

FILED  
JUN 17 2019 *ASide*

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

KS State Board of Healing Arts

In the Matter of	)	
	)	KSBHA Docket No. 19-HA <u>00100</u>
LISA C. SCHMIDT, O.T.	)	
Kansas License No. 17-02278	)	
	)	

**CONSENT ORDER**

COMES NOW, Petitioner, the Kansas State Board of Healing Arts ("Board"), by and through J. Todd Hiatt, Associate Litigation Counsel, and Lisa C. Schmidt, O.T. ("Licensee"), *pro se*, and move the Board for approval of a Consent Order affecting Licensee's license to practice occupational therapy in Kansas. The Parties stipulate and agree to the following:

**RELEVANT FACTS**

1. Licensee's last known mailing address to the Board is: [REDACTED]  
[REDACTED].
2. Licensee is entitled to practice occupational therapy in Kansas, having been issued License No. 17-02278 on approximately July 18, 2005. Licensee's license is currently active.
3. On or about August 22, 2017, Licensee took a urinalysis kit from her employer, ARC Physical Therapy Plus ("ARC"), and provided the kit to a friend ("Friend") who had a urinalysis test scheduled with ARC set for August 24, 2017, as part of a requirement for a job offer.
4. On August 24, 2017, Friend failed his urinalysis test due to his urine sample being too cold to be considered valid. Licensee then took a second urinalysis kit from ARC with the intent to provide warm urine on behalf of Friend so that he could pass the urinalysis test. While

Licensee did not follow-through with this scheme, she later admitted to taking the two urinalysis kits from ARC with the intent to assist Friend in passing the urinalysis test.

5. On August 24, 2017, following the admissions of wrongdoing, Licensee was terminated from her position at ARC.

#### **VIOLATIONS OF THE OCCUPATIONAL THERAPY PRACTICE ACT**

6. The Board has received information and investigated the same and has reason to believe there may be grounds under K.S.A. 65-5410 and K.A.R. 100-54-5(o) and (h) to take action on Licensee's license under the Occupational Therapy Practice Act, K.S.A. 65-5401, *et seq.*

7. The aforesaid acts, if proven, violated K.S.A. 65-5410 and K.A.R. 100-54-5(o) in that Licensee committed an act or acts of unprofessional and/or dishonorable conduct by engaging in conduct likely to deceive, defraud, or harm the public.

8. The aforesaid acts, if proven, violated K.S.A. 65-5410 and K.A.R. 100-54-5(h) in that Licensee was sanctioned and/or disciplined by a medical care facility for acts or conduct that constitute ground for suspension or revocation of Licensee's license under K.S.A. 65-5410 as set forth above.

9. Under K.S.A. 65-5410, the Board may revoke, suspend, limit, censure or place under probationary conditions Licensee's license.

10. According to K.S.A. 65-2838(b), K.S.A. 65-5416, 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.

**DISCIPLINE: SUSPENSION**

11. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, agrees to be and is hereby suspended from the practice of occupational therapy for 30 days starting at 8:00 a.m. on September 1, 2019 and ending at 5:00 p.m. on September 30, 2019.

**EDUCATION: ETHICS COURSE**

12. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to attend and successfully complete a continuing education course addressing ethics on or before November 13, 2019. This course must be substantially similar to the Ethics and Boundaries Assessment Services ("EBAS") section on fraud for regulated professions. This course must be approved by the Board.

13. On or before July 15, 2019, unless otherwise approved, Licensee shall inform the Board's Compliance Coordinator in writing of the proposed ethics course(s) she intends to attend and complete to fulfill this requirement.

14. Any hours earned towards continuing education shall be in addition to those continuing education hours required for renewal of licensure.

15. Once completed, Licensee may request a Journal Entry be issued showing satisfaction of this provision of her Consent Order with the Board.

16. All documentation required pursuant to this Consent Order shall be submitted by sending the same to:

Kansas Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level Suite A  
Topeka, Kansas 66612  
KSBHA\_ComplianceCoordinator@ks.gov

### MISCELLANEOUS PROVISIONS

17. The Board is the sole and exclusive administrative agency of the State of Kansas authorized to regulate the practice of occupational therapy in Kansas.

18. 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.

19. The Kansas Occupational 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. 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.

20. The terms and conditions of the Consent Order are entered into between the 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.

21. [REDACTED]  
regarding Licensee, were fully reviewed and considered by the Board members who serve on the

Board's Disciplinary Panel. The parties agree that this Consent Order fully and completely resolves all factual and legal allegations which may be raised based on this investigation.

22. 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 occupational therapy in Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether 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 Occupational Therapy Practice Act, K.S.A. 65-5401 *et seq.*

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

24. 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 arising out of KSBHA Investigations No. 18-00248, 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 investigations 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, arising out of KSBHA Investigations Nos. 18-00248, 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.

25. 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.

26. 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.

27. 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. 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.

28. 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.

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

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

31. All correspondence or communication between Licensee and the Board relating to the Consent Order shall be by certified mail addressed to:

Kansas Board of Healing Arts  
Attn: Compliance Coordinator  
800 SW Jackson, Lower Level Suite A  
Topeka, Kansas 66612  
KSBHA\_ComplianceCoordinator@ks.gov

32. Licensee shall obey all federal, state and local laws and rules governing the practice of occupational therapy in 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 for the purposes of the Occupational Therapy Practice Act and the Kansas Judicial Review Act. 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.

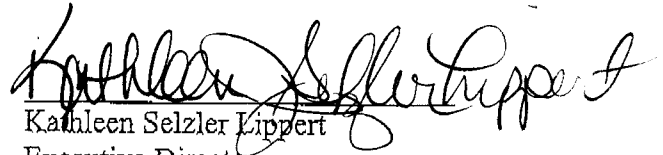
34. This Consent Order constitutes **public disciplinary action**.

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

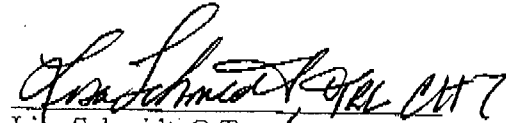
IT IS THEREFORE ORDERED that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

IT IS SO ORDERED on this 17 day of June, 2019.

FOR THE KANSAS STATE BOARD OF HEALING ARTS:

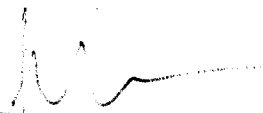
  
Kathleen Selzler Lippert  
Executive Director

6/17/19  
Date

  
Lisa Schmidt, O.T.  
Licensee

5/17/2019  
Date

PREPARED AND APPROVED BY:

  
\_\_\_\_\_  
J. Todd Hiatt, #22150  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612  
Phone: 785-296-8371  
Fax: 785-368-7103  
[todd.hiatt@ks.gov](mailto:todd.hiatt@ks.gov)  
ATTORNEY FOR BOARD



**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 17<sup>th</sup> day of June, 2019, to the following:

Lisa C. Schmidt, O.T.

[Redacted]  
[Redacted]

*Licensee*

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:

J. Todd Hiatt  
Associate Litigation Counsel  
Kansas Board of Healing Arts  
800 SW Jackson, Lower Level-Suite A  
Topeka, Kansas 66612

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

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

Susan Lile