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**BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD**

**In The Matter Of** )  
)  
**DAVID J. BROWN,** )  
**LAC #100** )  
)  
**Respondent** )  
\_\_\_\_\_ )

**Case No. 17-AC-0101**

Pursuant to K.S.A. 77-536

**SUMMARY PROCEEDING ORDER OF SUSPENSION**

NOW, on this 11 day of December, 2018, the above-captioned matter comes before the Complaint Review Committee of the Kansas Behavioral Sciences Regulatory Board (Board).

**FINDINGS OF FACT**

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

1. David J. Brown (“Respondent”) was at all times relevant, a Licensed Addictions Counselor (“LAC”) within the meaning of the Kansas Addictions Counselor Licensure Act, K.S.A. 65-6607, *et seq.*, and amendments thereto.

2. On or about February 7, 2018, Respondent entered into a Consent Agreement and Order with the Board in Case No. 17-AC-0101 for violations of K.S.A. 65-6615, as defined in K.A.R. 102-7-11(i), K.A.R. 102-7-11(r), K.A.R. 102-7-11(v), and K.A.R. 102-7-11(t).

3. Respondent agreed that evidence of his failure to comply with any of the conditions may result in summary suspension of Respondent’s Kansas Licensed Addictions Counselor license

until such time as he can demonstrate compliance with all terms and conditions of this Consent Agreement and Order to the satisfaction of the Board.

4. The Consent Agreement and Order required, in part:

- a. Obtain six (6) extra CEU hours in Ethics, focusing on confidentiality, boundaries, dual relationships and undue influence, in addition to the biennial requirement to be taken in-person and proof of completion furnished to the Board's Investigator within 180 days of the effective date of this Consent Agreement.
- b. Obtain clinical level supervision by a Board-approved supervisor not in a dual relationship with Respondent. The supervisor was to provide to the Board's investigator quarterly written reports.

#### A. Continuing Education

5. Pursuant to the terms and conditions of the Consent Agreement and Order, Respondent was required to submit these six (6) extra CEU hours in Ethics were due to the Board's investigator on or before August 6, 2018.

6. Respondent failed to submit to the Board's investigator documentation evidencing completion of the required six (6) extra CEU hours in Ethics.

7. On or about August 30, 2018, the Board's investigator sent to Respondent a letter informing him that he had failed to submit to the Board the six (6) extra CEU hours in Ethics. The Board's investigator requested that Respondent provide this information to the Board by September 10, 2018.

8. At this time, Respondent has failed to submit to the Board's investigator documentation evidencing completion of the required six (6) extra CEU hours in Ethics.

#### B. Clinical Level Supervision

9. Respondent failed to ensure the submission to the Board's investigator any quarterly reports from his supervisor.

10. On or about August 30, 2018, the Board's investigator sent to Respondent a letter informing him that the Board did not receive the first quarterly report from his supervisor. The Board's investigator requested that Respondent provide this information to the Board by September 10, 2018.

11. At this time, no quarterly reports have been submitted to the Board's investigator.

12. Furthermore, Respondent provided the name of his supervisor to the Board's investigator, and the Board approved this supervisor. The Board's investigator contacted this supervisor regarding the quarterly reports. This purported supervisor denied having provided any supervision to Respondent.

#### **APPLICABLE LAW**

13. Pursuant to K.S.A. 65-6615(c): Administrative proceedings and disciplinary actions regarding licensure under the Addiction Counselor Licensure Act shall be conducted in accordance with the Kansas Administrative Procedure Act.

14. Pursuant to K.S.A. 2017 Supp. 77-537(a) of the Kansas Administrative Procedure Act ("KAPA"), a state agency may use summary proceedings, subject to a party's request for a hearing on the order, if:

- (1) The use of those proceedings in the circumstances does not violate any provision of law;
- (2) 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;
- (3) based upon an investigation of the facts by the state agency, beyond receipt of the allegations, the state agency believes in good faith that the allegations will be supported to the applicable standard of proof, provided however that an alleged failure to meet the standards set forth in this subsection shall not be subject to immediate judicial review and shall not invalidate any later agency action that has been supported to the applicable standard of proof; and
- (4) the order does not take effect until after the time for requesting a hearing has expired.

15. Pursuant to K.S.A. 65-6608(b): “Addiction counseling” means the utilization of special skills to assist persons with addictions, and to assist such persons’ families and friends to achieve resolution of addiction through the exploration of the disease and its ramifications, the examination of attitudes and feelings, the consideration of alternative solutions and decisions making, as these relate specifically to addiction. Evaluation and assessment, treatment, including treatment plan development, crisis intervention, referral, record keeping and clinical consultation specifically related to addiction are within the scope of addiction counseling.

16. Pursuant to K.S.A. 65-6608(c): “Licensed addiction counselor” means a person who engages in the practice of addiction counseling limited to substance abuse disorders and who is licensed under this act.

17. Pursuant to K.S.A. 65-6615(a)(5): The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license has violated a provision of the addiction counselor licensure act or one or more rules and regulation of the board.

18. Pursuant to K.A.R. 102-7-11(h): 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.

#### **CONCLUSIONS OF LAW**


19. Respondent failed to cooperate in a timely manner with a request from the Board’s investigator to provide information demonstrating to the Board his compliance with various terms and conditions contained in the Consent Agreement and Order in the above captioned matter

entered into between the parties on approximately February 2, 2018. This is a violation of K.S.A. 65-6615(a)(5), as defined in K.A.R. 102-7-11(h).

**SANCTION**

WHEREFORE, based on the above Findings of Fact and Conclusions of Law and pursuant to the authority granted by K.S.A. 65-6615(a) and KAPA, K.S.A. 77-537, the Complaint Review Committee of behalf of the Board finds that the Kansas License Addictions Counselor license of Respondent David J. Brown should be and is hereby **SUSPENDED** effective date of this Summary Proceeding Order as set forth in the Notice of Relief and the Certificate of Service below, and until such order of the Board upon Respondent's submission to the Board of satisfactory evidence demonstrating his compliance with the terms and conditions of the Consent Agreement and Order in the above captioned matter entered into between the parties on approximately February 2, 2018.

IT IS SO ORDERED ON THIS 10<sup>th</sup> DAY OF December, 2018.

  
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Chairperson, Complaint Review Committee  
On behalf of the Behavioral Sciences  
Regulatory Board

**NOTICE OF RELIEF FROM 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:

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

This written request must be filed within fifteen (15) calendar days from the date indicated in the below Certificate of Service. Pursuant to K.S.A. 77-503(c), the 15-day period begins the day after the date indicated in the Certificate of Service and includes weekends and legal holidays. If the 15<sup>th</sup> day falls on a Saturday, Sunday, or legal holiday, then the 15-day period runs until 5:00 p.m. on the next day which is not a Saturday, Sunday, or legal holiday. A request is considered "filed" on the date it is received at the Board's office. If a hearing is not requested in the time and manner stated, this Summary Order becomes a final order subject to judicial review. A petition for judicial review should be directed to the above recipient.

**CERTIFICATE OF SERVICE**

This is to certify that on this 11 day of ~~December~~ 2018, a true and correct copy of the above and foregoing Summary Proceeding Order of Suspension was deposited in the U.S. mail, first class postage prepaid, addressed to:

David J. Brown

[Redacted]

David J. Brown

[Redacted]

and a copy delivered via interoffice mail to:

Jane E. Weiler, Esq.  
Assistant Attorney General  
120 SW 10th Ave., 2nd Floor  
Topeka, KS 66612  
*Disciplinary Counsel for the Board*

Cindy D'Ercole  
For the Board