

KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD
Eisenhower State Office Building
700 SW Harrison, Suite 420
Topeka, Kansas 66603-3240

In the Matter of)

Kristina Hobbs)

Respondent)

Pursuant to K.S.A. 77-537)

Case No. 23-PC-0127

SUMMARY PROCEEDING ORDER OF SUSPENSION

Now, on this 7 day of March, 2023, 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. Kristina Hobbs ("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. 2862 on approximately November 5, 2015. This license will expire on November 30, 2023.

2. On or about November 28, 2022, a Summary Proceeding Order for Case No. 22-PC-0137 became a final order of the Board, as Respondent did not request an appeal of that decision within the statutory timeframe. The final order for 22-PC-0137 required, in part, that Respondent be under individual supervision by an independent clinical-level supervisor, to be approved by the Board. Also, the final order stated Respondent is responsible for any costs and expenses incurred in satisfying the terms of the order.

3. Respondent failed to submit the name of a clinical supervisor to the Board's investigator. On December 28, 2022, the Board's investigator sent a letter to Respondent reminding her that she is responsible to comply with the terms of the order and she was informed that she must provide the name of a proposed supervisor within 30 days. In a letter received by the Board on January 10, 2023, Respondent stated supervision was a financial burden and requested a hearing, though the previous order had already become a final order of the Board on November 28, 2022. Additionally, Respondent provided the name of a previous supervisor but stated she could not reach that supervisor.

4. On January 17, 2023, a letter was sent by the Executive Director of the Board to Respondent, clarifying that she would not be able to request a hearing on the order that had already become a final order of the Board. Respondent was reminded she must comply with the terms and conditions in the final order and that she must provide the name of a supervisor by January 28, 2023. Respondent was informed that Board staff contacted her former supervisor who did not agree to be Respondent's supervisor under the terms of the final order. Respondent was informed that if she did not provide an appropriate supervisor to be approved by the deadline, a new Report of Alleged Violation would be submitted by the Board against her and presented to the Complaint Review Committee for the Board in February 2023.

5. On January 22, 2023, Respondent requested a list of possible supervisors from the BSRB. On January 25, 2023, Board staff provided a list of independently clinically licensed individuals in Kansas to Respondent.

6. On January 23, 2023, the Board received an e-mail from Respondent sent to the Executive Director for the Board. Respondent stated she was being punished with more punitive regulations than she could afford, stating "It is not fair. Shame on you." On January 25, 2023, in an e-mail to Board's Investigator, Respondent stated "I have asked for alternatives to this ridiculous STUPID punishment for something I did no wrong on. I am still waiting for those alternatives." Respondent further referred the decision by the Complaint Review Committee as "Absolutely stupid."

7. On January 27, 2023, the Board received an e-mail from Respondent, in which she stated that she is currently working as a military family life counselor at Fort Leavenworth Army base.

8. At this time, Respondent has failed to submit to the Board's investigator the name of a supervisor to be reviewed and approved. At this time, Respondent has failed to have weekly one (1) hour meetings with a Board approved supervisor. At this time, Respondent has failed to submit documentation evidencing compliance with the terms and conditions required by the Summary Proceeding Order for Case No. 22-PC-0137.

APPLICABLE LAW

9. 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 the 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 standard 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.

10. 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.

11. K.S.A. 65-5809(a)(11): 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 any lawful order or directive of the board previously entered by the board.

CONCLUSIONS OF LAW

12. Respondent is in violation of K.S.A. 65-5809(a)(11), in that Respondent has violated the Summary Proceeding Order entered by the Board on November 8, 2022, which is a lawful order or directive of the board previously entered by the board.

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 Kristina Hobbs 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 7 DAY OF March, 2023.



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 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:

**David Fye, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison St., Suite 420
Topeka, KS 66603**

This written request must be filed within fifteen (15) calendar days of the date listed in the Certificate of Service below. Pursuant to K.S.A. 77-503(c), the 15-day period begins the day after the date shown in Certificate of Service below 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 that 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.

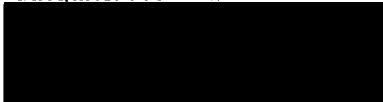
The Board's designee who may receive service of a request for a hearing on behalf of the Board is:

**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 this 7 day of March 2023, a true and correct copy of the above and foregoing Summary Proceeding Order of Suspension was placed in the U.S. mail, first-class postage prepaid, addressed to:

Kristina Hobbs



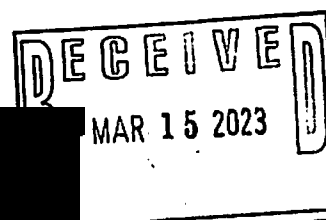
And by e-mail to: kyle.edelman@ks.gov

Kyle Edelman
Senior Litigation Counsel for the Kansas Department for Aging and Disability Services
Disciplinary Counsel for the Board of the Behavioral Sciences Regulatory Board
503 S. Kansas Ave.
Topeka, KS 66603
785-296-0378

A handwritten signature in cursive script that reads "Cindy D'Ercole".

Staff,
Kansas Behavioral Sciences Regulatory Board

Kristina L. Hobbs



Mailed March 13, 2023 via Return Receipt

March 13, 2023

David Fye, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison St., Ste. 420
Topeka, KS 66603

Re: Case No. 23-PC-0127

David,

This is a written request for a hearing in the above matter.

Thank you,

A handwritten signature in cursive script that reads "Kristina Hobbs".

Kristina L. Hobbs, MA, LPC

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF KANSAS**

IN THE MATTER OF:

Case No. 23-PC-0127

Kristina Hobbs

OAH No. 23BS0002 BSRB

**ORDER DENYING MOTION TO VACATE
PROPOSED DEFAULT ORDER
AND
DEFAULT ORDER**

This matter comes before the Presiding Officer/Administrative Law Judge (ALJ) to issue an order denying a request to vacate the *Proposed Default Order* previously issued in this matter and issue this *Default Order* as proposed.

1. On April 11, 2023, a *Notice of Prehearing Conference and Prehearing Questionnaire* was sent to both Hobbs and BSRB. The notice informed the parties of a prehearing conference scheduled to be held on May 4, 2023 and directed the parties to complete and return a prehearing questionnaire at least one week prior to the scheduled prehearing conference.
2. The notice informed the parties that the prehearing conference would be conducted informally to discuss preliminary matters, and instructed the parties to complete and return a prehearing questionnaire form. The notice advised that failure to complete the questionnaire as required could result in a party being held in default.
3. The last paragraph of the first page of the *Notice of Prehearing Conference and Prehearing Questionnaire* informed the parties: "Each party should plan to appear at the scheduled time unless they have received notification from OAH that the matter has been cancelled or rescheduled." [emphasis added]
4. On April 27, 2023, BSRB completed and returned a completed prehearing questionnaire as required.
5. Hobbs failed to return a completed prehearing questionnaire as required by the April 27, 2023 deadline.
6. On May 1, 2023, Hobbs submitted a request to reschedule the May 4, 2023 prehearing conference. The request alleged that Hobbs had been unable to address the hearing matter due to her daughter's medical issues. The request did not provide details as to why Hobbs had failed to submit a timely prehearing questionnaire as required, or why Hobbs would be

unable to call in to participate in the prehearing conference on May 4, 2023, which was scheduled to be held by telephone.¹

7. On May 2, 2023, an order was issued, which informed the parties that Hobbs's request to continue the May 4, 2023 prehearing conference was denied.
8. No information was communicated to either party to advise that the prehearing conference scheduled for May 4, 2023 had been cancelled or rescheduled.
9. Jeremy Dorsey, legal counsel for BSRB, appeared for the scheduled prehearing conference on May 4, 2023. Hobbs failed to appear.
10. Hobbs failed to appear for the prehearing conference and failed to participate in the adjudicative process by failing return the completed prehearing questionnaire as required. Hobbs was found to be in default pursuant to the Kansas Administrative Procedures Act (KAPA).² A *Proposed Default Order* was issued against Hobbs on May 10, 2023.
11. This *Proposed Default Order* informed Hobbs that it would become effective as a default order seven (7) days after date service listed on the Certificate of Service unless Hobbs filed a written motion with OAH (with a copy sent to BSRB) stating why the Proposed Default Order should be vacated and the order was subsequently vacated.
12. The same day the *Proposed Default Order* was issued OAH received a letter from Hobbs which was typed as an e-mail but printed and mailed to OAH addressed to the ALJ. In this document, Hobbs wrote complaints about the process and details of personal issues she is dealing with. Although the letter alleged health issues Hobbs's daughter had been dealing with over a two-week period, the letter did not explain why Hobbs was unable to participate in the scheduled prehearing conference by telephone on May 4, 2023. The letter included Hobbs's belief that she was entitled to have the prehearing conference rescheduled.
13. On May 15, 2023, OAH received a letter from Hobbs sent by Email to OAH with a title, "Response to Notice of Proposed Default and Proposed Default Order Received May 14, 2023."³ Hobbs argued the *Proposed Default Order* against her should be vacated. Therefore, the letter is being accepted as Hobbs's attempt to file a motion to vacate the *Proposed Default Order*.
14. In the filing, Hobbs alleged things were "not fair to her" and claimed she was bullied by OAH. She argued the *Proposed Default Order* should be vacated and Hobbs wrote that she did nothing wrong.
15. On her response, Hobbs appeared to confuse OAH and BSRB as the same entity. Hobbs

¹ Proceedings held by telephone allow parties to participate from almost any location where they can make a telephone call.

² K.S.A. 77-520.

³ Hobbs sent the email to OAH's email address for receiving filings from parties on Sunday, May 14, 2023.

included arguments as to why the license suspension sought by BSRB was incorrect.⁴

16. BSRB and OAH are separate entities. BSRB is the state agency regulating certain professions, including professional counselors. BSRB is the agency which had issued a license to Hobbs, LPC No. 2862. OAH is an independent agency which conducts administrative hearings on behalf of multiple state agencies, including BSRB. OAH has not made any allegations or findings, nor has OAH conducted investigations regarding professional licenses held by Hobbs or any other licensees.
17. OAH is not a court of equity. OAH is the tribunal designated to conduct administrative hearings on behalf of agencies such as BSRB. In cases such as this, the administrative proceedings must be conducted in accordance with the provisions of KAPA. The law does not give OAH the authority to invalidate or amend any statute, rule, regulation, or policy governing the actions of an administrative agency. The ALJ only has the authority to determine if action taken or sought by an agency has complied with the governing authority, and not whether such governing laws, rules, regulations, and policies are fair or should be changed.
18. As noted above, pursuant to KAPA, Hobbs was found to be in default and a *Proposed Default Order* was issued on May 10, 2023. KAPA specifies that a party may file a written motion to vacate a *Proposed Default Order* stating the reasons why it should be vacated.⁵ This is to address the *Proposed Default Order* anyway and not the underlying reason why the above captioned matter was referred to OAH for an administrative hearing.
19. According to the provisions of KAPA, if a timely motion is filed seeking to vacate the ALJ may either vacate the proposed default order or issue a default order.⁶
20. Hobbs has failed to state good cause to vacate the *Proposed Default Order*. Hobbs did not establish why she failed to submit the prehearing questionnaire as directed, or why she could not have called in to participate in the scheduled prehearing conference on May 4, 2023. As provided in the notice, the prehearing conference was to be an informal proceeding for the parties to address how the matter would proceed. Therefore, even if Hobbs had not been able to devote time to preparing for a hearing, she could have still called in to participate in a discussion regarding dates and times for scheduling additional prehearing conferences or the administrative hearing which she had requested.
21. Accordingly, Hobbs' request to vacate the *Proposed Default Order* is hereby denied.

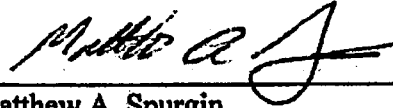
⁴ In Paragraph 6 of the filing, Hobbs wrote, "If OAH claims I violated any other regulation, they why was I not provided such regulations(s) to review when I requested consent regulations from BSRB. . ."

⁵ K.S.A. 77-520(b).

⁶ K.S.A. 77-520(c).

22. This *Default Order* shall become effective upon the date of service reflected on the Certificate of Service below.⁷

IT IS SO ORDERED.



Matthew A. Spurgin
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On August 31st, 2023, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Kristina Hobbs



Kristina Hobbs



and I further certify that I caused a copy of the foregoing to be served electronically through OAH's e-filing system to:

Timothy D. Resner
Frieden & Forbes LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
Legal Counsel for BSRB

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



Staff Person
Office of Administrative Hearings
1020 S. Kansas Avenue
Topeka, Kansas 66612
785-296-2433
785-296-4848 (fax)

⁷ K.S.A. 77-520(e).

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF KANSAS**

IN THE MATTER OF:
Kristina Hobbs

Case No. 23-PC-0127
OAH No. 23BS0002 BSRB

INITIAL ORDER OF DISMISSAL

This matter comes before the Presiding Officer/Administrative Law Judge (ALJ) to issue this Initial Order dismissing the request for an administrative hearing.

Statement of the Case:

The above captioned matter was referred to the Office of Administrative Hearings (OAH) when the Appellant, Kristina Hobbs (Hobbs), LPC License No. 2862, requested an administrative hearing in response to a Summary Proceeding Order (SPO) issued by the Respondent, Behavioral Sciences Regulatory Board (BSRB or Agency) on March 7, 2023.

Hobbs represented herself in this proceeding. The Agency was represented by prior counsel Jeremy Dorsey and current counsel Timothy Resner.

The issue before the this tribunal was whether action should be taken against Hobbs license (LPC License No. 2862) for alleged violations of the Kansas Professional Counselors Licensure Act, K.S.A. 65-5801 *et seq.*

Findings of Fact:

1. On May 10, 2023, a Proposed Default Order was issued against Kristina Hobbs (Hobbs) after Hobbs failed submit a completed prehearing questionnaire as directed and also failed to appear for a scheduled prehearing conference. Jeremy Dorsey appeared as counsel for the Respondent, Behavioral Sciences Regulatory Board (BSRB or Agency).¹
2. Hobbs submitted filings which were accepted as a motion to vacate the *Proposed Default Order* in accordance with the provisions of the Kansas Administrative Procedures Act (KAPA).²
3. An order has been issued denying the motion/request to vacate the proposed default order. Therefore, in accordance with Kansas law, a default order is hereby issued as proposed, and issuing the default order as proposed.³

¹ Jeremy Dorsey appeared as counsel of record for BSRB at the May 10, 2023 prehearing conference. Since that date, Timothy Resner, attorney at law, has entered his appearance as counsel of record for BSRB.

² See: K.S.A. 77-520.

³ K.S.A. 77-520(c).

Analysis and Conclusions of Law:

1. If a timely motion to vacate a proposed default order has been filed, the presiding officer may either a) vacate the proposed default order, or b) deny the motion and issue the default order as proposed and the default order becomes effective upon service.⁴ An order has been issued in this matter finding Hobbs in default.
2. After a default order becomes effective, the presiding officer may either conduct further proceedings necessary without the participation of the defaulting party or dismiss the defaulting party's request for an administrative hearing.⁵ Hobbs was the party in the default and has been found to be in default. Therefore, Hobbs' request for an administrative hearing should be dismissed.
3. In accordance with Kansas law, Hobbs' request for an administrative hearing on the March 7, 2023, BSRB "Summary Proceeding Order" (SPO), is dismissed.

IT IS SO ORDERED.



Matthew A. Spurgin
Administrative Law Judge
Office of Administrative Hearings

Appeal Rights and Other Administrative Relief

Either party may request a review of this initial order by filing a petition for review with the Behavioral Sciences Regulatory Board (BSRB).⁶ A petition for review must be filed within fifteen (15) days of the date this initial order was mailed. Failure to request a timely review by BSRB may preclude further judicial review. If neither party requests a review by the BSRB this initial order becomes final and binding on the 30th day following its mailing.⁷ A petition for review shall be mailed or hand delivered to: David Fye, Executive Director, BSRB, 700 SW Harrison, Suite 420, Topeka, KS 66603.

Until the time at which a petition for judicial review would no longer be timely, a party may submit to the presiding officer or agency head a petition for stay of effectiveness of an initial or final order, unless otherwise provided by statute or stated in the initial or final order.⁸

⁴ K.S.A. 77-520(b).

⁵ K.S.A. 77-520(d).

⁶ K.S.A. 77-527.

⁷ K.S.A. 77-530.

⁸ K.S.A. 77-528.

CERTIFICATE OF SERVICE

On August 31st, 2023, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

Kristina Hobbs

[REDACTED]

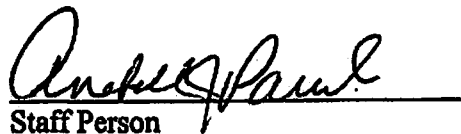
Kristina Hobbs

[REDACTED]

and I further certify that I caused a copy of the foregoing to be served electronically through OAH's e-filing system to:

Timothy D. Resner
Frieden & Forbes LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
Legal Counsel for BSRB

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



Staff Person
Office of Administrative Hearings
1020 S. Kansas Avenue
Topeka, Kansas 66612
785-296-2433
785-296-4848 (fax)