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BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD
700 SW Harrison Street, Suite 420
Topeka, Kansas 66603-3929

In the Matter of)
ARIEL N. CLEMENTI, LMSW)
License No. 9843)
Respondent/Licensee.)

Case No. 21-MS-0075

CONSENT AGREEMENT AND FINAL ORDER

NOW on this 23 day of August, 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 Ariel N. Clementi, ("Licensee"), for the purposes of resolving the above-captioned matter.

The parties knowingly and voluntarily agree as follows:

1. On October 30, 2015, the Board issued Licensee an original Licensed Masters Social Worker ("LMSW") license, No. 9843 This license expires on October 31, 2021. Licensee is currently, and was at all times relevant to this Consent Agreement and Final Order, an LMSW within the meaning of the laws relating to regulation of social workers, K.S.A. 65-6301 *et seq.*
2. On or about January 7, 2021, a Report of Alleged Violation was received by the Board alleging Licensee may have violated certain statutes and regulations governing the practice of masters level social workers in the State of Kansas.
3. From February 2018 through January 2021, Licensee was employed as a residential therapist at the Emberhope Youthcare in Wichita, Kansas.
4. On or about December 18, 2020, Licensee learned of an incident that had occurred at Emberhope Youthcare.

5. Licensee told her supervisor that she learned of the incident on December 22, 2020.

6. Licensee was required to report this incident to the Kansas Department for Children and Families. However, on December 29, 2020, when Licensee filed her report, she documented that she received the information on December 28, 2020.

7. On or about January 6, 2021, Licensee resigned her position at Emberhope Youthcare in lieu of termination. However, Licensee did not report her resignation to the Board in a reasonable amount of time.

APPLICABLE LAW

8. K.S.A. 65-6302(b): "Social work practice" means the professional activity of helping individuals, groups or communities enhance or restore their capacity for physical, social and economic functioning and the professional application of social work values, principles and techniques in areas such as psychotherapy, social service administration, social planning, social work consultation and social work research to one or more of the following ends: Helping people obtain tangible services; counseling with individuals, families and groups; helping communities or groups provide or improve social and health services; and participating in relevant social action. The practice of social work requires knowledge of human development and behavior; of social, economic and cultural institutions and forces; and of the interaction of all these factors. Social work practice includes the teaching of practicum courses in social work and includes the diagnosis and treatment of mental disorders as authorized under K.S.A. 65-6306 and 65-6319, and amendments thereto.

9. K.S.A. 65-6311(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. 102-2-7(b)(3): except when the information has been obtained in the context of a confidential relationship, failing to notify the board, within a reasonable period of time, that ... oneself has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance.
- b. K.A.R. 102-2-7(j): offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, or experience with accepted professional standards for social work.

- c. K.A.R. 102-2-7(w): engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation.
- d. K.A.R. 102-2-7(ll): making or filing a report that one knows to be distorted, erroneous, incomplete, or misleading.

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

11. 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. 21-MS-0075.

12. 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. 21-MS-0075.

13. 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. 102-2-7(b)(3), in that Licensee resigned in lieu of termination from Emberhope Youthcare due to malfeasance, and she did not report her resignation to the Board in a reasonable time.

Additionally, 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. 102-2-7(j), in that Licensee practiced social work incommensurate with the accepted standards for social work when she failed to accurately document the date of the incident.

Further, 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. 102-2-7(w) and K.A.R. 102-2-7(ll), in that Licensee, on more than one occasion, engaged in activities involving dishonesty, and she knew was misleading when she filed with the Kansas Department for Children and Families a report with the incorrect date.

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:

14. Licensee shall practice only under individual supervision by a clinical-level supervisor to be approved by the Board. This supervisor may be her employment supervisor. Licensee shall have weekly one (1) hour meetings with her supervisor, with one-half of these meetings being in a face to face fashion. The focus shall be related to documentation and professional responsibilities.

15. Licensee shall provide a copy of this Consent Agreement to the supervisor and authorize the supervisor to provide written quarterly reports to the Board's Investigator for the one (1) year term of supervision. There shall be a minimum of four (4) quarterly reports (every three [3] months) submitted to the Board's investigator during this one (1) year supervision timeframe.

16. Licensee shall provide a copy of this Consent Agreement to her present employer.

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

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

19. Licensee shall all 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.

20. 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.

21. 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. 65-6313 [Licenses; effective and expiration dates; renewal; continuing education; safety awareness training;

reinstatement; duplicate; notice of change of address], and K.S.A. 65-6311 [Grounds for suspension, limitation, condition revocation or refusal to issue or renew license; procedure; licensure of applicant with felony conviction, requirements], for establishing rehabilitation or a pattern of conduct.

22. Except as provided in paragraph 21, 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).

23. 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.

24. 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.

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

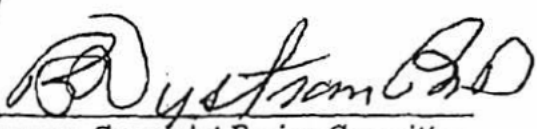
26. This Consent Agreement and Final Order constitutes the entire agreement of the parties and may only be modified by order of the Board or by a subsequent writing signed by the parties. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

27. 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 20th day of August 2021.


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


AGREED AND CONSENTED TO BY:


Ariel N. Clementi, LMSW
Respondent/Licensee

8.5.2021
Date

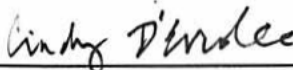
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 23 day of August 2021, by depositing the same in the United States mail, postage prepaid, addressed to:

Ariel N. Clementi, LMSW


And a copy delivered via email to:

Jane E. Weiler, Assistant Attorney General
Jane.weiler@ag.ks.gov
Office of the Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612
Disciplinary Counsel for the Board



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