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SEP 25 2018
BY: _____

BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD
700 SW Harrison Street, Suite 420
Topeka, Kansas 66603-3929

In the Matter of)
AMY N. BURTON, LPC)
License No. 3236) Case No. 17-NL-0128
)
Respondent/Licensee.)

CONSENT AGREEMENT AND FINAL ORDER

NOW on this 21 day of September, 2018, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board ("the Board") by and through Assistant Attorney General Jane E. Weiler on behalf of the Board, and by agreement of Amy N. Burton, ("Licensee"), by and through Diane L. Bellquist, of Joseph Hollander & Craft, her attorney of record for the purposes of resolving the above-captioned matters.

The parties knowingly and voluntarily agree as follows:

1. Licensee did not have a license to practice as a professional counselor in the State of Kansas at the time the Report of Alleged Violation was received by the Board. On or about September 21, 2017, she received a temporary T-LPC license as an applicant for licensure, and she received her LPC license on April 2, 2018.

CASE NO. 17-NL-0128

2. On or about May 17, 2017, a Report of Alleged Violation was received by the Board alleging Licensee may have violated certain statues and regulations governing the practice of professional counseling in the State of Kansas.

3. Licensee advertised counseling services in early 2017 on a *Psychology Today* online website as a "pre-licensed professional" for her Overland Park, Kansas counseling office prior to filing an application for Kansas licensure and prior to being

granted her Temporary LPC license in Kansas. The website advertised counseling support, comprehensive therapy and EMDR therapy for clients.

4. During the time prior to and after receiving her Kansas T-LPC license, Licensee failed to practice under the direction of an appropriate Kansas Board-approved licensed individual as required by Kansas Professional Counselors Licensure Act.

5. Licensee provided unlicensed counseling in Kansas prior to filing an application for Kansas licensure and prior to being granted her Temporary LPC license in Kansas.

APPLICABLE LAW

6. K.S.A. 65-5802(g): "Licensed professional counselor" means a person who is licensed under this act and who engages in the practice of professional counseling except that on or after January 1, 2002, such person shall engage in the practice of professional counseling only under the direction of a licensed clinical professional counselor, 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.

7. K.S.A. 65-5802(b): "Practice of professional counseling" means to assist an individual or group for a fee, monetary or otherwise, through counseling, assessment, consultation and referral and includes the diagnosis and treatment of mental disorders as authorized under the Professional Counselors Licensure Act.

8. K.S.A. 65-5809(a): The Board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publically 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 licensure: (9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the Board. Specifically, K.A.R. 102-3-12a(b)(23): engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit or misrepresentation. Additionally, K.A.R. 102-3-12a(b)(54): using without a license, or continuing to use after the expiration of a license, any title or abbreviation prescribed by law for use solely by persons currently holding that type or class of license.

9. Licensee and the Board mutually desire to enter into this Consent Agreement and Final Order in lieu of further summary and adjudicative proceedings.

10. Licensee understands that by entering into this Consent Agreement and Final Order she waives all rights to further adjudication of facts and law that could be determined pursuant to summary proceedings or a hearing conducted in accordance

with the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.* in relation to Case No. 17-NL-0128.

11. Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Act for Judicial Review, K.S.A. 77-601 *et seq.* in relation to Case No. 17-NL-0128.

12. The Board accepts Licensee's waiver of rights and stipulations.

ORDER

WHEREFORE, the Board finds that the above facts have been established by clear and convincing evidence; and further finds that Licensee was in violation of K.S.A. 65-5809(a), as defined in K.A.R. 102-3-12a(b)(23), when Licensee engaged in professional activities, including advertising, involving misrepresentation when she advertised counseling services in early 2017 on a *Psychology Today* online website as a "pre-licensed professional" for her Overland Park, Kansas counseling office prior to filing an application for Kansas licensure and prior to being granted her Temporary LPC license in Kansas.

FURTHER WHEREFORE, the Board finds that Licensee was in violation of K.S.A. 65-5809(a), as defined in K.A.R. 102-3-12a(b)(54), when Licensee used without a license a title or abbreviation prescribed by law for use solely by persons currently holding that type or class of license when she advertised counseling services in early 2017 on a *Psychology Today* online website as a "pre-licensed professional" for her Overland Park, Kansas counseling office prior to filing an application for Kansas licensure and prior to being granted her Temporary LPC license in Kansas.

AND WHEREAS Licensee and the Board mutually desire to enter into a Consent Agreement and Final Order in lieu of further adjudicative proceedings to resolve the reported violations.

NOW THEREFORE, Licensee consents to the following terms and conditions, and the Board orders that:

13. Licensee shall practice only under individual supervision by a Board-approved supervisor and shall meet with her supervisor in person for a minimum of one (1) hour per week for a period of one (1) year, while employed as a LPC in the State of Kansas, from the effective date of this Consent Agreement and Order. Only supervision conducted while Licensee is employed and practicing as a LPC counts towards the one (1) year term of supervised practice. The focus of the supervision shall be related to professional practice issues specifically to be included with existing clinical supervision.

14. Licensee shall provide a copy of this Consent Agreement to the supervisor and authorize the supervisor to provide written quarterly reports to the Board's Investigator for the one (1) year term of supervision. These quarterly reports shall be due by December 1, 2018, March 1, 2019, June 1, 2019, and September 1, 2019.

15. Licensee must timely notify the Board's Investigator of a need in a change of a clinical supervisor.

16. Licensee shall research, write, and submit to the Board a five (5) page professional paper on the purpose/function of initial and on-going licensure requirement. The paper shall be double-spaced with one-inch margins and in American Psychological Association (APA) format. The paper shall be submitted to the Board within ninety (90) days from the effective date of this Consent Agreement and Final Order. This condition shall be deemed satisfied upon the reviewing Board member's approval of the professional paper.

17. Licensee shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Final Order.

18. After completion of the actions set out in the Consent Agreement and Final Order, Licensee will have no remaining obligations to the Board in relation to this case. However, Licensee may be subject to further enforcement action if Licensee fails to comply with the terms, conditions, and requirements imposed by this Consent Agreement and Final Order.

19. The matters referred to in this Consent Agreement and Final Order shall not be grounds for future action against Licensee, except the extent that that such matters may be relevant for future disciplinary or licensure proceedings in the Board's consideration of the factors identified in K.S.A. 65-5806 [Licensure; expiration and renewal; continuing education; reinstatement of suspended or revoked license], and K.S.A. 65-5809 [Refusal to issue, suspension, limitation, refusal to renew or revocation of license or specialty designation; grounds], for establishing rehabilitation or a pattern of conduct.

20. Except as provided in paragraph 19, this Consent Agreement and Final Order shall operate as a complete release of all claims the parties may have against each other pending before the Board and arising out of the Board's investigation of these matters. Licensee agrees not to file, or cause to be filed, any litigation or claims in any federal or state court of law or federal or state administrative agency against the Board, its agents, Board members, or employees, individually or in their official capacity. Such litigation or claims include, but are not limited to, any K.S.A. Chapter 60 or Chapter 61 civil action regarding negligence and/or a 42 United States Code action and/or any administrative petition for redress. Licensee agrees that all actions in this matter were a bona fide use of administrative discretion on the part of the

Board, its members, and employees, which is a statutory exception to liability within the Kansas Tort Claims Act, K.S.A. 75-6104(b), (c) or (e).

21. Licensee agrees that this Consent Agreement and Final Order conforms to Kansas and federal law and that the Board has jurisdiction to enter into it and enter the Final Order provided for herein.

22. Licensee understands that a notification of this Consent Agreement and Final Order shall be provided to any other state licensing board or entity if Licensee is also licensed, registered or certified in another state.

23. This Consent Agreement and Final Order shall be a public record in the custody of the Board.

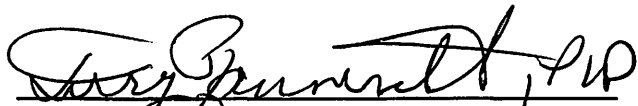
24. This Consent Agreement and Final Order constitutes the entire agreement of the parties and may only be modified by order of the Board or by a subsequent writing signed by the parties. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

25. This Consent Agreement and Final Order shall become effective on the date indicated in the Certificate of Service.

WHEREFORE, the parties consent to these provisions, which are hereby made the Final Order of the Kansas Behavioral Sciences Regulatory Board in the above-captioned case.

IT IS SO ORDERED.

Dated this 21 day of September 2018.


Chairperson, Complaint Review Committee
Kansas Behavioral Sciences Regulatory Board

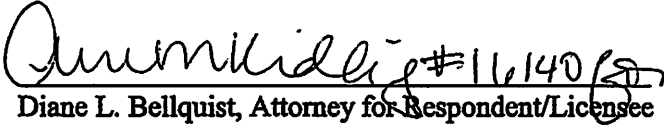
AGREED AND CONSENTED TO BY:



Amy N. Burton
Respondent/Licensee

9-12-18

Date



Diane L. Bellquist, Attorney for Respondent/Licensee

9-13-2018

Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 27 day of September 2018, by depositing the same in the United States mail, postage prepaid, addressed to:

Diane Bellquist
Joseph Hollander & Craft
1508 SW Topeka Blvd.
Topeka, KS 66612
Attorney for Respondent/Licensee

And a copy delivered via interoffice mail to:

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



For the Kansas Behavioral Sciences
Regulatory Board