

 **FILED**
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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)
David J. Cary, P.T.) **KSBHA Docket No. 25-HA00007**
)
Kansas License No. 11-04398)

CONSENT ORDER

COMES NOW Disciplinary Panel No. 40 (“Petitioner”), by and through Caitlin A. Kremer, Associate Litigation Counsel, and Licensee David J. Cary, P.T. (“Licensee”), *pro se*, and move the Board for approval of this Consent Order affecting Licensee’s license to practice physical therapy in Kansas. The parties stipulate and agree to the following:

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

2. Licensee is, or at all times relevant hereto, actively licensed to practice physical therapy in the State of Kansas, having originally been issued license No. 11-04398 on or around May 31, 2012. Licensee’s license status is currently “Active,” having last renewed on December 11, 2024.

3. 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:

a. On or about May 15, 2020, Licensee was given a formal written notice and probation by **CONFIDENTIAL** due to “[i]nefficiency with completion of documentation.”

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- b. On or about February 15, 2022, Licensee was given a formal written notice for missing paperwork and failure to communicate.
- c. On or about April 6, 2022, Licensee was given a formal written notice and two days suspension for “chronic non-completion of documentation.”
- d. On or about July 29, 2022, Licensee was given a formal written notice and placed on unpaid suspension for “chronic lack of diligence to complete records in a timely manner,” “failure to maintain communication with his supervisor and team members,” and placing **CONFIDENTIAL** at risk by losing an entire chart for approximately one month.
- e. On or about August 8, 2022, Licensee received a formal written notice and three months’ probation for leaving the aforementioned missing chart at his home, which resulted in the chart being accessible to, and taken from his home by, **CONFIDENTIAL** , who was not authorized to have access to the chart. The notice also cited “lack of communication with team members and supervisor, inefficient with completion of documentation and absence of communication to staff following those patients.” It was also noted Licensee’s conduct disrupted patient care.
- f. On or about September 30, 2022, Licensee received a formal written notice for “23 open notes” and continuing to not communicate as set forth in his August 8, 2022, written notice. This formal notice also stated that Licensee’s ongoing conduct continued to disrupt patient care.

- g. On or about December 16, 2022, Licensee was observed in the inpatient gym at ^{CONFIDENTIAL}, lying on a mat. Records indicate Licensee entered the gym at 9:46 a.m. and did not leave the gym until 1:08 p.m. During this time, audit records provided by a **CONFIDENTIAL** show Licensee entered the medical records of three patients wherein he documented care and treatment that was purportedly provided during his time in the gym, and then charged for the services that he did not provide. No patients are seen entering or leaving the gym at the time the services were purportedly provided, and notably, two of the fraudulently created records have overlap in service times. Licensee's conduct resulted in false and fraudulent treatment and billing records being produced and maintained by ^{CONFIDENTIAL}.
- h. On or about December 20, 2022, Licensee submitted his intent to resign by email, to be effective January 13, 2023. On or about January 22, 2023, Licensee worked his last day at ^{CONFIDENTIAL}.

i. **CONFIDENTIAL**

4. Licensee has committed an act or acts in violation of Kansas Physical Therapy Practice Act, K.S.A. 65-2901, *et seq.* and/or applicable rules and regulations adopted by the Board.

Specifically:

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- a. K.S.A. 65-2912(a)(9), for “knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement,” to wit: Licensee submitted inaccurate and fraudulent billing for three patients.
- b. K.S.A. 65-2912(a)(5), for engaging in unprofessional conduct as further defined by:
 - i. K.A.R. 100-29-12(a)(8) for “being sanctioned or disciplined by a peer review committee or medical care facility for acts or conduct that would constitute unprofessional conduct under this regulation,” to wit: ^{CONFIDENTIAL}disciplined Licensee several times by formal written notices, probations, and suspensions for poor documentation record keeping and poor communication which affected patient care;
 - ii. K.A.R. 100-29-12(a)(18) for “committing conduct likely to deceive, defraud, or harm the public,” to wit: Licensee’s conduct affected patient care and submitted incorrect and fraudulent billing for three patients;
 - iii. K.A.R. 100-29-12(a)(22) for “failing to maintain adequate written records detailing the course of treatment of the patient or client,” to wit: Licensee has a chronic history, spanning years, of issues and subsequent discipline in maintaining patient documentation; and

- iv. K.A.R. 100-29-12(a)(27) for “directly or indirectly giving or receiving any compensation for professional services not actually rendered,” to wit: Licensee fraudulently billed for services, documenting overlapping treatment times among multiple patients and during a time no patients were in his care.

5. Licensee acknowledges he has violated the Kansas Physical Therapy Practice Act with respect to the above allegations. Licensee further waives his right to dispute or otherwise contest the allegations contained in the above paragraphs in any further proceeding before this Board.

6. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his 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. All **CONFIDENTIAL** materials in **CONFIDENTIAL** regarding Licensee were fully reviewed and considered by the Board members who serve on the Board’s Disciplinary Panel No. 40. Disciplinary Panel No. 40 authorized and directed Board counsel to seek settlement of this matter with the provisions contained in this Consent Order.

8. As set forth in 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.

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9. 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 a lawful Order of the Board.

10. 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 Panel is not authorized to sign this Consent Order on behalf of the Board.

11. 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 medicine and surgery in the state of Kansas. Licensee 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.*

12. The Board is the sole and exclusive administrative agency in the State of Kansas authorized to regulate the practice physical therapy. K.S.A. 65-2901 *et seq.*

13. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees, and agents (collectively, "Releasees"), from any and all

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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. 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.

15. Notwithstanding anything in this Consent Order it is understood and agreed that the Board has the authority to: investigate alleged violations of the Kansas Healing Arts Act; investigate complaints received under the Risk Management Law, K.S.A. 65-4921 *et seq.*; or initiate formal proceedings on known or unknown facts not covered under this Consent Order.

16. It is understood and agreed the Board is not precluded from taking action on criminal convictions unknown to the Board at the time the Consent Order becomes effective.

17. Licensee acknowledges he has read this Consent Order and fully understands the contents.

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

19. Licensee shall obey all federal, state and local laws and rules governing the practice of physical therapy in Kansas which may be in place at the time of execution of this Consent Order or may become effective after the execution of this document.

20. 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.

21. 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.

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

23. 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.

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

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25. Licensee further understands and agrees that, upon adoption, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of the Consent Order.

26. All correspondence or communication between Licensee and the Board relating to this Consent Order shall be addressed to:

Kansas State Board of Healing Arts
Attn: Compliance Coordinator
800 SW Jackson St, Suite 700
Topeka, Kansas 66612
KSBHA_ComplianceCoordinator@ks.gov

27. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby voluntarily agrees to the following:

PUBLIC CENSURE

28. Licensee is hereby **PUBLICLY CENSURED**.

EDUCATION: ETHICS

29. **Within 180 days**, Licensee shall register for, attend, and successfully complete the following modules hosted by **Ethics and Boundaries Services, LLC (“EBAS”)**:

- a. Fraud;
- b. Unprofessional Conduct; and
- c. Professional Standards

or a substantially similar program(s) approved in advance by the Disciplinary Panel or its representative. Information on EBAS can be found at <https://www.ebas.org>.

30. If Licensee wishes to propose a substantially similar program, Licensee must send complete documentation, including identifying the organization/entity hosting the program, any syllabi, and any other evaluation details that will aid in the review of the proposed alternative evaluation program. Licensee shall submit such course for approval within sixty (60) calendar days of the execution of this Consent Order.

31. Licensee shall provide proof of registration in EBAS, or substantially similar program approved by the assigned Disciplinary Panel or its representative, to the Board's Compliance Coordinator **within ten (10) days of enrollment.**

32. Licensee shall provide proof of successful completion of the EBAS modules, or substantially similar program approved by the assigned Disciplinary Panel or its representative, to the Board's Compliance Coordinator **within thirty (30) days of successfully completing the course.**

33. Licensee shall sign any and all releases necessary to allow EBAS, or other approved substantially similar program, to communicate with the Board. Licensee shall provide a copy of such releases to the Board's Compliance Coordinator. Any such failure to execute such a release, failure to provide copies to the Board, or any premature revocation of such release shall constitute a violation of this Consent Order.

34. All costs associated with the **EDUCATION: ETHICS** component of this Consent Order shall be at Licensee's own expense, including, but not limited to: costs associated with enrollment, registration, testing, travel, meals, and/or accommodation.

35. Any continuing education hours accrued by Licensee as a result of participation in the **EDUCATION: ETHICS** component of this Consent Order shall not count toward the annual continuing education requirement for licensure renewal.

EDUCATION: CONTINUING EDUCATION

36. **Within 180 days**, Licensee shall attend and successfully complete **twelve (12) hours of continuing education courses (“CEs”), comprised of courses on ethical billing practices and medical record keeping**, as proposed by Licensee and pre-approved by the assigned Disciplinary Panel.

37. For course pre-approval, Licensee must send complete documentation, including identifying the organization/entity hosting the program, any syllabi, and any other evaluation details that will aid in the review of the proposed CEs. Licensee shall submit such course(s) for approval within sixty (60) calendar days of the execution of this Consent Order.

38. The CEs must satisfy the Kansas requirements for CEs in effect at the time of Licensee’s completion of said hours.

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

40. Licensee shall sign any and all releases necessary for the pre-approved CE programs to communicate with the Board. Licensee shall provide a copy of such releases to the Board’s Compliance Coordinator. Any failure to execute such a release, failure to provide copies to the Board, or any premature revocation of such release shall constitute a violation of this Consent Order.

41. Licensee shall provide proof of successful registration of the pre-approved CEs to the Board's Compliance Coordinator within **ten (10) days of enrollment**.

42. Licensee shall provide proof of successful completion of the pre-approved CEs to the Board's Compliance Coordinator **within thirty (30) days of successfully completing the course(s)**.

43. All costs associated with the **EDUCATION: CONTINUING EDUCATION** component of this Consent Order shall be at Licensee's own expense, including, but not limited to: costs associated with enrollment, registration, testing, travel, meals, and/or accommodation.

44. Any continuing education hours accrued by Licensee as a result of participation in the **EDUCATION: CONTINUING EDUCATION** component of this Consent Order shall not count toward the annual continuing education requirement for licensure renewal.

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.

This Consent Order is effective on the date the Consent Order is filed.

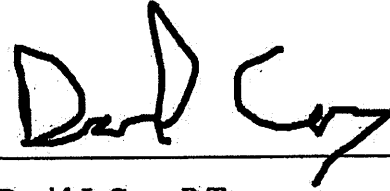
IT IS SO ORDERED.

**FOR THE KANSAS STATE
BOARD OF HEALING ARTS:**

s/Bradley Taylor,
Bradley Taylor, # 28946
KSBHA Deputy General Counsel
For Monica Murnan

Monica Murnan
Presiding Officer

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David J. Cary, P.T.
License No. 11-04398



David J. Cary, P.T.
Licensee

3/19/26
Date

PREPARED BY:

/s/ Caitlin A. Kremer

Caitlin A. Kremer, J.D. KS#30407
Associate Litigation Counsel
Kansas Board of Healing Arts
800 SW Jackson Street, Suite 700
Topeka, Kansas 66612
caitlin.kremer@ks.gov
Ph: (785) 296-2007
Fx: (785) 368-7103
Attorney for Petitioner

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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the **CONSENT ORDER** 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), or () hand delivery, on this the 1st day of April, 2026, to the following:

David J. Cary, P.T.
CONFIDENTIAL

Licensee

With a copy hand-delivered to:

Caitlin A. Kremer, J.D. KS#30407
Associate Litigation Counsel
Kansas State Board of Healing Arts
800 SW Jackson St, Suite 700
Topeka, Kansas 66612

And the original was hand-filed with:

Office of the Executive Director
Kansas Board of Healing Arts
800 SW Jackson St, Suite 700
Topeka, Kansas 66612

L. Hunter-Reach
Staff Member

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