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Whitney L. Casement, No. 25466
Kansas Office of the Attorney General
120 SW 10th Avenue, Second Floor
Topeka, KS 66612-1597

BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In the Matter of)
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MARCIA BOAL,
LSCSW #0771

Case No. 13-CS-0017
OAH No. 13-BS-0003

Pursuant to KSA Ch. 77 - KAPA

CONSENT AGREEMENT AND ORDER

NOW, on this 23 day of October, 2013, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board [Board], by and through Assistant Attorneys General Whitney L. Casement and Marty M. Snyder, by agreement of Marcia Boal ("Licensee"), by and through counsel Richard C. Wallace, and the Board for the purpose of resolving the above-captioned case.

Licensee hereby acknowledges the following:

1. Marcia Boal is currently, and was at all times relevant to this Consent Agreement and Order, a Licensed Specialist Clinical Social Worker within the meaning of the Kansas Social Workers Licensure Act, K.S.A. 65-6301, *et seq.*, and amendments thereto.
2. On or about September 4, 2012, the Board received a report of alleged violation from "J.S.", a former client of the Licensee, that alleged Licensee had misrepresented facts about "J.S." in a child custody hearing.

3. On or about September 6, 2012, Licensee was informed about the report of alleged violation and was requested to respond in writing by October 8, 2012. Licensee timely responded with two letters.

4. As a result of the report, correspondence, and subsequent investigation, the Board finds probable cause that the following facts have been established by a preponderance of clear and convincing evidence:

- a. Licensee is a Licensed Specialist Clinical Social Worker currently licensed in Kansas.
- b. In April 2012, Licensee testified at a child custody hearing in Wyandotte County District Court involving two of her clients, former marriage partners "J.S." and "F.S." (hereinafter the "Child Custody Hearing").
- c. Licensee was requested to testify by the attorney representing the wife / respondent ("F.S.") in the divorce proceeding.
- d. During Licensee's sworn testimony at the Child Custody Hearing, she misrepresented that, in 2011, "J.S." was semi-suicidal in therapy sessions with Licensee. Although Licensee clarified that "F.S." called her in 2008 and reported that "J.S." was threatening suicide, Licensee also stated that J.S. was semi-suicidal in therapy sessions with her in 2011—less than a year before the hearing.
- e. "J.S." and "F.S." were not Licensee's clients in 2008.
- f. "J.S." never stated or acknowledged that he was currently suicidal in therapy sessions with Licensee in 2011.
- g. Licensee testified at the Child Custody Hearing to statements allegedly made by "J.S." without having "J.S.'s" file with her. Licensee was not prepared to testify about "J.S.'s" therapy sessions, but still attempted to testify from memory at the

Child Custody Hearing despite being under no subpoena to do so. Licensee stated in her testimony that she had no release to reveal anything about "J.S." "J.S.'s" attorney waived his client's right to confidentiality and asked Licensee to testify regarding him.

- h. Licensee testified at the Child Custody Hearing that it was her opinion that it was in the best interests of "J.S.'s" and "F.S.'s" children for "F.S." to be the primary custodian of the children.
- i. Licensee's testifying without having "J.S.'s" file with her and her opinion regarding primary custody constitute incompetent practice of social work.

5. The Complaint Review Committee of the Board finds that Licensee has violated the following statute and regulations:

A. K.S.A. 65-6311. Grounds for suspension, limitation, condition, revocation or refusal to issue or renew license; procedure.

(a) The board may suspend, limit, revoke, condition or refuse to issue or renew a license of any social worker upon proof that the social worker:

(4) has been found guilty of unprofessional conduct as defined by rules established by the board.

B. K.A.R. 102-2-7. Unprofessional conduct.

Any of the following acts by a licensee or an applicant for a social work license shall constitute unprofessional conduct:

(w) engaging in professional activities ... involving ... misrepresentation;

C. K.A.R. 102-2-7. Unprofessional conduct.

Any of the following acts by a licensee or an applicant for a social work license shall constitute unprofessional conduct:

(xx) practicing social work in an incompetent manner.

However, Licensee and the Board mutually desire to enter a Consent Agreement and

Order in lieu of adjudicative proceedings to resolve the reported violations.

WHEREFORE, Licensee waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 13-CS-0017 and OAH No. 13-BS-0003.

WHEREFORE, the Board shall withdraw its Petition in Discipline in OAH No. 13-BS-0003 and Licensee shall withdraw her request for hearing in relation to Case No. 13-CS-0017 and OAH No. 13-BS-0003.

WHEREFORE, Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act in relation to Case No. 13-CS-0017 and OAH No. 13-BS-0003.

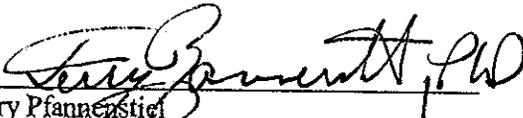
WHEREFORE, Licensee consents to the submission of this Consent Agreement and Order to the Board's Complaint Review Committee and understands that, upon approval by the Complaint Review Committee, this Consent Agreement and Order will become a Final Order of the Board. The Board has authorized the Complaint Review Committee to determine approval of this Consent Agreement and Order.

WHEREFORE, the Board agrees that, so long as Licensee complies with the above conditions, the Board will not initiate further disciplinary action against Licensee in relation to violations of K.S.A. 65-6311 and K.A.R. 102-2-7 as a result of this proceeding.

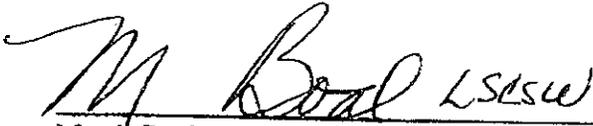
WHEREFORE, this Consent Agreement and Order acts as a Formal Censure pursuant to K.S.A. 74-7508(f). This sanction does not affect Licensee's ability to practice specialist clinical social work in Kansas.

WHEREFORE, the foregoing provisions are consented to, are hereby made the Final Order of the Kansas Behavioral Sciences Regulatory Board, and become effective on the date indicated in the Certificate of Service below.

IT IS SO ORDERED.


 Terry Pfannenstiel
 Chair, Complaint Review Committee

APPROVED AND CONSENTED TO:


 Marcia Boal
 Licensee

10/12/13
 Date


 Richard C. Wallace
 Attorney for Licensee

10/14/13
 Date

CERTIFICATE OF SERVICE

This is to certify that on this 23 day of October, 2013, a true and correct copy of the above Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Richard Wallace
Evans & Mullinix, P.A.
7225 Renner Road, Suite 200
Shawnee, KS 66217
Attorney for Petitioner

Marcia Boal


and a copy delivered via interoffice mail to:

Whitney L. Casement
Marty M. Snyder
Assistant Attorneys General
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612
Disciplinary Counsel for the Board

Cindy DeVore
For the Behavioral Sciences Regulatory Board