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BEFORE THE BOARD OF HEALING ARTS
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of)
J. RICH JONES, P.T.)
)
Kansas License No. 11-03209)
_____)

KSBHA Docket No. 13-HA00046

FINAL ORDER SUSPENDING LICENSE

NOW this 12th day of April, 2013, the above captioned matter comes before the Kansas State Board of Healing Arts (Board), the Petition filed against the physical therapy license of J. Rich Jones, P.T. ("Licensee"). Licensee appears in person and through counsel, Jerry Wallentine. Reese H. Hays, Litigation Counsel appears on behalf of Petitioner Board.

Pursuant to the authority granted to the Board by the Physical Therapy Act, K.S.A. 65-2901, *et seq.*, and in accordance with the provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board hereby enters this Final Order following a conference hearing in the above-captioned matter. After reviewing the agency record, hearing the testimony and arguments of the parties, considering the admitted exhibits, and otherwise being duly advised in the premises, the Board makes the following findings, conclusions and order:

1. Licensee is presently entitled to engage in the practice of physical therapy in the State of Kansas, having been issued License No. 11-03209 on approximately September 4, 2002.
2. From approximately March through December of 2011, Licensee engaged in a consensual sexual relationship with a current physical therapy patient. The patient was discharged from treatment in July of 2011, but the relationship continued thereafter.

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4. In May of 2012, the patient filed a lawsuit against Licensee which alleged that Licensee had contacted the patient while Licensee was at work. Licensee was subsequently terminated from his employment with Olathe Health Systems in June of 2012 Confidential

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5. On or about February 13, 2013, Petitioner filed a Petition for disciplinary action against Licensee's license alleging that, pursuant to K.S.A. 65-2912(a)(5), Licensee's actions of entering into and maintaining a sexual relationship with a patient for which Licensee had an established licensee-patient relationship constituted unprofessional conduct. The Petition also alleged that, pursuant to K.S.A. 65-2912(a)(5), Licensee's sexual relationship with his established patient constituted unprofessional conduct as further defined by K.A.R. 100-29-12(a)(20), by committing acts of sexual abuse, misconduct, and/or exploitation relating to the professional practice of physical therapy. The Petition additionally alleged that, pursuant to K.S.A. 65-2912(a)(5), as further defined by K.A.R. 100-29-12(a)(18), Licensee's exploitation of his physical therapist-patient relationship constituted conduct likely to deceive, defraud or harm the public. Lastly, the Petition alleged that pursuant to K.S.A. 65-2912(a)(5), as further defined by K.A.R. 100-29-12(a)(8), Licensee had committed unprofessional conduct due to being disciplined by a medical care facility for acts or conduct which would constitute unprofessional conduct under the regulation.

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8. At the Conference hearing before the full Board, Licensee admitted the wrongfulness of his conduct in having a sexual relationship with his physical therapy patient.

9. The Board finds that Licensee does not dispute the material facts alleged in the Petition regarding Licensee's acts and conduct.

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11. The Board concludes that Licensee's acts and conduct constitute violations of the Physical Therapy Practice Act as alleged in the Petition.

12. The Board concludes that the evidence presented demonstrates the following aggravating factors:

- a. Licensee's actions violated and took advantage of the fiduciary relationship with his patient for Licensee's own gratification. As such, Licensee's violations are particularly egregious;
- b. Licensee's sexual relationship with the patient occurred over a considerable amount of time, which indicates he had ample time to reconsider his actions and did not do so;
- c. The potential for harm to the patient's well-being was significant, though no specific evidence of such was presented; and
- d. Licensee's conduct has a detrimental effect on the public's trust in the profession of physical therapy.

13. The Board concludes that the evidence presented demonstrates the following mitigating factors:

- a. Licensee has admitted the wrongfulness of his actions and appears to have started to take responsibility for them;
- b. Licensee has exhibited regret for his actions, though his remorse was expressed more toward the consequences he has experienced in his own life;

c. Licensee has cooperated with the Board in the investigation and proceedings; and

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14. In contemplating the appropriate measure of discipline for Licensee's unprofessional conduct, the Board considers its public protection purpose to be of paramount importance. Punishing Licensee for his actions is also a necessary action due to the severity of Licensee's violations.

15. The Board concludes that Licensee's violations warrant suspension of his license to practice physical therapy in the State of Kansas for at least six (6) months.

16. The Board further concludes that upon any request by Licensee for termination of the suspension, Licensee shall have the burden to demonstrate sufficient evidence of rehabilitation to a degree where he is able to practice with reasonable skill and safety and warrant the public trust as a physical therapist. Such evidence may include compliance with the

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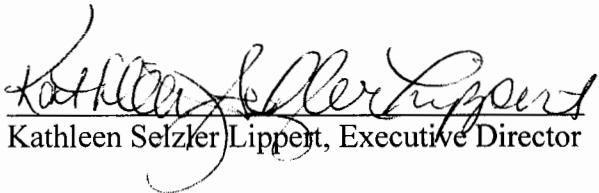
In exercising its discretion to determine whether or not to terminate the suspension, the Board may consider the factors set forth in *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589, 600, 808 P.2d 1355, 1364 (1991).

17. In the event Licensee is found to be sufficiently rehabilitated to warrant termination of the suspension, the Board may impose additional public protection sanctions for a reasonable period of time necessary to ensure Licensee's safety to practice.

IT IS THEREFORE ORDERED that the license of J. Rich Jones, P.T. to practice physical therapy in the State of Kansas is hereby **SUSPENDED** for a period of at least six (6) months, whereupon Licensee may request termination of the suspension.

IT IS FURTHER ORDERED that the Board shall maintain jurisdiction over this matter to issue future order(s) deemed necessary and appropriate in the circumstances.

IT IS SO ENTERED THIS 25th DAY OF APRIL, 2013, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.


Kathleen Selzler Lippert, Executive Director

NOTICE OF 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. Pursuant to K.S.A. 77-529, Licensee 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 Kathleen Selzler Lippert, Executive Director, Kansas State Board of Healing Arts, 800 SW Jackson, Lower Level-Suite A, Topeka, KS 66612.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this 25th day of April, 2013, a true and correct copy of the above and foregoing **FINAL ORDER SUSPENDING LICENSE** was served by depositing the same in the United States mail, postage prepaid, and addressed to the following:

J. Rich Jones, P.T.

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Olathe, Kansas 66062

Jerry Wallentine

Law Firm of Martin & Wallentine, LLC

130 North Cherry Street, Suite 201

Olathe, Kansas 66061

And a copy was hand-delivered to:

Reese H. Hays, Litigation Counsel

Kansas State Board of Healing Arts

800 SW Jackson, Lower Level – Suite A

Topeka, KS 66612

Katy Lenahan, Licensing Administrator

Kansas State Board of Healing Arts

800 SW Jackson, Lower Level – Suite A

Topeka, KS 66612

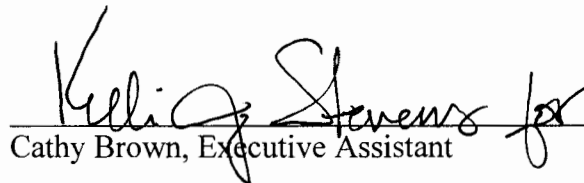
And the original was filed with:

Kathleen Selzler Lippert, Executive Director

Kansas State Board of Healing Arts

800 SW Jackson, Lower Level – Suite A

Topeka, KS 66612


Cathy Brown, Executive Assistant