

Whitney L. Casement, KS S. Ct. #25466
Office of the Kansas Attorney General
120 SW 10th St, Second Floor
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Telephone (785) 296-2215

BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In The Matter Of)
)
DIANNE M. ATTEBERRY,)
LMFT #2369)
_____)

Case No. 15-MF-0024

Pursuant to K.S.A. 77-537

CONSENT AGREEMENT AND ORDER

NOW, on this 26 day of ~~2015~~ October, 2015, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board), by and through Assistant Attorney General Whitney L. Casement, by agreement of Dianne Atteberry (Licensee), by and through her counsel, Danielle R. Sanger, and the Board for the purpose of resolving the above-captioned case.

Licensee hereby acknowledges the following:

1. On April 7, 2015, the Board issued a summary proceeding order suspending Dianne Atteberry's (Licensee's) Kansas Marriage and Family Therapist (LMFT) license until further order of the Board and refused to grant Licensee's application for renewal of her LMFT license. The summary proceeding order became final on April 27, 2015.
2. The Board previously found that Licensee failed to obtain continuing education credits required by rules and regulations of the board, failed to submit proof of continuing education units in response to an audit of her renewal application, and attempted to obtain a license or registration by engaging in misrepresentation or by concealing a material fact.
3. Licensee has now submitted all required audit materials and has obtained all

continuing education credits for the term expiring on April 30, 2014, as required by rules and regulations of the board.

4. Licensee waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 15-MF-0024.

5. WHEREFORE, Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act in relation to Case No. 15-MF-0024.


ORDER

WHEREFORE, the suspension of Dianne Atteberry's Kansas Marriage and Family Therapist license, #2369, should be and is hereby lifted as of the effective date of this Consent Agreement and Order.

WHEREFORE, the Complaint Review Committee of the Board directs Board staff to proceed with the processing of Dianne Atteberry's application for reinstatement of her Kansas Marriage and Family Therapist license.

WHEREFORE, the foregoing provisions are consented to, are hereby made the Final Order of the Kansas Behavioral Sciences Regulatory Board, and become effective on the date indicated in the Certificate of Service below.

IT IS SO ORDERED.



Terry Pfannenstiel
Chair, Complaint Review Committee

APPROVED AND CONSENTED TO:

Dianne Atteberry
Dianne Atteberry
Licensee

10-13-15
Date

Danielle R. Sanger
Danielle R. Sanger
Counsel for Licensee

10-16-2015
Date

CERTIFICATE OF SERVICE

This is to certify that on this 26 day of October, ~~2016~~, 2015, a true and correct copy of the above and foregoing Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Danielle R. Sanger
Sanger Law Office
5040 Bob Billings Parkway, Suite C-1
Lawrence, KS 66049
Attorney for Licensee Dianne Atteberry

and a copy sent via email to:

Whitney L. Casement
whitney.casement@ag.ks.gov
Disciplinary Counsel for the Board

Cindy D'Ercole
For the Board

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BY: _____

BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In The Matter Of)
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DIANNE M. ATTEBERRY,)
LMFT #2369)
_____)

Case No. 15-MF-0024

Pursuant to K.S.A. 77-537

SUMMARY PROCEEDING ORDER

NOW, on this 7 day of April, 2015, the above-captioned matter comes before the Complaint Review Committee of the Kansas Behavioral Sciences Regulatory Board (the "Board").

FINDINGS OF FACT

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

1. On or about April 3, 2014, Dianne Atteberry ("Licensee") renewed her license online and was randomly selected for audit of her completed continuing education units (CEUs). Licensee signed an attestation clause in the online renewal application that stated the information in the application was accurate, including that she had received all continuing education hours required for renewal of her license.
2. Licensee was provided the necessary audit forms in an email sent April 15, 2014, and was given an opportunity to provide additional information.
3. Licensee was notified via email on August 1, 2014, that her audit materials had not been received, and the matter was being submitted for investigation.

4. On or about August 8, 2014, the Board's licensing department filed a Report of Alleged Violation stating Licensee may have violated certain statutes and regulations governing unprofessional conduct and prohibited acts. A letter was sent August 8, 2014, informing Licensee of the Report of Alleged Violation and requesting a response no later than September 8, 2014.

5. On or about September 2, 2014, Licensee responded to the Report of Alleged Violation and additionally submitted 18 hours of CEUs. All 18 hours were approved.

6. On or about December 3, 2014, Licensee sent proof of 15 additional CEUs. Because only 10 continuing education hours may be cross-disciplinary, only 10 of the 15 hours were approved.

7. On January 15, 2015, Board staff sent Licensee a letter stating that the Board had received her audit material, that 28 hours had been approved, and that 40 hours were required. Licensee was also informed that the Report of Alleged Violation would be reviewed at the next Complaint Review Committee meeting and that she could attend the meeting.

8. Licensee's license was set to expire on April 30, 2014 and currently remains active pending receipt of all required CEUs.

CONCLUSIONS OF LAW

9. Based on the allegations and subsequent investigation, the Complaint Review Committee of the Board finds that Respondent, while a Licensed Marriage and Family Therapist, violated the following statute and regulations:

A. K.S.A. 65-6408. Refusal to grant, suspension, condition, limitation, qualification, restriction, or revocation of license; grounds.

(a) 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:

(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.

B. K.A.R. 102-5-9a. Renewal Audit.

(a) A random audit of the continuing education documentation for 10 percent of the marriage and family therapist licenses and the clinical marriage and family therapist licenses expiring each month shall be conducted by the board;

(c) Upon board notification, each renewal applicant shall submit the following to the board within 30 days after the license expiration date:

(1) The completed renewal audit forms; and

(2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.

(d) Continuing education units that a renewal applicant earns after board receipt of the renewal application form shall not be approved for continuing education credit for the current renewal period;

(e) Failure to comply with this regulation shall be considered unprofessional conduct;

C. K.A.R. 102-5-12. Unprofessional conduct.

(b) Any of the following acts by either a marriage and family therapy license or a marriage and family therapy license 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;

(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. Proceedings under the Kansas Marriage and Family Therapists Licensure Act are subject to the Kansas Administrative Procedure Act (K.S.A. 77-501, et seq.) ("KAPA") pursuant to K.S.A. 65-6412. K.S.A. 77-537 of KAPA provides that the Board may use summary proceedings when necessary and appropriate.

11. The Board is authorized to take disciplinary action against a Licensed Marriage and Family Therapist pursuant to K.S.A. 65-6408.

12. The Board has jurisdiction over Licensee by virtue of her Kansas Marriage and Family Therapist license, which she held at the time of the conduct at issue and filing of the complaint in this matter.

13. The Board has been charged by the Kansas Legislature with the responsibility to protect the public health, safety, and welfare by assuring the current competence to practice of its licensees.

SANCTION

Based on the above Findings of Fact and Conclusions of Law, Dianne Atteberry's Kansas Marriage and Family Therapist license, #2369, should be and is hereby temporarily **suspended** until further order of the Board. Additionally, the Board **refuses to grant** Dianne Atteberry's application for renewal of her Kansas Marriage and Family Therapist license.

IT IS SO ORDERED.



Terry Pfannenstiel
Chair, Complaint Review Committee