

Jane E. Weiler, #25276
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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)
RICKY RIVERA, LMFT)
License No. 1007) Case No. 20-MF-0101
)
Respondent/Licensee.)

CONSENT AGREEMENT AND FINAL ORDER

NOW on this 29 day of September, 2020, 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 Ricky Rivera, ("Licensee"), for the purposes of resolving the above-captioned matter.

The parties knowingly and voluntarily agree as follows:

1. On October 17, 2017, the Board issued Licensee a Licensed Marriage and Family Therapist ("LMFT") license, No. 1007. This license expires on January 31, 2022. Licensee is currently, and was at all times relevant to this Consent Agreement and Final Order, an LMFT within the meaning of the laws relating the Kansas Marriage and Family Therapists Licensure Act, K.S.A 65-6401, *et seq.*, and amendments thereto.

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2. Licensee's LMFT license expired on October 31, 2019.
3. On or about January 11, 2020, Licensee submitted to the Board his reinstatement of his license that expired on October 31, 2019.
4. On or about January 14, 2020, Licensee's LMFT license was reinstated.

5. In his reinstatement, Licensee admitted to seeing patients during the time that his license was expired.

APPLICABLE LAW

6. K.S.A. 65-6402(d): "Licensed clinical marriage and family therapist" means a person who engages in the independent practice of marriage and family therapy 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 is licensed under this act.

7. K.S.A. 65-6408(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 marriage and family therapists licensure act or one or more of the rules and regulations of the board.

8. K.S.A. 65-6408(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. 102-5-12(b)(51): Practicing marriage and family therapy after one's license expires.
- b. K.A.R. 102-5-12(b)(52): using without a license or continuing to use after a license has expired any title or abbreviation prescribed by law to be used solely by persons who currently hold that type or class of license.

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

10. 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-MF-0101.

11. 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-MF-0101.

12. 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. 65-6408(a)(5), in that Licensee violated a provision of the marriage and family therapists licensure act or one or more of the rules and regulations of the board when Licensee practice marriage and family therapy after his LMFT license had expired, which is a violation of K.S.A. 65-6408(a)(9), as defined in K.A.R. 102-5-12a(51) and K.A.R. 102-5-12a(52).

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:

13. Licensee shall pay a fine of \$100.00 within thirty (30) days of the effective date of this Diversion Agreement to the Board's investigator at its offices located at 700 SW Harrison St, Suite 420, Topeka, Kansas, 66603.

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

15. 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.

16. 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. 65-6407 [Licensure; expiration and renewal; continuing education; reinstatement of suspended or revoked license], and K.S.A. 65-6408 [Refusal to grant, suspension, condition, limitation, qualification, restriction or revocation of license, grounds], for establishing rehabilitation or a pattern of conduct.

17. Except as provided in paragraph 16, 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).

18. 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.

19. 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.

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


21. 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.

22. 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.

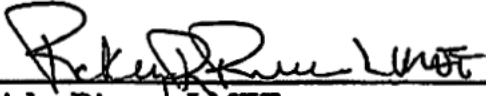
Dated this 28th day of September 2020.



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

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AGREED AND CONSENTED TO BY:



Ricky Rivera, LMFT
Respondent/Licensee

9/15/20

Date

CERTIFICATE OF SERVICE

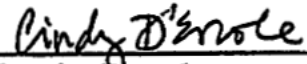
I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 29 day of September 2020, by depositing the same in the United States mail, postage prepaid, addressed to:

Ricky Rivera



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

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



For the Board