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**BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD**

**In The Matter Of** )  
)  
**ALLEN F. JABEN, LAC #321** )  
**Respondent** )  
\_\_\_\_\_ )

**Case No. 14-AC-031**

Pursuant to KSA Ch. 77

**EMERGENCY PROCEEDING ORDER OF SUSPENSION**

**A. SUMMARY OF CASE**

The Kansas Behavioral Sciences Regulatory Board [Board, BSRB] received information sufficient to cause a reasonably prudent person to believe that Respondent Jaben currently represents a danger to the health, safety and welfare of certain individuals as well as the general public based upon several consistent complaints regarding Respondent's personal abuse of illegal drugs, administration of non-prescription narcotics to addicted clients without a license to do so, possession of illegal drugs, falsification of medical records, prohibited dual relationships with clients and meeting clients while under the influence of drugs. Based upon this evidence and information, the facility license for Respondent's clinic – Assessment for Direction, LLC – was revoked by the Secretary of the Department for Aging and Disability Services. The present Emergency Proceeding Order, issued pursuant to the Kansas Administrative Procedure Act, K.S.A. 77-536, suspends Respondent's Kansas Licensed Addiction Counselor license until conclusion of the investigation and further Order of the Board.

## B. FINDINGS OF FACT

1. Allen F. Jaben is currently, and at all times relevant has been, a Licensed Addiction Counselor within the meaning of the Addictions Counselor Licensure Act, K.S.A. 65-6607, *et seq.*, and amendments thereto.

2. On or about September 30, 2013, the Board received two reports of alleged violations concerning Licensee's conduct regarding the same event, alleging Licensee may have violated certain statutes and regulations governing unprofessional conduct. Licensee also reported to the Board on or about September 30, 2013 that his facility license had been revoked by emergency order by the Kansas Department for Aging and Disability Services [KDADS]. [Exhibit A]

3. Information and evidence provided to BSRB and KDADS states that Respondent was physically and verbally aggressive in the presence of clients, used inappropriate language with clients, appeared to be under the influence of drugs when meeting with clients, falsified medical records involving clients, possessed and used non-prescription narcotics, administered non-prescription narcotics to a client without any license to do so, engaged in harmful dual relationships with clients, made inappropriate sexual comments to clients and has failed to assist former clients of his clinic to obtain other addiction counseling.

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

a. There is credible evidence and information upon which a reasonable person could conclude that Respondent has been in possession and under the influence of illegal non-prescription narcotic drugs while meeting professionally with clients, has administered such drugs to clients without a license, has engaged in harmful dual

relationships with clients, has made inappropriate sexual comments to clients, has failed to assist former clients of his clinic to obtain other addiction counseling, has falsified medical records and information filed with this Board and that the health, safety and welfare of certain individual clients as well as the general public are at risk from Respondent continuing to hold an unrestricted license as an addiction counselor in Kansas at the present time.

b. The nature of Respondent's misconduct creates an immediate risk of harm to the public health, safety or welfare that can be prevented or avoided only through emergency proceedings.

5. This matter may return to full investigation of the complaint as soon as feasible.

#### C. CONCLUSIONS OF LAW

1. The Board finds that probable cause exists to believe that Respondent, while a Licensed Addiction Counselor, violated the following statute and regulations and is currently an immediate danger to others:

**K.S.A. 65-6615. Refusal to grant licensure; other licensure actions; grounds.**

(a) Is incompetent to practice addiction counseling, or is found to engage in the practice of addiction counseling in a manner harmful or dangerous to a client or to the public;

(c) has violated a provision of the addictions counselor licensure act or one or more of the rules and regulations of the board;

(g) has been found guilty of unprofessional conduct as defined by rules and regulations established by the board; and

**K.A.R. 102-7-11 – Unprofessional Conduct.**

(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;

(j) engaging in any behavior that is abusive or demeaning to a client, student or supervisee;

(u) using alcohol or any illegal drug or misusing any substance that could cause impairment while performing the duties or services of an addiction counselor;

(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) any person who is a client, supervisee or student.

2. Proceedings under the Addictions Counselor Licensure Act are subject to Kansas Administrative Procedure Act (K.S.A. 77-501, *et seq.*) [KAPA] pursuant to K.S.A. 65-6619. K.S.A. 77-536 of KAPA provides that the Board may employ emergency proceedings when a situation poses an immediate danger to the public health, safety or welfare.

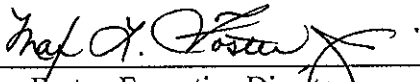
3. The Board is authorized to take disciplinary action against Licensed Addiction Counselors, pursuant to K.S.A. 65-6615, including suspension or revocation of a license.

4. The Board has jurisdiction over Respondent by virtue of his Kansas Addiction Counselor license. The Board has been charged by the Legislature with the responsibility to protect the public health, safety and welfare assuring the current competence to practice of its licensees.

WHEREFORE, the Board hereby orders the following:

Respondent Allen F. Jaben's Kansas Licensed Addiction Counselor license shall be immediately suspended subject to further proceedings pursuant to the Kansas Judicial Review Act, K.S.A. 77-601, *et seq.*, or further Order of the Board.

IT IS SO ORDERED ON THIS 20<sup>th</sup> DAY OF December, 2013.

  
\_\_\_\_\_  
Max Foster, Executive Director  
Kansas Behavioral Sciences Regulatory Board

**RELIEF FROM THIS EMERGENCY PROCEEDING ORDER**

Pursuant to KSA 77-536, this Emergency Proceeding Order is effective when rendered. Notice has been provided to all persons who are required to comply with the order. To appeal this Emergency Proceeding Order, a Petition for Judicial Review must be filed within thirty days pursuant to the terms of the Kansas Judicial Review Act, KSA 77-601, *et seq.*, with the Third Judicial District Court, Shawnee County, Kansas and a copy of the Petition served upon:

Max Foster, Executive Director  
Behavioral Sciences Regulatory Board  
700 SW Harrison St., Suite 420  
Topeka, KS 66603-3929

Marty M. Snyder, Esq.  
Kansas Attorney General's Office  
120 SW Tenth Ave., 2<sup>nd</sup> Flr.  
Topeka, KS 66612

**CERTIFICATE OF SERVICE**

This is to certify that on this 20<sup>th</sup> day of December, 2013, a true and correct copy of the above and foregoing Emergency Proceeding Order of Suspension was deposited in the U.S. mail, first class postage prepaid, addressed to:

Allen F. Jaben



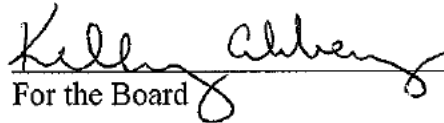
Billy Rork, Esq.  
1321 SW Topeka Blvd.  
Topeka, KS

and emailed to:



and a copy sent to:

Marty M. Snyder, Esq.  
Assistant Attorney General

  
For the Board

William C. Rein, Kan. S. Ct. #09579  
Chris Napolitano, Kan. S. Ct. #25499  
Kansas Department for Aging  
and Disability Services  
503 S. Kansas Avenue  
Topeka, Kansas 66603-3404  
785-368-7228 (tel)  
785-296-0767 (fax)  
Bill.Rein@kdads.ks.gov (email)  
Chris.Napolitano@kdads.ks.gov (email)

**STATE OF KANSAS  
BEFORE THE DEPARTMENT FOR AGING AND DISABILITY SERVICES**

In the Matter of the Licensure of:

ASSESSMENT FOR DIRECTION, LLC  
1605 SW 37<sup>TH</sup> ST, Garden Level  
TOPEKA, KS 66611

KDADS Case No. 13-BH/SUD - 02

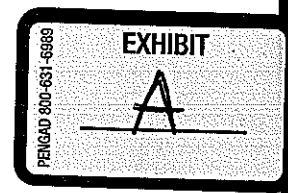
**EMERGENCY ORDER REVOKING AN ADDICTION  
AND PREVENTION SERVICES LICENSE**

COMES NOW Shawn Sullivan, Secretary, Kansas Department for Aging and Disability Services (KDADS), and reviews the file on the Addiction and Prevention Services licensed provider, Assessment for Direction, L.L.C. (License Number 06960881) with a facility location in Shawnee County at 1605 SW 37<sup>TH</sup> ST, Garden Level, Topeka, Kansas 66611, hereinafter referred to as Licensee.

THEREUPON, being duly advised in the matter, the Secretary finds that:

**STATUTORY AUTHORITY**

1. The Secretary is charged with the administration of the Kansas alcohol or other



drug addiction treatment act [K.S.A. 65-4001, 65-4006, 65-4007, 65-4001 through 65-4019, 65-4023, 65-4024, K.S.A. 2012 Supp. 65-4024a through 65-4024d, and amendments thereto] and with the enforcement of the rules and regulations promulgated thereunder. [K.A.R. 30-31-1 through K.A.R. 30-31-11].

2. Enforcement of standards which promote safe and adequate treatment of individuals in alcohol or other drug treatment facilities is one of the purposes of the Kansas alcohol or other drug addiction treatment act (K.S.A. 65-4001 et. seq.).

3. Licensee is licensed to provide the following services: Outpatient, Intensive; Outpatient, Counseling Treatment; Early Intervention/Interim Services; Alcohol & Drug Assessment & Referral; Alcohol & Drug Safety Action Program.

4. Records maintained by the Kansas Secretary of State indicate that Assessment for Direction, L.L.C., is a Kansas Limited Liability Company with J. Phillip Gragson, specified as resident agent and 100 SE 9<sup>th</sup> STREET, 2ND FLOOR, TOPEKA, KS 66612 listed as the registered office.

5. K.S.A. 77-536(a)(1) authorizes a state agency to use emergency proceedings "in a situation involving an immediate danger to the public health, safety or welfare requiring immediate state agency action."

#### **STATEMENT OF MATERIAL FACTS**

6. K.S.A. 65-4015 provides, in part, that:

The secretary, after notice and opportunity for hearing to the applicant or licensee, may deny, suspend or revoke a license if the secretary finds that there has been a substantial failure to comply with the requirements established under this act.

7. K.S.A. 65-4016 provides, in part that:



The secretary shall adopt rules and regulations with respect to treatment facilities to be licensed and designed to further the accomplishment of the purposes of this law in promoting a safe and adequate treatment program for individuals in treatment facilities in the interest of public health, safety and welfare...

8. Requirements for licensed addiction and prevention service providers are found in a document entitled "*standards for licensure/certification of alcohol and/or other drug abuse treatment programs*," (Standards) dated November 1, 2006 and adopted into regulation by K.A.R. 30-31-1.

### VIOLATIONS

9. On or about September 16, 2013, KDADS received a complaint concerning Licensee's Owner and Executive Director, Allen F. Jaben (Respondent). Respondent is a Kansas Licensed Addiction Counselor (Behavioral Sciences License No. 321) and the Executive Director of Assessment for Direction (Facility), a substance abuse facility located at 1605 Southwest 37<sup>th</sup> Street, Garden Level, Topeka, Kansas 66611. The complaint indicated that Respondent was physically and verbally aggressive in the presence of clients; including using inappropriate language and that a syringe was observed on the floor of Facility.

10. On or about September 24, 2013, KDADS began an investigation in response to the complaint. During the course of its investigation, KDADS was made aware of an incident involving Respondent and one of Respondent's clients. This incident led KDADS to find that Respondent substantially failed to comply with the requirements under K.S.A. 65-4001 *et seq.* The basis of the finding is:

11. On or about September 21, 2013, an individual (referred to herein as "Client") met with Respondent seeking treatment for opiate addiction. At this time, Respondent stated he

would help Client obtain a prescription for Suboxone. Respondent then gave Client a number of controlled substances as defined by the Uniform Controlled Substances Act K.S.A. 65-4101 *et seq.*, at Schedules II and IV including Hydrocodone, Xanax, and Adderall, which Client ingested.

12. After providing the controlled substances, Respondent asked Client to return later that night after 9:00 p.m. so he could give Client more drugs. Client returned as requested and Respondent gave Client more drugs. Again, Respondent requested that Client return the following day so he could give Client "a shot of medicine."

13. On Sunday, September 22, 2013, Client returned and Respondent injected Client with a substance. This substance made Client "very high."

14. Client reported meeting Respondent on Monday, September 23, 2013, however, Client has little recollection of that meeting.

15. Client met with Respondent again on Tuesday evening, September 24, 2013. During this meeting Client informed Respondent that Client did not want another injection. Respondent insisted that Client trust him, Client reluctantly complied. This time, Respondent prepared the substance in a spoon. Client describes the substance as looking "like salt, but bigger." After Respondent injected Client with the substance, Respondent made Client watch Respondent inject himself with the same substance. Client does not know if Respondent injected himself with the same needle he used to inject Client.

16. The substance Respondent injected Client with wore off on or about Wednesday, September 25, 2013, at which time Client realized the inappropriateness of the situation. Others described Client's odd behavior while under the influence of the drugs to Client, giving Client specific examples. However, Client did not remember the behaviors Client was reported to have

exhibited while under the influence of the substances.

17. Respondent attempted to contact Client by calling Client's cell phone. Client also reported that Respondent made inappropriate comments about Client's appearance and stated he "needed [Client]." At one point during their interactions, Respondent showed his gun to Client.

18. The above actions by the Respondent, Allen F. Jaben, constitute a substantial failure to comply with K.S.A. 65-4001 *et seq.*, KAR 30-33-11 *et seq.*, and provisions *Standards for Licensure/Certification of Alcohol and/or Other Drug Abuse Treatment Programs*, dated November 1, 2006, (*See Standards document marked as Exhibit A and attached hereto*) including but not limited to the following that could impact the safety and/or the quality of care provided to individuals receiving treatment: RO3-203(A), (D), RO3-301(A), RO3-401(C)(2), RO3-609(A)-(F), RO3-711.

19. For these reasons the Secretary has determined that the Licensee has violated state laws and regulations pertaining to the Kansas alcohol or other drug addiction treatment act and further that an immediate danger to the public health, safety or welfare requiring immediate state action exists as required for emergency actions under K.S.A. 77-536(a)(1).

20. The violations cited above are evidence of Licensee's failure to substantially comply with the requirements, standards or rules and regulations established under the Kansas alcohol or other drug addiction treatment act.

21. The violations cited above evidence Licensee's willful and repeated violation of provisions of law, standards, and rules and regulations adopted pursuant to the Kansas alcohol or other drug addiction treatment act.

**WHEREFORE**, pursuant to K.S.A. 65-4001, 65-4006, 65-4007, 65-4001 through 65-4019,

65-4023, 65-4024, K.S.A. 2012 Supp.65-4024a through 65-4024d, and amendments thereto and 2012 Kansas Session Laws Chapter 185, Sec.3(a){1},p.2224, and K.A.R. 30-31-1and for the reasons stated above, the Secretary hereby revokes Licensee's license to provide the following services, Outpatient, Intensive, Outpatient: Counseling Treatment; Early Intervention/Interim Services, Alcohol & Drug Assessment & Referral Program, Alcohol & Drug Safety Action Program (ADSAP).

The Secretary further finds that additional orders are necessary to ensure that the needs of vulnerable clients are effectively met and to evaluate compliance with standards related to treatment delivery and claims for services. For these reasons, the Licensee is further ordered to comply with the following:

1. To assist employees or agents of KDADS in the referral and transition of existing clients to alternative service providers, together with necessary information and records to continue treatment services for such clients;
2. To allow employees or agents of KDADS to access, review, manage, store, remove and take custody of clinical records maintained by Licensee, including all treatment records related to services provided while licensed as a Kansas alcohol/drug treatment program;
3. To access, review, manage, store, remove and direct any complete or partial disposition of any and all electronic records or information maintained by Licensee related to the treatment of clients and claims for payment related to treatment services;
4. To assist KDADS employees or agents with any transition of services, management of information and records and any follow up work.

This Order is effective immediately upon receipt by Licensee.

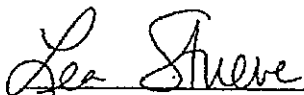
#### **RIGHT TO APPEAL**

Licensee may request a hearing in accordance with the provisions of the Kansas Administrative Procedures Act. A request for a hearing must be filed within thirty [30] days of

service of this notice. The request must be submitted to the following person at the address shown. Failure to submit a timely request will result in a waiver of Licensee's right to a hearing, and this Order will become final thereby revoking Licensee's license to operate an adult care home.

Director  
Office of Administrative Hearings  
1020 S. Kansas AVE  
Topeka, KS 66612-1327

IT IS SO ORDERED, this 27th day of September, 2013.

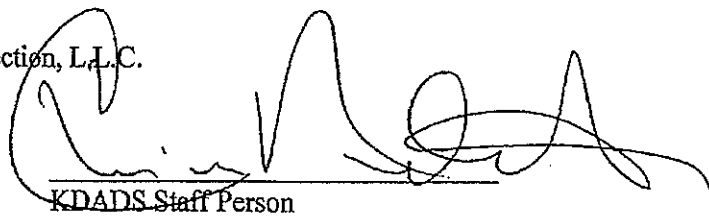
  
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For Shawn Sullivan, Secretary  
Kansas Department for Aging and Disability Services

**CERTIFICATE OF SERVICE**

*28cm*  
I hereby certify that on this 27th day of September, 2013, I personally served a true and correct copy of the above and foregoing document titled "*Emergency Order Revoking An Addiction and Prevention Services License*" to Licensee's representative, Allen F. Jaben at 1605 SW 37<sup>th</sup> St. Garden Level, Topeka, KS 66611. An additional copy was deposited in the United States Mail, postage prepaid, certified mail, addressed as listed below.

*on Monday, September 30, 2013*

J. Phillip Gragson  
Resident Agent for Assessment For Direction, L.L.C.  
100 SE 9<sup>th</sup> Street, 2<sup>nd</sup> Floor  
Topeka, KS 66612

  
\_\_\_\_\_  
KDADS Staff Person