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BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In The Matter Of)
)
TOMASINA K. HICKS,) **Case No. 20-AC-0166**
LAC #372)
)
Respondent)
_____)
Pursuant to K.S.A. 77-536

SUMMARY PROCEEDING ORDER

NOW, on this 18 day of November, 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. Tomasina K. Hicks ("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. The Board issued Respondent original LAC No. 372 on approximately August 10, 2011. This license will expire on August 31, 2021.
2. On or about August 30, 2019, Respondent submitted to the Board her renewal application.

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3. On or about September 4, 2019, Board staff notified Respondent that her LAC 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 her renewal. Respondent was to submit to the Board this documentation by September 30, 2019.

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

5. On or about March 4, 2020, 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 March 31, 2020.

6. On or about June 16, 2020, Respondent talked with Board staff. Respondent informed Board staff that she had moved and she had not received the letter regarding her audit. Board staff informed Respondent that she needed to submit to the Board her audit packet.

7. Later on June 16, 2020, Respondent emailed to Board staff a list of CEUs completed; however, Respondent did not submit to the Board the audit packet which included the certificates evidencing completion of the CEUs claimed as part of her renewal. This requirement was included in her notice of audit.

8. On or about June 17, 2020, Board staff sent an email to Respondent informing her that she needed to submit to the Board the entire audit packet, which included the certificates evidencing completion of the CEUs in order for the Board to process her audit. Respondent did not submit to the Board any documentation evidencing completion of her CEUs claimed as part of her renewal.

9. On or about June 24, 2020, Board staff once again sent to Respondent notice that she had yet to complete her audit, as she had not submitted to the Board any documentation evidencing

completion of her CEUs claimed as part of her renewal. Further, Board staff provided Respondent with another audit packet in this email. Respondent did not respond to this email, nor did she submit to the Board any documentation evidencing completion of her CEUs claimed as part of her renewal.

10. On or about July 17, 2020, 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 June 17, 2020

11. Respondent failed to respond to the Board's investigator by June 17, 2020

12. On or about July 17, 2020, a second notice was sent to Respondent regarding the Board's investigation. This email informed Respondent that she had until August 17, 2020, to respond to the Board's investigation

13. Respondent failed to respond to the Board's investigator by August 17, 2020

14. To date, Respondent has not provided to the Board any documentation evidencing completion of her CEUs claimed as part of her 2019 renewal. Further, Respondent has not provided to the Board's investigator a response to the Board's investigation

APPLICABLE LAW

15. Pursuant to K.S.A. 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.

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 regulations of the board. Specifically, 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. Each 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

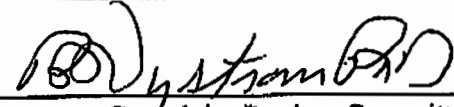
18. Respondent is in violation of K.S.A. 65-6615(a)(5), as defined in K.A.R. 102-7-11(h), in that Respondent has failed to cooperate in a timely manner with the request from the Board for a response related to the Report of Alleged Violation filed against her for her failure to respond to the Board’s audit.

ORDER

19. 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 K.S.A. 77-537, the Complaint Review Committee of behalf of the Board finds that the Kansas Addiction Counselor license of Respondent Tomasina K. Hicks 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.

20. Additionally, Respondent shall pay a fine of \$250.00 within thirty (30) days of the effective date of this Summary Proceeding Order to the Board's investigator at its offices located at 700 SW Harrison St, Suite 420, Topeka, Kansas, 66603.

IT IS SO ORDERED ON THIS 17 DAY OF November 2020.


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

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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 18 day of November 2020, a true and correct copy of the above and foregoing Summary Proceeding Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Tomasina K. Hicks, LAC



and by email to: jane.weiler@ag.ks.gov

Jane E. Weiler, Esq.
Assistant Attorney General
Disciplinary Counsel for the Board



For the Board

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