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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)
ANTHONY WHITFIELD, LMAC)
LMAC License No. 381) Case No. 20-MA-0153
Respondent/Licensee. _____)

CONSENT AGREEMENT AND FINAL ORDER

NOW on this 5 day of October, 2021, 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 Anthony Whitfield, ("Licensee"), by and through his attorney of record, Bryan W. Smith of Smith Law Firm, for the purposes of resolving the above-captioned matter.

The parties knowingly and voluntarily agree as follows:

1. On September 25, 2017, the Board issued Licensee an original Licensed Master Addiction Counselor ("LMAC") No. 381. This license expires on September 30, 2021. Licensee is currently, and was at all times relevant to this Consent Agreement and Final Order, an LMAC within the meaning of the laws relating to regulation of addiction counselors, K.S.A. 65-6607 *et seq.*
2. On or about April 28, 2020, the Board received a Report of Alleged Violation alleging Licensee may have violated certain statutes and regulations governing the practice of licensed master's addiction counselors in the State of Kansas.
3. From approximately March 9, 2020, through April 14, 2020, Licensee was employed at Mirror Inc. in Shawnee, Kansas. Licensee was to hired to provide substance abuse counseling to clients of Mirror Inc. Further, Licensee did provide substance abuse counseling to clients at Mirror Inc.

4. On or about April 14, 2020, at 4:38 p.m., Licensee sent to his supervisor an email that he was resigning his position effective immediately.

5. Licensee was to conduct a group session at Mirror Inc. within an hour of when he submitted his resignation on April 14, 2020.

APPLICABLE LAW

6. K.S.A. 65-6608(d): "Licensed master's addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction 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 substance abuse disorders or mental disorders.

7. K.S.A. 65-6615(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 license 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. 102-7-11(ii): failing to notify the client promptly if one anticipates terminating or interrupting service to the client.
- b. K.A.R. 102-7-11(jj): failing to seek continuation of service, or abandoning or neglecting a client under or in need of professional care, without making reasonable arrangements for that care.
- c. K.A.R. 102-7-11(kk): abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer.

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

9. 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. 20-MA-0153.

10. 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. 20-MA-0153.

11. 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. 65-6311(a)(9), as defined in K.A.R. 102-7-11(ii), in that Licensee failed to notify his clients promptly that there would be an interruption of services when he resigned effective immediately from his employment.

The Board also finds Licensee was in violation of K.S.A. 65-6311(a)(9), as defined in K.A.R. 102-7-11(jj), in that Licensee failed to seek continuation of services for his clients when he resigned effective immediately from his employment.

Additionally, the Board finds Licensee was in violation of K.S.A. 65-6311(a)(9), as defined in K.A.R. 102-7-11(kk), in that Licensee abandoned his employment when he resigned from Mirror Inc. without providing reasonable notice to his employer, which seriously impaired the delivery of professional care to his clients.

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:

12. Licensee's LMAC license is hereby publically censured.

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

14. Additionally, Licensee shall obtain six (6) extra continuing education hours in Ethics beyond the biennial requirement, taken in-person or on-line within ninety (90) days of the effective date of this Consent Agreement and Final Order. These additional continuing education hours shall include, but not limited to, professional responsibility and the importance of therapeutic relationships.

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

16. 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.

17. Licensee shall 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.

18. 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.

19. 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. 65-6614 [Licensure; expiration and renewal; continuing education; reinstatement of suspended or revoked license; notice of change of address], K.S.A. 65-6615 [Refusal to grant licensure; other licensure actions; grounds, procedure; licensure of applicant with felony conviction, requirements].

20. Except as provided in paragraph 19, 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).

21. 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.

22. 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.

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


24. 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.

25. 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.

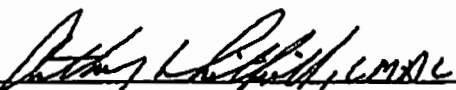
IT IS SO ORDERED.

Dated this 4th day of October 2021.



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

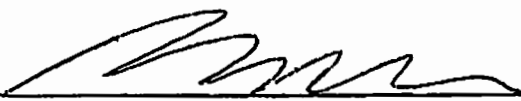
AGREED AND CONSENTED TO BY:



Anthony Whitfield, LMAC
Respondent/Licensee

9/28/2021

Date



Bryan W. Smith
Attorney for Respondent/Licensee

9/29/2021

Date

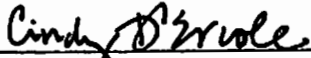
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 5 day of October 2021, by depositing the same in the United States mail, postage prepaid, addressed to:

Bryan W. Smith
Smith Law Firm
5930 SW 29th Street, Suite 200
Topeka, KS 66614

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



For the Behavioral Sciences
Regulatory Board