

KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

Eisenhower State Office Building
700 SW Harrison, Suite 420
Topeka, Kansas 66603-3240

In the Matter of)

Thomas C. Wolfe)
LPC #3194)
LMAC #214)

Case No. 23-PC 0055 and
Case No. 23 PC 0070

Pursuant to K.S.A. 77 537

SUMMARY PROCEEDING ORDER OF SUSPENSION

Now, on this 27th day of April, 2023, the above captioned matter comes before the Complaint Review Committee of the Kansas Behavioral Sciences Regulatory Board ("Board").

FINDINGS OF FACT

The Board finds that the following facts have been established by a preponderance of the evidence:

1. Thomas C. Wolfe ("Licensee") was at all times relevant, a Licensed Professional Counselor ("LPC") within the meaning of the Kansas Professional Counselors Licensure Act, K.S.A. 65-5801, *et seq.*, and amendments thereto. The Board issued Licensee original LPC #3194 on approximately December 11, 2017. This license will expire on October 31, 2024.

2. Licensee was at all times relevant, a Licensed Master's Addiction Counselor ("LMAC") within the meaning of the Kansas Addiction Counselor Licensure Act, K.S.A. 65-6607, *et seq.*, and amendments thereto. The Board issued Licensee original LMAC #214 on approximately October 27, 2016. This license will expire on October 31, 2024.

3. On or about October 4, 2022, the Board received a report of alleged violation concerning Licensee's conduct, alleging Licensee may have violated certain statutes and regulations governing unprofessional conduct (23 PC 0055). On or about October 21, 2022, the Board received a report of alleged violation concerning Licensee's conduct, alleging Licensee may have violated certain statutes and regulations governing unprofessional conduct (23 PC-0070).

4. The Board conducted an investigation concerning both reports of alleged violation and Licensee's alleged violations of statutes and regulations. During the investigation, Licensee

was informed of the complaints and was given the opportunity to respond to the allegations. Licensee provided a response to the Board.

5. In a statement by the Director of Human Resources for Licensee's former employer, to Board Investigators on September 29, 2022, Licensee crossed professional boundaries with a Client and was terminated from his position due to familiarity with a client and not upholding the ethical standards of a counselor. Licensee did not inform the Board of his termination or the reasons for his termination.

6. On November 21, 2022, Licensee sent a response to Board Investigators, stating that he engaged in an emotional dual relationship with the client *"therefore committing a violation of K.S.A. 65-5809(a)(9) and K.A.R. 102-3-12a(b)(46)."* Further, Licensee stated *"in text messages with (client), some of (Licensee's) conversations and innuendos were inappropriate, unprofessional, and inexcusable."* Licensee states that he failed to seek care when he experienced personal problems or mental health difficulties while treating Client.

7. BSRB Investigators were provided documentation of text messages between Licensee and a client (Client). Portions of these text exchanges are included below:

- On May 18, 2022, Licensee sent a text message to Client *"You know you gave me permission to stay on top of you with these matters – right? Forgive my phrase "on top of you!""*
- On May 21, 2022, Licensee sent a text message to Client *"Just like you, I got me a girl too. She truly is a fine p****cat."* Also on May 21, 2022, Licensee texted Client *"Sometime I'd like to sit down and have a get to know you chit chat with your beloved pet. I bet he and I would get along well if we got the chance. I mean he's a dog and I'm a wolf and we both lost our hair. Ask him if he'd ever like to meet me!"*
- On May 27, 2022, Licensee texted Client *"I'm sorry if there was confusion when I said while looking at your advertisement I might have been a man who called you. That was a compliment and not a sexist comment."* Later, on that same date, Licensee texted Client *"For whatever reason a few people think that I may not be a competent or trustworthy counselor for your well-being. All I can do is tell them that they are mistaken, and if necessary you will have to convince them they are wrong."*
- On June 4, 2022, Client texted Licensee *"Hey if ur interested in seeing me I'm available anytime for whatever you want to do."* Licensee texted Client with a smiley face and another emoji, then texted Client *"I got some healthy "luv" for you girl, which will only get better as time passes on."* Also on June 4, 2022, Licensee texted Client to offer to connect her to individuals needing housekeeping services.
- On June 8, 2022, Licensee texted Client to ask if she was out of groceries, Client texted back that she was out of groceries. Licensee texted back *"If I bought some groceries could you meet me at Max's gas station grocery store on Gage Street around 6:00."*
- On June 10, 2022, Licensee texted Client *"I was looking for some buddy to come in and do some house cleaning for me while I was on vacation. I thought about seeing if you wanted the extra work..."* Licensee further texted Client *"We get you*

In the Matter of Thomas C. Wolfe, Case No. 23-PC 0055 and Case No. 23-PC 0070

- off paper it'll be easier for me to hire you as my housekeeper. Make sure that my neighbors be talking."* Further, Licensee asked Client if she would like him to purchase groceries for her.
- Later on June 10, 2022, Licensee texted Client *"The utmost respectful thing I can do for you is to always remember that you are my client, and then when you're done taking care of business, the best thing I can do for you is to hope that we can be friends with benefits."* In a following text message, Licensee states that Client was blessed with good looks.
 - In additional text messages from Licensee to Client June 10, 2022, Licensee stated *"You do understand it's a matter of my heart and soul that wants to take care of you as a professional counselor, and then when we get past that we can nurture sincere friendship which is already taking place."* Licensee texted Client *"Even though it is my job to help you with your recovery, you help me with my own recovery both here and now and yesterday and tomorrow. Recovery can turn counterproductive if you don't have some fun and a fulfilling life does that make sense?"*
 - Also on June 10, 2022, Licensee texted Client *"just taking a leak is heavy lifting for me."*

APPLICABLE LAW

8. Pursuant to K.S.A. 77-537(a) of the Kansas Administrative Procedure Act ("KAPA"), a state agency may use summary proceedings, subject to a party's request for a hearing on the order, if:

- (1) The use of those proceedings in the circumstances does not violate any provision of law;
- (2) the protection of the public interest does not require the state agency to give notice and an opportunity to participate to the persons other than the parties;
- (3) based upon an investigation of the facts by the state agency, beyond receipt of the allegations, the state agency believes in good faith that the allegations will be supported to the applicable standard of proof, provided however that an alleged failure to meet the standard set forth in this subsection shall not be subject to immediate judicial review and shall not invalidate any later agency action that has been supported to the applicable standard of proof; and
- (4) the order does not take effect until after the time for requesting a hearing has expired.

9. K.S.A. 65-5802(g): "Licensed Professional Counselor" means a person who is licensed under this act and who engages in the practice of professional counseling except that on and after January 1, 2002, such person shall engage in the practice of professional counseling only under the direction of a licensed clinical professional counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of mental disorders.

10. K.S.A. 65-5809(a)(9): The Board may refuse to issue, renew, or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the Board.

11. K.A.R. 102-3-12a(b): Any of the following acts... shall constitute unprofessional conduct:

(2) except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that any of the following circumstances apply to any person regulated by the board or applying for a license or registration, including oneself:

(C) has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance.

(10) offering to perform or performing professional counseling, assessments, consultations, or referrals clearly inconsistent or incommensurate with one's training, education or experience or with accepted professional standards.

(25) making sexual advances toward or engaging in physical intimacies or sexual activities with one's client, student, directee, or supervisee.

(27) exercising undue influence over any client, student, directee, or supervisee, including promoting sales of services or goods, in a manner that will exploit the client, student, directee, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party.

(42) failing to terminate the professional counseling or clinical professional counseling services when it is apparent that the relationship no longer serves the client's needs or best interests.

(46) engaging in a dual relationship with a client, student, or supervisee.

12. K.S.A. 65-6608(d): "Licensed Master's Addiction Counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance abuse disorders or mental disorders.

13. K.S.A. 65-6615(a)(9): The Board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee has been

found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board.

14. K.A.R. 102-7-11: Each of the following acts shall be considered unprofessional conduct...:

(a) Except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that the licensee or applicant or any other person regulated by the board or applying for licensure or registration has met any of these conditions:

(3) has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance.

(g) failing to recognize, seek intervention, and otherwise appropriately respond when one's own personal problems, psychosocial distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests.

(i) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards.

(v) engaging in a harmful dual relationship or exercising undue influence.

(w) making sexual advances toward or engaging in physical intimacies or sexual activities with either of the following:

(1) Has been a client within the past 24 months.

(II) failing to terminate addiction counseling services if it is apparent that the relationship no longer serves the client's needs or best interests.

CONCLUSIONS OF LAW

15. The Board finds that the above facts have been established and further finds Licensee was in violation of K.S.A 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(2)(C), and K.S.A. 65-6615(a)(9), as defined in K.A.R. 102-7-11(a)(3), in that Licensee failed to notify the Board in a reasonable period of time that he was terminated from employment for some form of malfeasance.

16. Additionally, the Board finds that the above facts have been established and further finds that Licensee was in violation of K.S.A 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(10), and K.S.A. 65-6615(a)(27), as defined in K.A.R. 102-7-11(j), in that he was

performing professional counseling and addiction counseling services clearly inconsistent or incommensurate with accepted professional standards.

17. Further, the Board finds that the above facts have been established and further finds that Licensee was in violation of K.S.A 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(25), and K.S.A. 65-6615(a)(9), as defined in K.A.R. 102-7-11(w), in that Licensee made sexual advances toward a Client when he sent text messages to a Client stating that he hoped he could be "*friends with benefits*" with her, texted compliments concerning her physical appearance, and texted other innuendos of a sexual nature to the Client.

18. The Board also finds that the above facts have been established and further finds that Licensee was in violation of K.S.A 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(27), and K.S.A. 65-6615(a)(9), as defined in K.A.R. 102-7-11(v), in that Licensee exercised undue influence over a client in a manner that exploited a client for the personal gratification or advantage of himself. In one text message, Licensee stated certain individuals questioned his treatment of Client, then stated "*if necessary you will have to convince them they are wrong.*" Also, Licensee solicited Client to come to his house to provide cleaning services and repeatedly requested Client to meet up outside of counseling sessions.

19. The Board finds that the above facts have been established and further finds that Licensee was in violation of K.S.A 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(46), and K.S.A. 65-6615(a)(9), as defined in K.A.R. 102-7-11(v), in that Licensee engaged in a harmful dual relationship with client.

20. The Board finds the above facts have been established and further finds that Licensee was in violation of K.S.A. 65-6615(a)(9), as defined in K.A.R. 102-7-11(g), when Licensee failed to recognize, seek intervention, and otherwise appropriately respond when one's own personal problems, psychosocial distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests. Licensee states in a letter to the Board that during the time period he was working with Client, he felt depressed, he lacked self-awareness, he lacked insight, and that he needed to seek help for his personal mental health.

21. The Board finds that the above facts have been established and further finds that Licensee was in violation of K.S.A 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(42), and K.S.A. 65-6615(a)(9), as defined in K.A.R. 102-7-11(II), when he failed to terminate the professional counseling services when it was apparent that the relationship no longer served the client's needs or best interests.

SANCTION

WHEREFORE, based on the above Findings of Fact and Conclusions of Law and pursuant to the authority granted by K.S.A. 65-5809(a), K.S.A. 65-6615(a), and K.S.A. 77-537, the Complaint Review Committee of behalf of the Board finds that the Licensed Professional Counselor license and the Licensed Master's Addiction Counselor license of Licensee should

be and are hereby SUSPENDED for a period not less than one year from the effective date of this Summary Proceeding Order, as set forth in the Notice of Relief and the Certificate of Service below, and until such order of the Board. After a period of suspension not less than one year, Licensee may petition the Board for reinstatement. If Licensee wishes to reinstate either or both licenses, Licensee must produce the results of a recent psychological evaluation. Based on the review of this report and other factors, the Board may consider reinstatement with possible license conditions.

IT IS SO ORDERED ON THIS 27th DAY OF April, 2023.



Chairperson, Complaint Review Committee
On behalf of the Behavioral Sciences
Regulatory Board

NOTICE OF RELIEF FROM SUMMARY PROCEEDING ORDER

Pursuant to K.S.A. 77-537 and 77-542, this Summary Proceeding Order is subject to your request for a hearing. If you desire a hearing, you must direct a written request for hearing to:

David Fye, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison St., Suite 420
Topeka, KS 66603

This written request must be filed within fifteen (15) calendar days of the date listed in the Certificate of Service below. Pursuant to K.S.A. 77-503(c), the 15-day period begins the day after the date shown in Certificate of Service below and includes weekends and legal holidays. If the 15th day falls on a Saturday, Sunday, or legal holiday, then the 15-day period runs until 5:00 p.m. on the next day that is not a Saturday, Sunday, or legal holiday. A request is considered "filed" on the date it is received at the Board's office. If a hearing is not requested in the time and manner stated, this Summary Order becomes a final order subject to judicial review. A petition for judicial review should be directed to the above recipient.

The Board's designee who may receive service of a request for a hearing on behalf of the Board is:

David Fye, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison, Suite 420
Topeka, Kansas 66603

CERTIFICATE OF SERVICE

This is to certify that on this 27th day of April 2023, a true and correct copy of the above and foregoing Summary Proceeding Order of Suspension was placed in the U.S. mail, first-class postage prepaid, addressed to:

Sanger Law Office
Attn: Danielle Sanger
5040 Bob Billings Parkway, Suite C-1
Lawrence, KS 66049
Counsel for Mr. Wolfe

Thomas C. Wolfe
[REDACTED]
[REDACTED]

And by e-mail to: Jeremy.Dorsey@ks.gov

Jeremy Dorsey
Legal Counsel for the Kansas Department for Aging and Disability Services
Disciplinary Counsel for the Board of the Behavioral Sciences Regulatory Board
503 S. Kansas Ave.
Topeka, KS 66603
785-296-0378

Cindy D'Amore

Staff,
Kansas Behavioral Sciences Regulatory Board