

Marty M. Snyder, Supreme Court #11317  
Kansas Attorney General Steve Six's Office  
120 SW 10<sup>th</sup> St, Second Floor  
Topeka, KS 66612-1597  
(785) 296-2215

**BEFORE THE KANSAS BEHAVIORAL SCIENCES  
REGULATORY BOARD**

In the Matter of )  
 )  
Tammie Milner, LMLP #1211 )  
Respondent )  
\_\_\_\_\_ )

**Case No. 09-MP-67**

**ORDER TO CEASE AND DESIST**

NOW on this 16<sup>th</sup> day of June, 2009, the above-captioned complaint comes before the Complaint Review Committee [Committee] of the Kansas Behavioral Sciences Regulatory Board [Board].

**Findings of Fact**

The Committee finds that the following facts have been established by clear and convincing evidence:

1. At all times relevant to this Order, Tammie Milner has not possessed any license issued by the Kansas Behavioral Sciences Regulatory Board that would permit the independent clinical practice of providing mental health services.
2. However, Respondent has advertised herself as a clinical provider of psychotherapy and other mental health services in independent private practice in Haysville, Kansas, and has treated clients at the independent clinical level.

3. On January 12, 2009, BSRB investigator Bruno Langer wrote to Respondent regarding possible violations of her license restrictions and requested a written response by February 16. On January 26, 2009, he received the report of alleged violation back signed and dated by Respondent but no written response to the violations that were alleged. He wrote again and requested a written response to the alleged violations by February 27, 2009. Respondent provided a letter of response dated February 20, 2009. [Exhibit A]

4. On April 30, 2009, Mr. Langer and the credentialing assistant reached Respondent by telephone and spent nearly an hour trying to explain to Respondent that she was furnishing services beyond those legally allowed by her level of licensure. Respondent was again given an extension to May 30, 2009, to provide a written response to the allegations, however, no further response was ever received.

5. Respondent has never been licensed to practice psychology at the independent clinical level in Kansas. Despite the statements in her letter of February 20, 2009, Respondent continues to advertise that she furnishes independent clinical mental health services including diagnosis, outpatient therapy and treatment for depression and anger management in Kansas. [Exhibit B] Respondent has produced no evidence that she has ever been licensed to provide any mental health or psychological services at an independent clinical level in any jurisdiction.

#### **Conclusions of Law**

1. The Kansas Administrative Procedure Act, K.S.A. 77-537, provides that a state agency may use summary proceedings, subject to a party's request for a hearing on the Order, if the use of the proceedings in the circumstances does not violate any provision of

law and the protection of the public interest does not require the state agency to give notice and an opportunity to participate to persons other than the parties.

2. KSA 74-7508 (b)(3) empowers the Board to issue a Cease and Desist Order against any individual who has practiced without a valid license for any profession regulated by the Board in addition to any other penalties imposed by law.

3. Public health and safety are at risk when unsupervised and unlicensed practitioners provide independent clinical mental health services to Kansas consumers in violation of state professional regulatory statutes and regulations.

4. Unlicensed practice of psychology is a misdemeanor crime in the state of Kansas pursuant to the Licensure of Psychologists Act, KSA 74-5341, and the Registration of Masters Level Psychologists Act, KSA 74-5361, *et seq.*

5. KSA 74-7507 empowers the Board to recommend criminal prosecution to the appropriate county or district attorney for violations of the licensure acts.

**Sanction**

**Respondent shall immediately upon receipt of this Order cease and desist all practice and provision of unlicensed independent clinical psychology, psychotherapy or mental health services in the State of Kansas. Violations of this Order shall be referred to the Shawnee County or Sedgwick County District Attorney or for criminal prosecution and/or shall be subject to injunctive relief from the District Court, pursuant to KSA 74-5342, KSA 74-5343 and KSA 77-601, *et seq.***

**This sanction shall remain in effect until further Order of the Board.**

**IT IS SO ORDERED.**

Dated this 16<sup>th</sup> day of June, 2009.

Phyllis Gilmore  
Phyllis Gilmore, Executive Director  
Kansas Behavioral Sciences  
Regulatory Board

**NOTICE OF RELIEF FROM THIS CEASE AND DESIST  
SUMMARY PROCEEDING ORDER**

Pursuant to K.S.A. 77-537 and K.S.A. 77-542, this Cease and Desist 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:

Phyllis Gilmore, Executive Director  
Kansas Behavioral Sciences Regulatory Board  
712 South Kansas Avenue  
Topeka, KS 66603

This written request must be filed within fifteen (15) days of service of this Notice. If a hearing is not requested in the time and manner stated, this Cease and Desist Order becomes final and effective upon the expiration of the time for requesting a hearing and will be a Final Order of the Board.

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the above and foregoing Cease and Desist Order was placed this 16<sup>th</sup> day of June, 2009, in the U.S. mail, first-class postage prepaid, addressed to:

Tammie Milner, LMLP  


Phyllis Gilmore  
For the Board

Marty M. Snyder, S.Ct. #11317  
Assistant Attorney General  
120 SW 10<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Topeka, KS 66612  
Telephone 785-296-2215

SEP 08 09 08 08

**BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD  
712 South Kansas Avenue  
Topeka, KS 66603-3817**

In the Matter of )

TAMMIE D. MILNER, )  
LMLP #1211 )  
\_\_\_\_\_ )

Case No. 09-MP-0067

**INITIAL ORDER OF SUSPENSION**

NOW, on this 19th day of August, 2009, comes Respondent/Licensee Tammie D. Milner's request for hearing by the Complaint Review Committee ["Committee"] of the Kansas Behavioral Sciences Regulatory Board on the Summary Proceeding Order of Suspension in the above matter. This hearing is held pursuant to the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.* Petitioner appears through counsel, Assistant Attorney General Marty M. Snyder. Respondent/Licensee appears in person and *pro se*, after consulting with counsel.

Respondent/Licensee is sworn and testifies on her own behalf. The witness is cross-examined by counsel for the Committee and by members of the Committee. The Committee reviews the Cease and Desist Order and the Summary Proceeding Order of Suspension and their exhibits. The parties rest, and the evidentiary record is closed. The Committee proceeds to deliberate *in camera* and then announce its decision in open meeting as follows.

### **Findings of Fact**

The following facts are established by clear, convincing and undisputed evidence:

1. Tammie D. Milner [Respondent/Licensee] is a Licensed Masters Level Psychologist, License #1211, issued by the Kansas Behavioral Sciences Regulatory Board [Board].

2. At all times relevant, Respondent/Licensee has been licensed as a Licensed Masters Level Psychologist within the meaning of KSA 74-5361, *et seq.*, and amendments thereto, but has not possessed any license issued by the Board that would permit the independent clinical practice of providing mental health services.

3. On or about January 12, 2009, Respondent/Licensee was notified by the Board of possible violations of her license limitations and asked to provide a written response by February 16. On January 26, 2009, Respondent/Licensee returned the report of alleged violation signed and dated by Respondent but provided no written response to the violations that were alleged. The Board again requested a written response to the alleged violations by February 27, 2009. Respondent provided a letter of response dated February 20, 2009.

4. The investigation to date has revealed the following facts:

a. Respondent/Licensee has never been licensed to practice psychology at the independent clinical level in Kansas. Despite the statements in her letter of February 20, 2009, and her email of July 7, 2009, Respondent/Licensee continues to advertise through radio, directory, and the internet that she furnishes independent clinical mental health services including diagnosis, outpatient therapy and treatment for depression and anger

management in Kansas. In fact, her clinic's website's name - [www.haysvillementalhealth.com](http://www.haysvillementalhealth.com) - advertises false information and must be changed. Respondent/Licensee has produced no evidence that she has ever been licensed to provide any mental health or psychological services at an independent clinical level in any jurisdiction.

b. The Committee issued a Cease and Desist Order on June 16, 2009, directing Respondent/Licensee to cease all unlicensed practice. However, the Committee subsequently received information that Respondent/Licensee and Haysville Mental Health and Substance Abuse continued to advertise and provide unlicensed services.

c. The Committee issued a Summary Proceeding Order on July 23, 2009, suspending Respondent/Licensee's license until further Order of the Board and ordering Respondent/Licensee to cease and desist all advertising, including, but not limited to, radio, local directories, letterhead, office signage, and internet websites, that refers to providing mental health services, counseling, diagnosis or therapy. Respondent/Licensee timely requested a hearing on the Summary Proceeding Order before the Committee.

d. A Notice of Hearing on the Summary Proceeding Order, setting the hearing for August 19, 2009, was mailed to Respondent/Licensee on August 11, 2009.

### **Conclusions of Law**

The Complaint Review Committee of the Behavioral Sciences Regulatory Board finds by a preponderance of clear, convincing and undisputed evidence that Respondent/Licensee is in violation of:

5. K.A.R. 102-4-12. Unprofessional Conduct.

(b) Any of the following acts by a licensed master's level psychologist...shall constitute unprofessional conduct:

(55) offering to provide or providing services in an employment situation other than that which is permitted by K.S.A. 74-5362, and amendments thereto, as an independent, contract, or private provider of psychological services;

6. K.A.R. 102-4-12. Unprofessional Conduct.

(b) Any of the following acts by a licensed master's level psychologist...shall constitute unprofessional conduct:

(56) practicing without adequate direction from a person authorized in K.S.A. 74-5362 and amendments thereto;

7. K.S.A. 74-5361 *et seq.* Definitions.

(e) "Masters level psychology" means the practice of psychology pursuant to the restrictions set out in K.S.A. 74-5362 and amendments thereto and includes the diagnosis and treatment of mental disorders as authorized under K.S.A. 74-5361 *et seq.*

8. K.S.A. 74-5362. Practice of licensed masters level psychologist; direction of certain persons; use of title.

(a) Any person who is licensed under the provisions of this act as a licensed masters level psychologist shall have the right to practice psychology only insofar as such practice is part of the duties of such person's paid position and is performed solely on behalf of the employer, so long as such practice is under the direction of a licensed clinical psychotherapist, 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. When a client has symptoms of a mental disorder, a licensed masters level psychologist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed masters level psychologist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

9. K.S.A. 74-5371. Prohibited acts and representations.

(b) No person shall engage in the independent practice of masters level psychology or represent oneself as a licensed clinical psychotherapist or



**NOTICE OF RELIEF FROM THIS INITIAL ORDER**

Pursuant to K.S.A. 77-527, this Initial Order is subject to your Petition for Review. If you desire such review, you must file a written Petition for Review stating its basis pursuant to K.S.A. 77-527(c) with:

Phyllis Gilmore, Executive Director  
Kansas Behavioral Sciences Regulatory Board  
712 South Kansas Avenue  
Topeka, KS 66603

The written Petition must be filed within thirty (30) days from service of this Initial Order. If a Petition is not filed in the time and manner stated, this Initial Order becomes final. Effective upon expiration of the time for filing a Petition for Review, it will be a Final Order of the Board.

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the above and foregoing Initial Order was placed this 1st day of October, 2009, in the US mail, first-class postage prepaid, addressed to:

Tammie D. Milner



*Bruno Wenger*  
For the Board

use the abbreviation LCP or use any word, letter, signs, figures or devices to indicate that such person using the same is a licensed clinical psychotherapist unless such person holds a valid license as a licensed clinical psychotherapist.

10. the Cease and Desist Order of June 16, 2009.

**Sanction**

Based on the above Findings of Fact and Conclusions of Law, the Complaint Review Committee of the Kansas Behavioral Sciences Regulatory Board unanimously finds as follows:


A. Respondent/Licensee Tammie D. Milner's license as a Masters Level Psychologist should be and is hereby immediately suspended until further order of this Committee or the Board.

B. Tammie Milner and Haysville Mental Health & Substance Abuse are ordered to cease and desist all advertising and services other than those for substance abuse effective on the date in the Certificate of Service below

C. Costs of these proceedings are assessed against Respondent/Licensee in an amount to be certified by Board staff.

D. Counsel for Petitioner is directed to prepare the Initial Order to reflect these orders.

**IT IS SO ORDERED** this 19<sup>th</sup> day of August, 2009.

  
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Dr. Wes Jones, Chairman  
Complaint Review Committee