

Marty M. Snyder, KS S. Ct. #11317
Kansas Attorney General's Office
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**BEFORE THE KANSAS BEHAVIORAL SCIENCES
REGULATORY BOARD**

In the Matter of)

JESSE J. LEMUZ, JR., LMSW #7336)
Respondent)
_____)

Case No. 11-MS-0045

CEASE AND DESIST SUMMARY PROCEEDING ORDER

NOW on this 25th day of February, 2011, 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, Jesse J. Lemuz, Jr. has not possessed any license issued by the Kansas Behavioral Sciences Regulatory Board that would permit the independent practice of social work or psychotherapy without supervision.

2. However, Respondent marked "yes" to questions 2 and 4 on the licensure renewal form, stating that he was currently working in a private practice setting without supervision as well as conducting psychotherapy.

3. On December 1, 2010, BSRB Special Investigator Carol Baldwin wrote to Respondent regarding possible violations of his license restrictions and requested a written

response by January 3, 2011. On December 20, 2010, the Board received Respondent's letter of response dated December 16, 2010. [Exhibit A]

4. Respondent denies that he is providing mental health services in a private setting. However, he is the sole therapist and principal of Therapy Works, a private clinic.

5. Respondent is not and has never been licensed to practice social work or psychotherapy independently without supervision in Kansas.

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. K.S.A. 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. The independent clinical practice of social work or psychotherapy requires a level of licensure Respondent does not possess. Such practice without the required licensure or supervision is a Class B misdemeanor crime in the state of Kansas pursuant to K.S.A. 65-6308 of the Licensure of Social Workers Act.

5. Pursuant to K.S.A. 65-6319, the diagnosis and treatment of mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the

American Psychiatric Association designated by the board by rules and regulations may only be performed by (1) a licensed specialist clinical social worker or (2) a licensed master social worker who engages in the practice of social work only under the direction of a licensed specialist clinical social worker, 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.

6. K.S.A. 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 independent, unsupervised practice of social work and psychotherapy in the State of Kansas. Violations of this Order shall be referred to the Ellis County Attorney or Shawnee County District Attorney for criminal prosecution and/or shall be subject to injunctive relief from the District Court, pursuant to K.S.A. 74-5342, K.S.A. 74-5343 and K.S.A. 77-601, et seq.

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

IT IS SO ORDERED.

Dated this 28th day of February, 2011.



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 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

A 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 Summary Proceeding 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 on this 28th day of February, 2011, a copy of the above and foregoing Cease and Desist Summary Proceeding Order was deposited in the U.S. mail, first-class postage prepaid, addressed to:

Jesse J. Lemuz, Jr.



Independent Living Center
2401 East 13th
Hays, KS 67601

Therapy Works
P.O. Box 61
Hays, KS 67601

and a copy delivered via interoffice mail to:

Marty M. Snyder
Assistant Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612
Disciplinary Counsel to the Board



For the Board