

Jane E. Weiler, #25276
Assistant Attorney General
Office of the Kansas Attorney General
120 SW 10th 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)
PETER M. MACHUTTA, LAC) Case No. 21-AC-0129
LAC License No. 718)
)
Licensee/Respondent.)

CONSENT AGREEMENT AND FINAL ORDER

NOW on this 10 day of January, 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 Peter M. Machutta, (“Licensee”), for the purposes of resolving the above-captioned matters.

The parties knowingly and voluntarily agree as follows:

1. On August 31, 2011, the Board issued Licensee an original Licensed Addiction Counselor (“LAC”) license No. 718. Licensee is currently, and was at all times relevant to this Consent Agreement and Final Order, an LAC within the meaning of the Kansas Addiction Counselor Licensure Act, K.S.A. 65-6607 *et seq.*
2. On or about, June 22, 2021, the Board received a Report of Alleged Violation (“RAV”) alleging Licensee may have violated certain statues and regulations governing the practice of addiction counselors in the State of Kansas. A subsequent investigation determined the following facts.
3. Since August 2019, Licensee began the Encounter Behavioral & Counseling Center in Wichita, Kansas.
4. Licensee was assigned to provide services to a minor child. This is a team approach, and Licensee was just one member of this team.

5. Licensee did not always communicate with other members of the team regarding the minor child. An example, Licensee would discuss peer mentoring with the minor child, but he did not provide any information about therapy to other team members.

6. Additionally, Licensee did talk with this minor child about the Wichita Equine Therapy Center, which is not presently providing services in the State of Kansas.

7. No information was provided by Licensee on how he communicated with the collaborating agency regarding the minor client.

APPLICABLE LAW

8. Pursuant to K.S.A. 65-6608(c): "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance abuse disorders and who is licensed under this act.

9. Pursuant to K.S.A. 65-6615(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 license has violated a provision of the addiction counselor licensure act or one or more of the rules and regulations of the board. Specifically, K.A.R. 102-7-11(i): Offering to perform or performing services clearly inconsistent or incommensurate with one's training, education or experience or with accepted professional standards.

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

11. 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. 21-AC-0129.

12. 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. 21-AC-0129.

13. 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. 65-6615(a)(5), as defined in K.A.R. 102-7-11(i) in that Licensee practiced addiction counseling inconsistent with the with the accepted standards when he failed to effectively communicate with other members of the team regarding the minor child.

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:

14. Licensee shall practice only under individual supervision by an independent clinical-level supervisor to be approved by the Board if employed using his LAC license. Licensee shall have weekly one (1) hour meetings with the supervisor in a face to face manner. The focus shall include, but not limited to, professionalism; and professional responsibility to clients and the agency team. This requirement shall continue for one (1) year.

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

16. 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.

17. Licensee shall provide a copy of this Consent Agreement and Final Order to the supervisor.

18. During the time this Consent Agreement and Final Order is in effect, Licensee shall not serve as a supervisor to any person actively using a license regulated by the Board in a position in which such license is required. In addition, Licensee shall not engage in the provision of clinical supervision to any person attaining supervised experience in preparation by the Board. Finally, Licensee shall not supervise any unlicensed person, including students or volunteers, when such persons are engaged in the delivery of addiction counseling services.

19. Licensee shall provide a copy of this Consent Agreement and Final Order to his employer.

20. Licensee must notify the Board's Investigator within ten (10) days of a change in his employment and/or address change.

21. Licensee shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Final Order.

22. 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.

23. 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.

24. 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. 65-5806 [Licensure; expiration and renewal; continuing education; reinstatement of suspended or revoked license], and K.S.A. 65-5809 [Refusal to issue, suspension, limitation, refusal to renew or revocation of license or specialty designation; grounds], for establishing rehabilitation or a pattern of conduct.

25. Except as provided in paragraph 24, 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).

26. 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.

27. 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.

28. This Consent Agreement and Final Order shall be a public record in the custody of the Board.

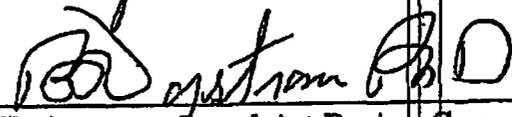
29. This Consent Agreement and Final Order constitutes the entire agreement of the parties and may only be modified by order of the Board or by a subsequent writing signed by the parties. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

30. 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.

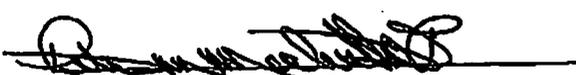
IT IS SO ORDERED.

Dated this 7th day of January 2022.



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

AGREED AND CONSENTED TO BY:


Peter M. Machutta, LAC
Licensee/Respondent

01/07/2022
Date

In the Matter of Peter M. Machutta, Case No. 21-AC-0129
Consent Agreement and Final Order, page 5

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 10 day of January 2022, by depositing the same in the United States mail, postage prepaid, addressed to:

Peter M. Machutta, LAC
[REDACTED]
[REDACTED]

And a copy delivered via email to:

Jane E. Weiler, Assistant Attorney General
Disciplinary Counsel for the Board
Jane.weiler@ag.ks.gov
Office of the Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612

Cindy D'Ercole
For the Board