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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)
RICHARD H. GARVIN, II, LMSW)
License No. 11073)
)
Respondent/Licensee.)

Case No. 22-MS-0044

CONSENT AGREEMENT AND FINAL ORDER

NOW on this 16 day of May, 2022, 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 Richard H. Garvin, II, ("Licensee"), for the purposes of resolving the above-captioned matter.

The parties knowingly and voluntarily agree as follows:

1. On August 17, 2018, the Board issued Licensee an original Licensed Masters Social Worker ("LMSW") license, No. 11073 This license expires on August 31, 2022. 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 September 29, 2021, a Report of Alleged Violation was received by the Board alleging Licensee may have violated certain statues and regulations governing the practice of masters level social workers in the State of Kansas.
3. From March 2019, through September14, 2021, Licensee was employed at Valeo Behavioral Health Care ("VBHC") in Topeka, Kansas.
4. While employed at VBHC, Licensee failed to meet with clients as required, yet he would document that he met with clients in a face-to-face manner.

5. Additionally, Licensee would bill the client time using the face-to-face billing code, despite not meeting with the clients in a face-to-face manner.

6. VBHC terminated Licensee for fraudulent documentation and not providing proper client care as required.

APPLICABLE LAW

7. 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.

8. 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(w): engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation; and
- b. K.A.R. 102-2-7(jj): taking credit for work not performed personally, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information.

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. 22-MS-0044.

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. 22-MS-0044.

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. 65-6311(a)(9), as defined in K.A.R. 102-2-7(w), in that Licensee would submit bills using the face-to-face billing code; however, he did not provide face-to-face meetings with the clients.

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(jj), in that Licensee documented that he met with clients in a face-to-face manner; however, he did not have face-to-face meetings with the 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:

13. Licensee shall practice only under individual supervision by a clinical-level supervisor to be approved by the Board. This supervisor may be his employment supervisor. Licensee shall have weekly one (1) hour meetings with his supervisor, in a face to face fashion. The focus shall include, but not limited to, billing practices and professional responsibilities. This requirement shall last for one (1) year.

14. Within thirty (30) days of the effective date of this Consent Agreement and Final Order; or if Licensee is not currently working using his LMSW license and prior to the beginning of using his LMSW license, Licensee shall submit to the Board's investigator the name of his proposed supervisor.

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 his present employer.

17. Licensee must notify the Board's Investigator within ten (10) days of a change in his 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.

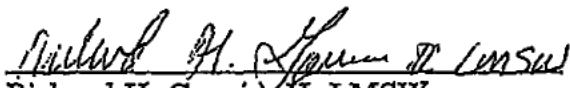
WHEREFORE, the parties consent to these provisions, which are hereby made the Final Order of the Kansas Behavioral Sciences Regulatory Board in the above-captioned case.

IT IS SO ORDERED.

Dated this 12th day of May 2022.


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

AGREED AND CONSENTED TO BY:


Richard H. Garvin, II, LMSW
Respondent/Licensee

5-10-22
Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 16 day of May 2022, by depositing the same in the United States mail, postage prepaid, addressed to:

Richard H. Garvin, II, 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

Cindy D'Ercole