

BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD

700 S.W. Harrison St, Suite 420
Topeka, Kansas 66603-3929

In the Matter of)	
)	
Angela Bogue-Gillmore)	Case No. 10-CT-144
LCMFT #267)	OAH No. 12BS0001
)	
Respondent.)	
_____)	

FINAL ORDER DENYING REVIEW

Pursuant to K.S.A. 77-526 and K.S.A. 2011 Supp. 77-527

Now, on this 1st day of June 2012, the above-captioned matter comes on for consideration of Respondent's Petition for Review of the Initial Order issued by the Presiding Officer of the Office of Administrative Hearings. Pursuant to K.S.A. 2011 Supp. 77-527(a)(2)(B), the members of the Kansas Behavioral Sciences Regulatory Board (Board) conducted the hearing by and through Board members Patricia Bartell, Barbara Burks, Grant Edwards, Cheryl Reynolds, Larry Salmans, Marcia Simoneau, Sharon Stuewe, and Gary Price, Chair. The Board designated Chair Gary Price to preside over the hearing and to render the final order.

Findings of Fact

1. On April 27, 2012, the Presiding Officer of the Office of Administrative Hearings issued an Initial Order in the above-referenced matter. The Initial Order granted the Board's petition and affirmed the Board's decision to revoke Respondent's license to practice as a Licensed Clinical Marriage and Family Therapist in the State of Kansas. The Board hereby adopts by reference the findings of fact and conclusions of law contained in that Initial Order.
2. On May 14, 2012, Respondent filed a timely Petition for Review with the Board.
3. In her Petition, Respondent did not allege new facts that would change the outcome of the Initial Order, challenge any factual findings in the Initial Order, or contend the decision in the Initial Order was based upon facts not supported by the record. Nor did Respondent claim the hearing officer erroneously interpreted or applied the law. In short, Respondent seeks a different outcome on the same facts heard by the Presiding Officer.

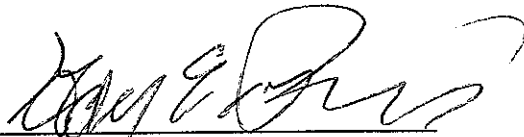
Conclusions of Law

4. Based upon the above findings, no factual or legal basis exists that would change the findings of fact or conclusions of law in the Initial Order.
5. The findings of fact, conclusions of law, and orders contained in the Initial Order should be affirmed and Respondent's Petition for Review of the Initial Order should be denied.

Order

WHEREFORE, after consideration of the above facts and conclusions, it is the decision and order of the Board that the Initial Order is affirmed and that Respondent's Petition for Review is denied.

IT IS SO ORDERED.



Gary E. Price, Ph.D., LCPC
Chair for the
Behavioral Sciences Regulatory Board

NOTICE OF ADMINISTRATIVE RELIEF

The above Order Denying Respondent's Request for Review is a final Order. Pursuant to K.S.A. 77-529, a party may file with the Board a petition for reconsideration within 15 days from the date noted below in the Certificate of Service. Such petition must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

Pursuant to K.S.A. 77-530, a party may file a petition for stay of effectiveness of the order, if applicable, prior to the expiration of the time in which to file a petition for judicial review. The filing of a petition for a stay of effectiveness is not a prerequisite for seeking judicial review.

The agency designee who may receive service of a petition for stay of effectiveness or a petition for reconsideration on behalf of the Board is:

Tom Hawk, Executive Director
Behavioral Sciences Regulatory Board
700 S.W. Harrison St, Suite 420
Topeka, Kansas 66603-3929

NOTICE OF JUDICIAL RELIEF

Pursuant to K.S.A. 77-613, a party may file within 30 days from the date noted below in the Certificate of Service a petition for judicial review with the appropriate district court as provided in the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The agency designee who may receive service of a petition for stay of effectiveness, a petition for reconsideration, or a petition for judicial review on behalf of the Board is:

Tom Hawk, Executive Director
Behavioral Sciences Regulatory Board
700 S.W. Harrison St, Suite 420
Topeka, Kansas 66603-3929

CERTIFICATE OF SERVICE

I hereby certify that on June 1st 2012, a copy of the above Order and Notices was deposited with the United States Postal Service, first-class postage pre-paid, and addressed to:

Angela Bogue-Gilmore



A copy provided to:

Marty M. Snyder
Assistant Attorney General
Office of the Kansas Attorney General Derek Schmidt
120 SW 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1597

Athena E. Andaya
Deputy Attorney General, LOGIC Division
Office of the Kansas Attorney General Derek Schmidt
120 SW 10th Avenue, 2nd Floor
Topeka, Kansas 66612-1597

And the original filed with:

Behavioral Sciences Regulatory Board
700 S.W. Harrison St, Suite 420
Topeka, Kansas 66603-3929

A handwritten signature in black ink, appearing to read "Cherry Blance", is written over a horizontal line.

Staff
On behalf of the Board

**BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD
STATE OF KANSAS**

In the Matter of)
)
Angela Bogue-Gilmore)
LCMFT #267)

Case No.: 10-CT-144
OAH No. 12BS0001

Pursuant to Chapter 77

INITIAL ORDER

Angela Bogue-Gilmore (Respondent) appeals the Kansas Behavioral Sciences Regulatory Board's (Board) Summary Proceeding Order of Revocation issued on July 12, 2011.

A formal hearing of this matter was held on April 11, 2012. The Respondent appeared in person. The Board appeared by and through Marty M. Snyder, Assistant Attorney General. Testifying at the formal hearing were Carol Baldwin, Bruno Langer, S.B., and the Respondent.

Findings of Fact

1. The Respondent is licensed by the Board as a Licensed Clinical Marriage and Family Therapist (LCMFT), having been issued License No. 267 by the Board in 2002.
2. From approximately September of 2007 through early March of 2008, the Respondent provided counseling services for S.B. and J.B. as well as their four children.
3. During the course of providing services to S.B., the Respondent shared her personal family and financial information with S.B.
4. The Respondent ended her counseling of S.B. in early March of 2008.
5. Shortly after terminating her counseling services with S.B., the Respondent requested and received an unsecured loan from S.B. in the amount of \$6,000.00. This loan was to allow the Respondent to obtain refinancing of her house.
6. Subsequent to March of 2008, the Respondent obtained another loan from S.B. in the amount of \$1,000.00. S.B. gave the Respondent a check on August 6, 2008 and the memo line on the check read "short term loan."
7. S.B. was repaid \$1,250.00 by the Respondent and her husband for these loans.

8. The Respondent and her husband filed for Chapter 7 bankruptcy. In the filing for bankruptcy, the Respondent listed the money owed to S.B. as a loan.
9. The Respondent has never repaid the loan to S.B.

Applicable Law

1. Kansas Statutes Annotated (K.S.A.) 65-6408 provides as follows:

Refusal to grant, suspension, condition, limitation, qualification, restriction or revocation of license; grounds.

The board may refuse to grant licensure to, or may suspend, revoke, condition, limit, qualify or restrict the licensure of any individual who the board, after a hearing, determines:

- (1) Is incompetent to practice marriage and family therapy, or is found to engage in the practice of marriage and family therapy in a manner harmful or dangerous to a client or to the public;
- (2) is convicted by a court of competent jurisdiction of a crime that the board determines is of a nature to render the convicted person unfit to practice marriage and family therapy;
- (3) has violated a provision of the marriage and family therapists licensure act or one or more of the rules and regulations of the board;
- (4) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;
- (5) has knowingly made a false statement on a form required by the board for license or license renewal;
- (6) has failed to obtain continuing education credits required by rules and regulations of the board;
- (7) has been found guilty of unprofessional conduct as defined by rules and regulations established by the board; or
- (8) has had a registration, license or certificate as a marriage and family therapist revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

2. Kansas Administrative Regulation (K.A.R.) 102-5-12 provides as follows:

Unprofessional conduct.

- (a) Any license may be suspended, limited, conditioned, qualified, restricted, revoked, not issued, or not renewed upon a finding by the board that unprofessional conduct has occurred.
- (b) Any of the following acts by either a marriage and family therapy licensee or a marriage and family therapy licensure applicant shall constitute unprofessional conduct:
- (1) Obtaining or attempting to obtain a license or registration for oneself or another by engaging in fraud, bribery, deceit, misrepresentation, or by concealing a material fact;
 - (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 the licensee or applicant or any other person regulated by the board or applying for licensure or registration has met any of these conditions:
 - (A) Has had a professional license, certificate, permit, registration, certification, or professional membership granted by any jurisdiction, professional association, or professional organization that has been limited, conditioned, qualified, restricted, suspended, revoked, refused, voluntarily surrendered, or allowed to expire in lieu of or during investigatory or disciplinary proceedings;
 - (B) has been subject to any other disciplinary action by any credentialing board, professional association, or professional organization;
 - (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;
 - (D) has been convicted of a crime; or
 - (E) has practiced the licensee's or registrant's profession in violation of the laws or regulations that regulate the profession;
 - (3) knowingly allowing another person to use one's license or registration;
 - (4) impersonating another person holding a license or registration issued by this or any other board;
 - (5) having been convicted of a crime resulting from or relating to one's professional practice of marriage and family therapy;
 - (6) furthering the licensure or registration application of another person who is known or reasonably believed to be unqualified

- with respect to character, education, or other relevant eligibility requirements;
- (7) knowingly aiding or abetting any individual who is not credentialed by the board to represent that individual as a person who was or is credentialed by the board;
 - (8) 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;
 - (9) failing or refusing to cooperate in a timely manner with any request from the board for a response, information, or assistance with respect to the board's investigation of any report of an alleged violation filed against oneself or any other applicant or professional who is required to be licensed or registered by the board. Any person taking longer than 30 days to provide the requested response, information, or assistance shall have the burden of demonstrating that the person has acted in a timely manner;
 - (10) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience or with accepted professional standards;
 - (11) treating any client, student, or supervisee in a cruel manner;
 - (12) discriminating against any client, student, or supervisee on the basis of color, race, gender, religion, national origin, or disability;
 - (13) failing to advise and explain to each client the respective rights, responsibilities, and duties involved in the marriage and family therapy relationship;
 - (14) failing to provide each client with a description of what the client can expect in the way of services, consultation, reports, fees, billing, therapeutic regimen, or schedule, or failing to reasonably comply with that description;
 - (15) failing to provide each client with a description of the possible effects of the proposed treatment when the treatment is experimental or when there are clear and known risks to the client;
 - (16) failing to inform each client, student, or supervisee of any financial interests that might accrue to the licensee or applicant if the licensee or applicant refers a client, student, or supervisee to any other service or if the licensee or applicant uses any tests, books, or apparatus;

- (17) failing to inform each client that the client is entitled to the same services from a public agency if one is employed by that public agency and also offers services privately;
- (18) failing to inform each client, student, or supervisee of the limits of client confidentiality, the purposes for which the information is obtained, and the manner in which the information may be used;
- (19) revealing information, a confidence, or secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records, except when at least one of these conditions is met:
 - (A) Disclosure is required or permitted by law;
 - (B) failure to disclose the information presents a clear and present danger to the health or safety of an individual or the public;
 - (C) the licensee or applicant is a party to a civil, criminal, or disciplinary investigation or action arising from the practice of marriage and family therapy, in which case disclosure is limited to that action; or
 - (D) the criteria provided by K.S.A. 65-6410, and amendments thereto, are met;
- (20) failing to obtain written, informed consent from each client, or the client's legal representative or representatives, before performing any of these actions:
 - (A) Electronically recording sessions with that client;
 - (B) permitting a third-party observation of their activities;
 - or
 - (C) releasing information concerning a client to a third person, except as required or permitted by law;
- (21) failing to protect the confidences of, secrets of, or information concerning other persons when providing a client with access to that client's records;
- (22) failing to exercise due diligence in protecting the information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting;
- (23) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;
- (24) using alcohol or illegally using any controlled substance while performing the duties or services of a marriage and family therapist;
- (25) making sexual advances toward or engaging in physical intimacies or sexual activities with one's client, student, or supervisee;

- (26) making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been one's client;
- (27) exercising undue influence over any client, student, or supervisee, including promoting sales of services or goods, in a manner that will exploit the client, student, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party;
- (28) directly or indirectly offering or giving to a third party or soliciting, receiving, or agreeing to receive from a third party any fee or other consideration for referring the client or in connection with performing professional services;
- (29) permitting any person to share in the fees for professional services, other than a partner, an employee, an associate in a professional firm, or a consultant authorized to practice marriage and family therapy;
- (30) soliciting or assuming professional responsibility for clients of another agency or colleague without attempting to coordinate the continued provision of client services by that agency or colleague;
- (31) making claims of professional superiority that one cannot substantiate;
- (32) guaranteeing that satisfaction or a cure will result from performing or providing any professional service;
- (33) claiming or using any secret or special method of treatment or techniques that one refuses to disclose to the board;
- (34) continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the client's condition, best interests, or preferences;
- (35) taking credit for work not personally performed, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;
- (36) if engaged in research, failing to fulfill these requirements:
 - (A) Consider carefully the possible consequences for human beings participating in the research;
 - (B) protect each participant from unwarranted physical and mental harm;
 - (C) ascertain that each participant's consent is voluntary and informed; and
 - (D) preserve the privacy and protect the anonymity of each subject of the research within the terms of informed consent;
- (37) making or filing a report that one knows to be false, distorted, erroneous, incomplete, or misleading;

- (38) failing to notify the client promptly when one anticipates terminating or interrupting service to the client;
- (39) failing to seek continuation of service, or abandoning or neglecting a client under or in need of professional care, without making reasonable arrangements for that care;
- (40) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer;
- (41) failing to terminate marriage and family therapy services when it is apparent that the relationship no longer serves the client's needs or best interests;
- (42) supervising in a negligent manner anyone for whom one has supervisory responsibility;
- (43) when applicable, failing to inform a client that marriage and family therapy services are provided or delivered under supervision;
- (44) engaging in a dual relationship with a client, student, or supervisee;
- (45) failing to inform the proper authorities as required by K.S.A. 38-2223, and amendments thereto, that one knows or has reason to believe that a client has been involved in harming or has harmed a child, whether by physical, mental, or emotional abuse or neglect or by sexual abuse;
- (46) failing to inform the proper authorities as required by K.S.A. 39-1402, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to a resident, as defined by K.S.A. 39-1401(a) and amendments thereto:
 - (A) Has been or is being abused, neglected, or exploited;
 - (B) is in a condition that resulted from abuse, neglect, or exploitation; or
 - (C) needs protective services;
- (47) failing to inform the proper authorities as required by K.S.A. 39-1431, and amendments thereto, that one knows or has reason to believe that any of the following circumstances apply to an adult, as defined in K.S.A. 39-1430 and amendments thereto:
 - (A) Is being or has been abused, neglected, or exploited;
 - (B) is in a condition that is the result of abuse, neglect, or exploitation; or
 - (C) needs protective services;
- (48) intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing another person from filing a report or record that

- is required by state or federal law, or inducing another person to take any of these actions;
- (49) offering to perform or performing any service, procedure, or therapy that, by the accepted standards of marriage and family therapy practice in the community, would constitute experimentation on human subjects without first obtaining the full, informed, and voluntary written consent of the client or the client's legal representative or representatives;
 - (50) practicing marriage and family therapy in an incompetent manner;
 - (51) practicing marriage and family therapy after one's license expires;
 - (52) using without a license or continuing to use after a license has expired any title or abbreviation prescribed by law to be used solely by persons who currently hold that type or class of license; or
 - (53) violating any provision of this act or any regulation adopted under the act.

3. K.A.R. 102-5-1(h) provides as follows:

"Dual relationship" means a professional relationship in which the objectivity or competency of the licensee is impaired or compromised because of any of the following present or previous relationships with a client or supervisee:

- (1) Familial;
- (2) sexual;
- (3) emotional; or
- (4) financial.

Conclusions of Law

1. The Respondent, by failing to recognize that her personal problems, including financial distress, interfered with or negatively impacted her professional judgment, has violated K.A.R. 102-5-12(b)(8) and has committed an act of unprofessional conduct.
2. The Respondent, by obtaining a loan from S.B. and then claiming the loan was payment for a bill, was dishonest and misrepresented as to what occurred. This is a violation of K.A.R. 102-5-12(b)(23) and establishes that the Respondent has acted unprofessionally.
3. The Respondent exerted undue influence over S.B. in order to obtain the loans of \$7,000.00. This was done within 24 months after S.B. ceased being her client. This constitutes unprofessional behavior and is in violation of K.A.R. 102-5-12(b)(26).

4. The Respondent, by involving S.B. in her financial and other difficulties, violated K.A.R. 102-5-12(b)(27) in that she exercised undue influence over S.B. in a manner that exploited S.B. This was for the financial gain of the Respondent.
5. The Respondent, by discussing her financial distress and other problems with S.B. while he was her client, created a dual relationship with S.B. This is in violation of K.A.R. 102-5-12(b)(44) and is another instance of unprofessional conduct on the part of the Respondent.
6. The Respondent's position is that the \$7,000.00 that was given to her was not a loan but was payment for services. This is not credible, logical, or plausible.
7. First, the Respondent was paid in full for her services by S.B.'s ex-spouse. The attorney for the ex-spouse provided full payment to the Respondent.
8. Secondly, the action of the Respondent contradicts her position that the \$7,000.00 was for fees. When she declared bankruptcy, the Respondent showed this as a loan which was eventually discharged through the bankruptcy court. Clearly, the Respondent showed this as a loan and not as payment for services.
9. The check written to the Respondent in August of 2008 clearly contains the notation "loan" on the check. There would be no reason to put "loan" on the memo line but for the fact that it was a loan.
10. The Respondent's argument for the reason she agreed to start paying S.B. back also has no merit. The Respondent testified that she believed that S.B. would file a report with the Board. However, at the time, the Respondent had in her possession Respondent's Exhibit 1, which is a letter from S.B. in which S.B. in no way complains about the services provided by the Respondent. Further, if the Respondent did nothing improper in her treatment of S.B. and his family, there would be no reason for her to be concerned about him reporting her to the Board.
11. The Respondent testified numerous times that there was no harm in her actions. This ignores the fact that she obtained loans of \$7,000.00 from S.B. and that S.B. is now out \$5,750.00 because of the Respondent's bankruptcy.
12. To claim that no one was harmed ignores the fact that S.B. is now \$5,750.00 poorer as a result of his relationship with the Respondent.
13. The Presiding Officer had the opportunity to observe S.B. S.B. did not appear to be the type of individual that would on one day hand the Respondent \$6,000.00 and then the next day claim that the \$6,000.00 was a "loan." Further, in reviewing the Respondent's reply to the complaint as filed with the Board, the Respondent writes, "[w]e did offer S.B. some of the property to which he refers in his complaints to fully

pay back what had been unilaterally converted by him into a loan." It is entirely illogical and unreasonable for the Respondent to allege that the \$7,000.00 was payment on an account that the Respondent must repay to S.B.

14. As the Board argued in its closing remarks, the Respondent "just doesn't get it." The Respondent has been disciplined and continues to be either unwilling or unable to conform her behaviors to the requirements of the Board.
15. It must be remembered that S.B. would not have parted with \$7,000.00 of his money but for the relationship he had with the Respondent. The Respondent used her relationship with S.B. to obtain these funds and involved S.B. while he was a client with discussions concerning her financial conditions and other problems.
16. The Respondent has been previously disciplined for her behavior.
17. The mission of the Board is to protect the public. In this case, S.B. was victimized by the Respondent's practice of marriage and family therapy and suffered economic loss as a result of the Respondent's actions. The Respondent should not be allowed to harm other victims and, therefore, her LCMFT License No. 267 is hereby revoked.

IT IS SO ORDERED.

NOTICE REGARDING REVIEW


Pursuant to K.S.A. 77-527, either party may appeal this Initial Order. A petition for review must be filed within 15 days from the date of this Initial Order. Failure to timely request review may preclude further judicial review. If neither party requests a review, this Initial Order becomes final and binding on the 30th day following its mailing. Petitions for review shall be mailed or personally delivered to: Tom Hawk, Ph.D., Executive Director, Kansas Behavioral Sciences Regulatory Board, 712 S. Kansas Avenue, Topeka, Kansas 66603-3817.



Edward J. Gaschler
Administrative Law Judge/Presiding Officer
Office of Administrative Hearings
1020 S. Kansas Avenue
Topeka, KS 66612
Telephone: 785-296-2433

CERTIFICATE OF SERVICE

On Apr. 27, 2012, I mailed a copy of this document to:

Angela Bogue-Gilmore


Marty M. Snyder
Assistant Attorney General
Office of the Attorney General
120 SW 10th Ave., 2nd Fl.
Topeka, KS 66612-1597

Tom Hawk, Ph.D.
Executive Director
Kansas Behavioral Sciences Regulatory Board
712 S. Kansas Ave.
Topeka, KS 66603-3817
Telephone: 785-296-3240

M Dodels
Staff Person
Office of Administrative Hearings