

Jane E. Weiler, #25276
Assistant Attorney General
Office of the Kansas Attorney General
120 SW 10th Avenue, Second Floor
Topeka, KS 66612-1597

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

In the Matter of)	
GREGORY FLIESS, LPC)	Case No. 19-PC-0010
License No. 2675)	
)	
<u>Respondent/Licensee.</u>)	

CONSENT AGREEMENT AND FINAL ORDER

NOW on this 12 day of February, 2019, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board ("Board") by and through Assistant Attorney General Jane E. Weiler on behalf of the Board, and by agreement of Gregory Fliess, ("Licensee"), for the purposes of resolving the above-captioned matter.

The parties knowingly and voluntarily agree as follows:

1. On September 8, 2014, the Board issued Licensee an original Licensed Professional Counselor ("LPC") license, No. 2675. This license expires on September 30, 2020. Licensee is currently, and was at all times relevant to this Consent Agreement and Final Order, an LPC within the meaning of the laws relating to regulation of professional counselors, K.S.A. 65-5801 *et seq.*

CASE NO. 19-PC-0010

2. On or about July 20, 2018, a Report of Alleged Violation was received by the Board alleging Licensee may have violated certain statutes and regulations governing the practice of clinical professional counselors in the State of Kansas.

3. On June 20, 2018, Licensee was employed by the University of Kansas Health System, and worked at the Marillac Campus.

4. On this date, the attending physician admitted a patient to inpatient child psychiatry.

5. Upon receiving the admission, Licensee then contacted an on-call fellow psychiatrist, contrary to the protocol at Marillac to contact the attending physician.

6. Licensee obtained orders to not admit the patient to inpatient services, but arranged for outpatient services for this patient.

7. Licensee did not contact the attending physician to obtain permission to refer the patient to outpatient services instead of the inpatient services as ordered.

8. Licensee then sent an email to other co-workers titled, "I RUN THIS HOSPITAL!" The message read in part, "Per protocol, he had to call the back up attending...WHO TOLD ME TO ADMIT THE KID. However, don't fret because I decided to override his decision because I'm more intelligent, obviously, and sent the kid home. LOL!"

9. On or about July 6, 2018, Licensee was terminated from University of Kansas Health System related to this incident.

APPLICABLE LAW

10.K.S.A. 65-5802(h): "Licensed clinical professional counselor" means a person who engages in the independent practice of professional counseling including the diagnosis and treatment of mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations and who is licensed under this act.

11.K.S.A. 65-5809(a)(9): 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 licensure has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the Board. Specifically:

- a. K.A.R. 102-3-12a(b)(2)(C): except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that any of the following circumstances apply to any person regulated by the board or applying for a license or registration, including oneself has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance.

- b. K.A.R. 102-3-12a(b)(23): engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation.
- c. K.A.R. 102-3-12a(b)(27): exercising undue influence over any client, student, directee, or supervisee, including promoting sales of services or goods, in a manner that will exploit the client, student, directee, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party.
- d. K.A.R. 102-3-12a(b)(34): continuing or ordering tests, procedures, or treatments or using treatment facilities or services not warranted by the condition, best interests, or preferences of the client.

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

13. Licensee understands that by entering into this Consent Agreement and Final Order Licensee 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. 19-PC-0010.

14. 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. 19-PC-0010.

15. 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)(9), as defined in K.A.R. 102-3-12a(b)(2)(C), in that Licensee was terminated from his position at the University of Kansas Health System for malfeasance.

Additionally, the Board finds that Licensee was in violation of K.S.A. 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(23), in that Licensee engaged in professional activities, specifically deceit, when he did not contact the attending physician regarding the change in the attending physician's orders.

Further, the Board finds that Licensee was in violation of K.S.A. 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(27), in that Licensee exercised undue influence over a client when he obtained orders to not admit the patient to inpatient services, but

arranged for outpatient services for this patient. Licensee then sent an email to others boasting about his defiance of the attending physician's order.

In addition, the Board finds that Licensee was in violation of K.S.A. 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(34), in that Licensee ordered services not in the best interest of the client when he disregarded the attending physician's order to admit the patient to inpatient services, but arranged for outpatient services for this patient after contacting another physician.

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:

16. Licensee shall practice only under individual supervision by an independent clinical-level supervisor to be approved by the Board. Licensee shall have weekly one (1) hour meetings with his supervisor in a face to face fashion. There shall be no dual relationship with the supervisor. This focus of this supervision shall be related to professional practice.

17. Licensee shall provide a copy of this Consent Agreement to the supervisor and authorize the supervisor to provide written monthly reports to the Board's Investigator for the one (1) year term of supervision. There shall be a minimum of twelve (12) monthly reports submitted to the Board's investigator during this one (1) year supervision timeframe, with each report submitted on or before the first of each month.

18. Licensee shall provide a copy of this Consent Agreement to his employment supervisor.

19. Licensee must notify the Board's Investigator within ten (10) days of a change in his employment and/or address change.

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

21. Additionally, Licensee shall obtain three (3) extra continuing education hours in Ethics beyond the biennial requirement, taken in-person or on-line within six (6) months of the effective date of this Consent Agreement and Final Order. These additional continuing education hours shall include, but not limited to, following professional protocols within the industry.

22. These hours shall be in addition to those continuing education hours required for renewal of license.

23. All foreseen and unforeseen expenses to complete the aforementioned course(s) including travel, lodging, program fee, meals, etc., shall be at Licensee's own expense.

24. Licensee shall all submit to the Board's investigator at its offices located at 700 SW Harrison St, Suite 420, Topeka, Kansas, 66603, any and all documents evidencing compliance with the terms and conditions required by this Consent Agreement and Final Order.

25. 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.

26. 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; notice of change of address], and K.S.A. 65-5809 [Refusal to issue, suspension, limitation, refusal to renew, condition or revocation of license; grounds; procedure; licensure of applicant with felony conviction, requirements], for establishing rehabilitation or a pattern of conduct.

27. Except as provided in paragraph 26, 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).

28. 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.

29. 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.

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

31. 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.

32. 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.

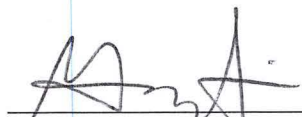
IT IS SO ORDERED.

Dated this 11th day of February 2019.



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

AGREED AND CONSENTED TO BY:



LPC
Gregory Fliess, LPC
Respondent/Licensee

1/22/19
Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 12 day of February 2019, by depositing the same in the United States mail, postage prepaid, addressed to:

Gregory Fliess, LPC
[REDACTED]
[REDACTED]

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

Cindy D'Arde
For the Kansas Behavioral Sciences
Regulatory Board