

KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

Eisenhower State Office Building
700 SW Harrison, Suite 420
Topeka, Kansas 66603-3240

In the Matter of)
Sara Minges)
)
Applicant for Reinstatement)
as a Professional Counselor)

Case No. 21-PC-004

Summary Proceeding Order

The above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board) for consideration of the application for reinstatement filed by Sara Minges for reinstatement of her professional counselor license. Her application was considered by the following Board members: Leslie Sewester, David Anderson, Mary Jones, Jacqueline Lightcap, Ric Steele, Carolyn Szafran, Laura Shaughnessy, Johnna Norton, Deb Stidham.

After reviewing the Board's file, the Board makes the following findings of fact, conclusions of law, and order.

Findings of Fact

1 On August 1, 2017, a Petition in Discipline was filed against Applicant's license to practice as a Licensed Professional Counselor (LPC) in the State of Kansas. This Petition in Discipline related to case numbers 15-PC-0006, 15-PC-0043, 15-PC-0101, and 16-PC-0054.

2. A formal hearing was held before the Kansas Office of Administrative Hearings (OAH) from February 26, 2018, through February 27, 2018.

3. On May 24, 2018, the OAH Administrative Law Judge/Presiding Officer issued an Initial Order in this matter, finding Applicant was in violation of the Kansas Professional Counselors Licensure Act.

4. On September 25, 2018, the Board issued a Final Order which affirmed the findings of fact and conclusions of law regarding Applicant's violations of K.A.R. 102-3-12a(b)(10), (14), (38), and (52).

5. Applicant appealed to the Shawnee County District Court, and the Court affirmed the Board's Final Order in part, and reversed in part. In its March 2, 2019 Memorandum Decision and Order the Shawnee County District Court found that K.S.A. 74-7507(b) was not unconstitutional on its face, nor did it violate Applicant's right to due process or equal protection. The Court affirmed the Board's conclusions as to the

commission of unprofessional conduct in cases 15-PC-0006, 15-PC-0101, and 16-PC-0054 and the assessment of legal costs, fees and expenses against Applicant.

6. Applicant then appealed to the Court of Appeals. On or about May 29, 2020, the Court of Appeals affirmed the District Court's Memorandum Decision and Order.

7. On May 24, 2021, Applicant filed with the Board an application for reinstatement of her LPC license. With her application, Applicant submitted the reinstatement fee and provided proof of continuing education requirements. Applicant did not provide evidence, and has not paid, the legal costs, fees and expenses as ordered.

Conclusions of Law

8. The Board is authorized to reinstate a license as a professional counselor to qualified applicants. See K.S.A. 65-5806.

9. Because the Applicant submitted to the Board her application for reinstatement of her suspended LPC license, the Board has jurisdiction over Applicant and this matter.

10. A person whose license has been suspended or revoked may make written application to the Board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 65-5808, and amendments thereto. K.S.A. 65-5806(c).

11. Pursuant to K.A.R. 102-3-9a(d): If the license of any individual has been suspended and the individual thereafter makes an application to renew or reinstate the license, the individual shall submit the following:

- (1) A completed reinstatement application on forms approved by the Board;
- (2) the required renewal fee and, if applicable, the late charge set forth in K.A.R. 102-3-2;
- (3) proof satisfactory to the board that the applicant has complied with the continuing education requirements;
- (4) proof satisfactory to the board that the applicant has complied with the terms of the suspension; and
- (5) any materials, information, evaluation or examination reports, or other documentation that the board may request that will enable the board to satisfactorily evaluate and determine whether or not the license should be renewed or reinstated. An applicant's license may be renewed or reinstated after the board considers the following factors:
 - (A) The extent to which the individual presently merits the public trust;
 - (B) the individual's demonstrated consciousness of the wrongful conduct that resulted in the license suspension;
 - (C) the extent of the individual's remediation and rehabilitation in regard to the wrongful conduct that resulted in the license suspension;
 - (D) the nature and seriousness of the original misconduct;
 - (E) the individual's conduct after the license suspension;

- (F) the time elapsed since the license suspension; and
- (G) the individual's present competence in professional counseling knowledge and skills.

12. Administrative proceedings under the Professional Counselors Licensure Act are conducted in accordance with the Kansas Administrative Procedure Act (KAPA), K.S.A. 77-501 *et seq.* K.S.A. 65-5809(c). Under the KAPA, the Board may use summary proceedings to issue an order, subject to a party's request for a hearing. The Board finds that the use of summary proceedings in the matter does not violate any law and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than the parties. See K.S.A. 77-537.

13. K.A.R. 102-3-9a(d)(4): Applicant failed to provide to the Board proof that she has complied with the terms of her suspension. Specifically, the Board ordered, and the District Court and Court of Appeals affirmed, that all legal costs, fees and expenses of the formal hearing be assessed against Applicant. The costs associated with the February 2018 formal hearing totaled \$3,250.00. Applicant has not submitted payment as ordered.

14. K.A.R. 102-3-9a(d)(5)(A): Applicant failed to provide to the Board any information or documentation evidencing that she presently merits the public trust. Applicant's LPC license was suspended for numerous violations of the Kansas Professional Counselors Licensure Act. Additionally, the violations involved not one, but several, separate and independent complaints filed with the Board.

15. K.A.R. 102-3-9a(d)(5)(B): Applicant failed to provide to the Board any information, documentation, or evidence of her consciousness of the wrongful conduct that resulted in her license suspension. Applicant provided no evidence of consciousness of her wrongful conduct with her application materials.

16. K.A.R. 102-3-9a(d)(5)(C): Applicant failed to provide to the Board any information, documentation, or evidence related to the extent of her remediation and rehabilitation in regard to the wrongful conduct that resulted in the license suspension.

17. K.A.R. 102-3-9a(d)(5)(D): The nature and seriousness of the original misconduct involved incompetency. The Board found, and the District Court and Court of Appeals affirmed, that Applicant's conduct was unprofessional under K.A.R. 102-3-12a(b)(52) by practicing professional counseling in an incompetent manner. Applicant abandoned this violation on appeal, acquiescing to this violation. Applicant has failed to provide to the Board any information, documentation, or evidence that would enable the Board to evaluate and determine if her license should be reinstated.

18. K.A.R. 102-3-9a(d)(5)(E): Applicant's conduct after her license suspension. The Board is aware of a new, pending Petition in Discipline alleging unprofessional conduct. Although aware, the Board does not consider the factual allegations contained in the pending Petition when considering her application for reinstatement.

19. K.A.R. 102-3-9a(d)(5)(F): The time elapsed since the license suspension. The time elapsed since the Final Order suspending her license and her application for reinstatement has been approximately two years and ten months.

20. After consideration of the above facts and law, the Board concludes that Applicant, Sara Minges, has not shown that she has complied with the terms of the suspension, merits public trust, is conscious of her wrongful conduct, shown remediation and/or rehabilitation and is presently competent in professional counseling knowledge and skills.

Order

WHEREFORE, after consideration of the above findings of fact and conclusions of law, it is the decision of the Board that Sara Minges application for reinstatement of her professional counselor license be denied.

IT IS SO ORDERED.

Kansas Behavioral Sciences Regulatory Board



Leslie Sewester, Chair and Presiding Officer

NOTICE OF ADMINISTRATIVE RELIEF

Pursuant to K.S.A. 77-537(b) and 77-542(a), a written request for a hearing before the Board on the above Order may be filed with the Board within fifteen (15) days of the date listed on the certificate of service below. If a hearing is not requested in the time and manner stated, the above Summary Proceeding Order becomes effective upon expiration of the fifteen (15) day time period. The Board's designee who may receive service of a request for a hearing on behalf of the Board is:

David Fye, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison, Suite 420
Topeka, Kansas 66603

CERTIFICATE OF SERVICE

This is to certify that on the 17th day of November, 2021 a copy of the above and foregoing Summary Proceeding Order and Notice was placed in the U.S. mail, first-class postage prepaid addressed to:

Sara Minges
ADDRESS



Staff,
Behavioral Sciences Regulatory Board