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**BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD**

<b>In The Matter Of</b>	)	
	)	
<b>ROGENE FRAZEE MOORE,</b>	)	<b>Case No. 20-LC-0162</b>
<b>LCPC #338</b>	)	
	)	
<b>Respondent</b>	)	
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Pursuant to K.S.A. 77-536		

**SUMMARY PROCEEDING ORDER OF SUSPENSION**

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. Rogene Frazee Moore (“Respondent”) was at all times relevant, a Licensed Clinical Professional Counselor (“LCPC”) within the meaning of the Kansas Professional Counselors Licensure Act, K.S.A. 65-5801, and amendments thereto. The Board issued Respondent original LCPC No. 338 on approximately April 21, 2005. This license will expire on April 30, 2021.
2. On or about April 30, 2019, Respondent submitted to the Board her renewal application.

3. On or about May 1, 2019, Board staff notified Respondent that her LCPC 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 May 30, 2019.

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

5. On or about August 20, 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 September 30, 2019.

6. Respondent sent to Board staff an email stating, “I am sorry, I missed the first notification. I will begin to work on this for the Sept [sic] deadline.” However, Respondent did not submit to the Board the documentation for the CEUs claimed as part of her renewal by September 30, 2019.

7. On or about March 3, 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.

8. Once again Respondent failed to submit to the Board the documentation for the CEUs claimed as part of her renewal by March 31, 2020.

9. On or about May 15, 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.

10. Respondent failed to respond to the Board’s investigator by June 17, 2020.

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

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

13. To date, Respondent has not provided to the Board the CEU's 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**

14. 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.

15. 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.

16. 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, 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**

17. 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 Clinical Professional Counselor license of Respondent Rogene Frazee Moore 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.

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

**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 15<sup>th</sup> 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.

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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 of Suspension was deposited in the U.S. mail, first class postage prepaid, addressed to:



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

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

Cindy D'Arcio  
For the Board