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BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In The Matter Of)
)
MERVIN BONTRAGER,)
LSCSW #256)
Respondent)
_____)

Case No. 18-CS-0103

Pursuant to K.S.A. 77-536

SUMMARY PROCEEDING ORDER OF REVOCATION

NOW, on this 6 day of July, 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. Mervin Bontrager (“Respondent”) is currently and was at all times relevant, a Licensed Specialist Clinical Social Worker within the meaning of the Licensure of Social Workers Act, K.S.A. 65-6301 *et seq.*, and amendments thereto.
2. On or about February 6, 2018, the Board received a complaint concerning Respondent's unprofessional conduct, alleging Respondent may have violated certain statutes and/or regulations governing the practice of Licensed Specialist Clinical Social Worker in Kansas.
3. The Board conducted an investigation concerning Respondent's alleged violation of statutes and/or regulations. During the investigation, Respondent was informed of the reported

allegations on or about February 5, 2018, and he was requested to respond to the allegations no later than March 5, 2018. On or about May 3, 2018, Respondent provided to the Board a response to the allegations.

4. As a result of the investigation, the Board found that the following facts had been established by a preponderance of evidence:

- a. In June 2017, Respondent retired from his position at Prairie View Behavioral and Mental Healthcare (“Prairie View”) in Newton, Kansas.
- b. On or about January 19, 2018, the Director of Outpatient Operations at Prairie View received a letter from a former patient of Respondent and she reported that she had been “a victim of sexual harassment/abuse” while in the care of Respondent in the early 2000’s.
- c. Prairie View conducted an investigation, and talked to this former patient. The patient reported that she and Respondent had engaged in sexual relations on the floor in his office.
- d. On or about January 26, 2018, Prairie View met with Respondent to discuss the allegations. Initially, Respondent denied any such sexual misconduct.
- e. On or about January 30, 2018, Respondent sent to Prairie View a letter apologizing for not being more forthcoming in the January 26, 2018, meeting. Further, Respondent admitted to the “charges” and accepted full responsibility.
- f. In addition, in this letter, Respondent stated, “I rescinded my license and mailed it back to BSRB on Monday, January 29.”
- g. On or about May 3, 2018, Respondent sent to the Board a response to the allegations.

- h. In his letter to the Board, Respondent admits to the inappropriate relationship with his patient. However, Respondent then states, “[M]y understanding was that our relationship was of mutual consent.”
- i. Additionally, Respondent purported to have “surrendered” his license several months ago in this letter.
- j. However, contrary to Respondent’s assertion, did not “rescind” or “surrender” his license to the Board.

CONCLUSIONS OF LAW

5. 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.

6. Proceedings under the Kansas Licensure of Social Workers Act are subject to KAPA.

7. Under K.S.A. 65-6311(a)(4), the Board may suspend, limit, revoke, condition or refuse to issue or renew a license of any social worker upon proof that the social worker has been found guilty of unprofessional conduct as defined by rules established by the board. Specifically:

- a. Respondent is in violation of K.A.R. 102-2-7(j), in that Respondent offered to perform or performing services clearly inconsistent or incommensurate with one’s

training, education, and experience and with accepted professional standards for social work.

- b. Respondent is in violation of K.A.R. 102-2-7(y), in that Respondent made sexual advances toward or engaged in physical intimacies or sexual activities with one's client.
- c. Respondent is in violation of K.A.R. 102-2-7(aa), in that Respondent exercised undue influence over any client..., in a manner that will exploit the client ... for the financial gain, personal gratification, or advantage of oneself or a third party.
- d. Respondent is in violation of K.A.R. 102-2-7(tt), in that Respondent engaged in a dual relationship with a client.

SANCTION

WHEREFORE, based on the above Findings of Fact and Conclusions of Law, Respondent Mervin Bontrager's Kansas Licensed Specialist Clinical Social Worker license should be and is hereby revoked pursuant to K.S.A. K.S.A. 65-6311(a)(4).

IT IS SO ORDERED ON THIS 5th DAY OF July, 2018.


Terry Pfannenstiel
Chair, Complaint Review Committee

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:

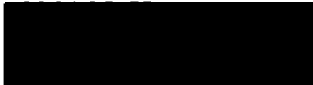
Max Foster, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison St., Suite 420
Topeka, KS 66603-3929

Any such 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 6 day of July, 2018, a true and correct copy of the above and foregoing Summary Proceeding Order of Revocation was deposited in the U.S. mail, first class postage prepaid, addressed to:

Mervin Bontrager



and a copy delivered via interoffice mail to:

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Disciplinary Counsel for the Board

Cindy D'Erade
For the Board