

Jane E. Weiler, #25276  
Assistant Attorney General  
Office of the Kansas Attorney General  
120 SW 10<sup>th</sup> Avenue, Second Floor  
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 )  
RACHEL M. MCDANIEL, LMSW )  
License No. 10025 )  
Respondent/Licensee. \_\_\_\_\_ )

Case No. 22-MS-0126

**CONSENT AGREEMENT AND FINAL ORDER**

NOW on this 21 day of December, 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 Rachel M. McDaniel, ("Licensee"), for the purposes of resolving the above-captioned matter.

The parties knowingly and voluntarily agree as follows:

1. On June 8, 2016, the Board issued Licensee an original Licensed Masters Social Worker ("LMSW") license, No. 10025 This license expires on June 30, 2024. 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 March 14, 2022, the Board received information alleging Licensee may have violated certain statues and regulations governing the practice of masters level social workers in the State of Kansas.

3. Licensee was seeking licensure as a specialist clinical social worker pursuant to K.A.R. 102-2-8(d). As such, Licensee was being supervised by an LSCSW.

4. At the conclusion of her clinical supervision, her supervisor submitted to the Board the Supervisor Attestation verifying the required clinical hours and providing

a recommendation for Licensee to take the certification test. In this attestation, Licensee's supervisor reported concerns related to Licensee's billing practices with respect to a group co-facilitated by Licensee.

5. Licensee reported that she was not credentialed with a private insurance company, but the co-facilitator of the group was credentialed with a private insurance company.

6. Licensee acknowledged incorrect billing regards to the group Licensee co-facilitated. However, she did refund the fees, and she waived the fees associated with these groups.

7. Licensee and the co-facilitator discontinued the group after the billing concerns were raised.

8. Licensee did report this issue to her clinical supervisor.

#### APPLICABLE LAW

9. 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.

10.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(j): offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, and experience and with accepted professional standards for social work.

- b. K.A.R. 102-2-7(w): engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation.

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

12. 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-0126.

13. 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-0126.

14. 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(j), in that Licensee performed services incommensurate with her training, education and experience when she failed to understand the appropriate billing of 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(w), in that Licensee billed for services that she was not credentialed to bill for the services.

**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:

15. Licensee shall obtain three (3) extra continuing education hours in Ethics beyond the biennial requirement, taken in-person or on-line within six (6) months of the effective date of this Consent Agreement and Final Order. These additional continuing education hours shall include, but not limited to billing and financial relationships with clients.

16. Upon completion of these continuing education hours, Licensee will be eligible to complete the examination required for an LSCSW license.

17. These hours shall be in addition to those continuing education hours required for renewal of license.

18. All foreseen and unforeseen expenses to complete the aforementioned course(s) including travel, lodging, program fee, meals, etc., shall be at Licensee's own expense.

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.

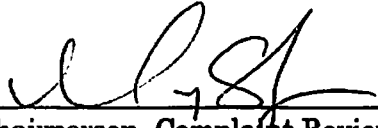
26. This Consent Agreement and Final Order constitutes the entire agreement of the parties and may only be modified by order of the Board or by a subsequent writing signed by the parties. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

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 20<sup>th</sup> day of December 2022.

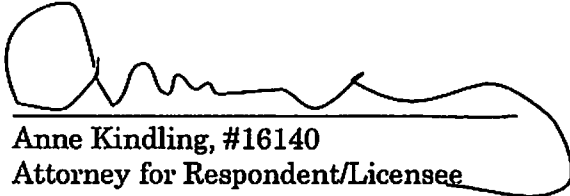
  
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Chairperson, Complaint Review Committee  
On behalf of Kansas Behavioral Sciences  
Regulatory Board

**AGREED AND CONSENTED TO BY:**

DocuSigned by:  
  
0874748103C0AF2  
Rachel M. McDaniel, LMSW  
Respondent/Licensee

12/20/2022

Date

  
Anne Kindling, #16140  
Attorney for Respondent/Licensee

12/20/2022

Date

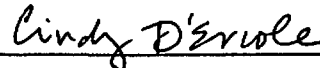
**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 21 day of December 2022, by depositing the same in the United States mail, postage prepaid, addressed to:

Anne Kindling  
Joseph, Hollander & Craft  
1508 SW Topeka BLVD  
Topeka, KS 66612

And a copy delivered via email to:

Jane E. Weiler, Assistant Attorney General  
[Jane.weiler@ag.ks.gov](mailto:Jane.weiler@ag.ks.gov)  
Office of the Attorney General  
120 SW 10<sup>th</sup> Ave., 2<sup>nd</sup> Floor  
Topeka, KS 66612  
*Disciplinary Counsel for the Board*

  
Cindy D'Ercole