroverted by any evidence in the agency record and shows there is no genuine issue as to any material fact listed below:

(1) On or about January 3, 2020, Licensee was convicted of Driving While Intoxicated in Missouri (Class B misdemeanor). Licensee disclosed this conviction

on his application for a Kansas RT license. CONFIDENTIAL

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(7) The agency record contains no response from Licensee regarding the Motion for Summary Judgement.

22. The undisputed facts listed above prove Licensee did not comply **CONFIDENTIAL** **CONFIDENTIAL** and violated K.S.A. 65-5510(a)(4) by disobeying a lawful order or rule and regulation of the Board (unprofessional conduct) which has or is likely to endanger the health, welfare, or safety of the public. This conclusion is unchanged by the summary judgement requirement that the Presiding Officer resolve all facts and inferences which may reasonably be drawn from the evidence in favor of the party against whom the ruling is sought. The sanctions the Board may imposed for this violation include suspension, revocation, or limitation of Licensee's RT license.
23. The undisputed facts listed above prove Licensee violated K.S.A. 65-5510(a)(2) and K.A.R. 100-55-5 <sup>CONFIDENTIAL</sup> by practicing respiratory therapy without reasonable skill and safety **CONFIDENTIAL** (unprofessional conduct) which has or is likely to endanger the health, welfare, or safety of the public. This conclusion is unchanged by the summary judgement requirement that the Presiding Officer resolve all facts and inferences which may reasonably be drawn from the evidence in favor of the party against whom the ruling is sought. The sanctions the Board may imposed for this violation include suspension, revocation, or limitation of Licensee's RT license.
24. When opposing a motion for summary judgment, an adverse party must come forward with



evidence to establish a dispute as to a material fact. To preclude summary judgment, the facts subject to the dispute must be material to the conclusive issues in the case and if reasonable minds could differ as to the conclusions drawn from the evidence, summary judgment must be denied. Licensee has introduced no evidence to dispute the above listed facts. Reasonable minds reviewing the above listed evidence could not differ on the conclusion that Licensee committed the violations stated above.

25. Facts listed in the Motion for Summary Judgment, but not listed above in numbered paragraph 21: (1) are deemed not to have legal controlling force and are not material as to the above listed violations; and (2) do not present a genuine issue that might preclude summary judgment as to the above listed violations.

#### **IV. Order**

**IT IS, THEREFORE, ORDERED** that the Petitioner's Motion for Summary Judgment is **GRANTED** as to Licensee's violations stated above. The Kansas respiratory therapy license of Kyle A. Strong, RT, is hereby **REVOKED**.

**IT IS SO ORDERED** this 10<sup>th</sup> day of July 2024.

**KANSAS STATE BOARD OF HEALING ARTS**



Warran Wiebe, #13572  
Deputy Gen. Counsel, KSBHA for  
Presiding Officer R. Jerry DeGrado, D.C.

**NOTICE OF APPEAL RIGHTS**

**PLEASE TAKE NOTICE** that this is a Final Order. A Final Order is effective upon service, and service of a Final Order is complete upon mailing. Under K.S.A. 77-529, parties may petition the Board for Reconsideration of a Final Order within fifteen (15) days following service of the final order. Additionally, a party to an agency proceeding may seek judicial review of a Final Order by filing a petition in the District Court, as authorized by K.S.A. 77-601, *et seq.* Reconsideration of a Final Order is not a prerequisite to judicial review. A petition for judicial review is not timely unless filed within 30 days following service of the Final Order. A copy of any petition for judicial review must be served upon Susan Gile, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

**CERTIFICATE OF SERVICE**

I certify that a true copy of the foregoing Final Order Granting Motion for Summary Judgment was served this 10<sup>th</sup> day of July 2024 by depositing the same in the United States Mail, first-class postage prepaid, and via email addressed to:

Kyle A. Strong, RT

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*Licensee*

A copy was hand delivered to:

Matthew Gaus, Deputy Litigation Counsel  
Todd Hiatt, Litigation Counsel  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, KS 66612  
Matthew.Gaus@ks.gov  
Todd.hiatt@ks.gov

Licensing Administrator  
Kansas State Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, KS 66612

And the original was filed with the office of the Executive Director:

  
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Staff Signature