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BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In The Matter Of)
)
KRISTINA J. CELLAR,)
LPC #3008)
)
Respondent)
_____)

Case No. 19-PC-0194

Pursuant to K.S.A. 77-536

SUMMARY PROCEEDING ORDER OF SUSPENSION

NOW, on this 11 day of February, 2020, 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. Kristina J. Cellar (“Respondent”) was at all times relevant, a Licensed Professional Counselor (“LPC”) within the meaning of the Kansas Professional Counselors Licensure Act, K.S.A. 65-5801, and amendments thereto. The Board issued Respondent original LPC No. 3008 on approximately November 7, 2016. This license will expire on November 30, 2020.
2. On or about November 6, 2018, Respondent submitted to the Board her renewal application.
3. On or about November 8, 2018, Board staff notified Respondent that her LPC license was randomly selected for an audit. As part of the audit, Respondent was to submit to the Board

documentation for the Continuing Education Units (“CEUs”) claimed as part of his renewal. Respondent was to submit to the Board this documentation by December 31, 2018.

4. Respondent failed to submit to the Board the documentation for the CEUs claimed as part of her renewal by December 31, 2018.

5. On or about April 1, 2019, Board staff sent to Respondent a second notice of the audit. Respondent was again informed that she was required to submit to the Board the audit materials with a deadline now of April 30, 2019.

6. Respondent again failed to submit to the Board the documentation for the CEUs claimed as part of her renewal by April 30, 2019.

7. On or about June 18, 2019, the Board’s investigator sent to Respondent notice that her failure to comply with the Board’s audit resulted in a Report of Alleged Violation. The Board’s investigator requested Respondent to respond to the Board’s investigation by July 19, 2019.

8. Respondent failed to respond to the Board’s investigator by July 19, 2019.

9. On or about August 28, 2019, a second notice was sent to Respondent via email regarding the Board’s investigation. This email informed Respondent that she had until September 28, 2019, to respond to the Board’s investigation.

10. Respondent failed to respond to the Board’s investigator by September 28, 2019.

11. On or about October 2, 2019, the Board’s investigator sent to Respondent a letter informing her that the case related to her Report of Alleged Violation regarding her failure to comply with the Board’s audit would be reviewed by the Board’s Complaint Review Committee on October 10, 2019.

12. On or about October 9, 2019, Respondent sent an email to the Board’s investigator regarding the letter she received, and reported that she would not be able to attend the meeting.

13. At the October 10th meeting, the Complaint Review Committee voted to allow Respondent the opportunity to respond to the audit and to the Board's investigation. Her case would then be reviewed at the next Complaint Review Committee meeting.

14. On or about October 14, 2019, Board staff again sent to Respondent notice that she was to submit to the Board documentation for the CEUs claimed as part of her renewal. Respondent was to submit to the Board this documentation by November 13, 2019.

15. Additionally, on or about October 14, 2019, the Board's investigator sent to Respondent the Report of Alleged Violation regarding her failure to comply with the Board's audit. She was to reply by November 14, 2019.

16. To date, Respondent has not provided to the Board the CEU's claimed as part of her 2018 renewal. Further, Respondent has not provided to the Board's investigator a response to the Board's investigation.

APPLICABLE LAW

17. 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.

18. 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

and 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.

19. K.S.A. 65-5809(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 licensure has violated a provision of the professional counselors licensure act or one or more rules and regulations of the board, specifically:

- a. K.A.R. 102-3-9b(c): Upon board notification, each renewal applicant shall submit the following to the board within 30 days after the license expiration date:
 - i. (1) The completed renewal audit forms; and
 - ii. (2) the original continuing education documents that validate all continuing education units claimed for credit during the current renewal period.
- b. K.A.R. 102-3-12a(b)(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.

CONCLUSIONS OF LAW

20. Respondent is in violation of K.S.A. 65-5809(a)(5), as defined in K.A.R. 102-3-9b(c), in that Respondent has repeatedly failed to respond to the Board’s audit by providing to the Board documentation for the CEUs claimed as part of her renewal.

21. Further, Respondent is in violation of K.S.A. 65-5809(a)(5), as defined in K.A.R. 102-3-12a(b)(9), in that Respondent has failed to cooperate in a timely manner with the request from the Board for a response related to the Report of Alleged Violation filed against her for her failure to respond to the Board’s audit.

SANCTION

WHEREFORE, based on the above Findings of Fact and Conclusions of Law and pursuant to the authority granted by K.S.A. 65-5809(a) and K.S.A. 77-537, the Complaint Review Committee of behalf of the Board finds that the Kansas Professional Counselor license of Respondent Kristina J. Cellar 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.

IT IS SO ORDERED ON THIS 11 **DAY OF** February, 2020.



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 15th 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 February, 2020, 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:

Kristina J. Cellar


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



For the Board