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BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In The Matter Of)
)
GINIVA ESPINOZA,)
LPC #2859)
)
Respondent)
_____)

Case No. 21-PC-0041

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. Giniva Espinoza ("Respondent") was at all times relevant, a Licensed Professional Counselor ("LPC") within the meaning of the Kansas Professional Counselors Licensure Act, K.S.A. 65-5801, *et seq.*, and amendments thereto. The Board issued Respondent original LPC No. 2859 on approximately November 2, 2015. This license will expire on November 30, 2021.
2. On or about November 14, 2019, Respondent entered into a Consent Agreement and Final Order with the Board in Case No. 19-PC-0165.

3. The Consent Agreement and Final Order required in part that Respondent shall obtain six (6) extra CEU hours in Ethics, in addition to the biennial requirement, to be taken in-person and proof of completion furnished to the Board's Investigator within ninety (90) days of the effective date of this Consent Agreement and Final Order.

4. Respondent failed to submit to the Board's investigator documentation evidencing completion of the aforementioned CEU hours in ethics by February 12, 2020.

5. On or about July 1, 2020, the Board's investigator sent to Respondent notice that the Report of Alleged Violation related to her noncompliance in Case 19-PC-0165. Specifically, the Board's investigator requested that Respondent submit to the Board documentation evidencing completion of her required CEU hours in ethics. Further, if Respondent failed to provide this documentation, her noncompliance would be reviewed by the Complaint Review Committee of the Board.

6. At this time, Respondent has failed to submit to the to the Board's investigator documentation evidencing completion of the CEU hours in ethics

APPLICABLE LAW

7. 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.

8. K.S.A. 65-5802(g): "Licensed professional counselor" means a person who is licensed under this act and who engages in the practice of professional counseling except that on and after January 1, 2002, such person shall engage in the practice of professional counseling only under the direction of a licensed clinical professional 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 mental disorders.

9. 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.

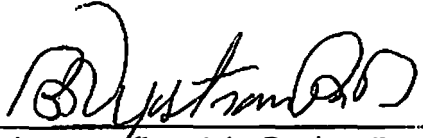
CONCLUSIONS OF LAW

10. Respondent is in violation of K.S.A. 65-5809(a)(5), as defined in K.A.R. 102-3-12a(9), in that Respondent has failed to cooperate in a timely manner with the request from the Board to respond to the Board's lawful request to provide to the Board's investigator documentation evidencing completion of the CEU hours in ethics.

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 Professional Counselor license of Respondent Giniva Espinoza 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.

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 15th 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.

In the Matter of Giniva Espinoza, Case No. 21-PC-0041

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:

Giniva Espinoza, LPC



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

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Disciplinary Counsel for the Board

Lindsay D'Ercole
For the Board