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Whitney L. Casement, KS S. Ct. #25466  
Office of the Kansas Attorney General  
120 SW 10th Avenue, Second Floor  
Topeka, KS 66612-1597

**BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD**

In the Matter of )  
 )  
A. Barbara Vandiver, LCMFT )  
License #136, )  
Respondent )  
\_\_\_\_\_ )

Case No. 14-CT-0058

**CONSENT AGREEMENT AND ORDER**

NOW, on this 28 day of January, 2015, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board or BSRB), by and through Assistant Attorney General Whitney L. Casement, by agreement of the Board and A. Barbara Vandiver (Respondent), by and through counsel, Pedro L. Irigonegaray and Elizabeth Herbert, for the purpose of resolving the above-captioned case.

Respondent hereby acknowledges the following:

1. Respondent was, at all times relevant to this Consent Agreement and Order, a Licensed Clinical Marriage and Family Therapist (LCMFT) within the meaning of the Kansas Marriage and Family Therapist Licensure Act, K.S.A. 65-6401, *et seq.*, and amendments thereto.
2. On November 22, 2013, the Board received a Report of Alleged Violation stating Respondent may have violated certain statutes and regulations governing unprofessional conduct.
3. Respondent was informed of the reported information in a letter dated December 16, 2013, and was given an opportunity to respond by January 16, 2014. The Board received Respondent's response to the reported information on January 6, 2014.

4. As a result of the report and subsequent investigation, the Board finds that the following facts have been established by a preponderance of the evidence:

- a. Respondent was, at all times relevant hereto, a LCMFT currently licensed in Kansas.
- b. Respondent saw a client from September 2012 to April 2013.
- c. In the months immediately following the closing of the client's case, Respondent developed a romantic relationship with the client.

5. The Complaint Review Committee of the Board finds that Respondent has violated the following statute and regulations:

**A. K.S.A. 65-6408. Refusal to grant, suspension, condition, limitation, qualification, restriction or revocation of license; grounds**

The board may refuse to grant licensure to, or may suspend, revoke, condition, limit, qualify or restrict the licensure of any individual who the board, after a hearing, determines:

(7) has been found guilty of unprofessional conduct as defined by rules and regulations established by the board;

**B. K.A.R. 102-5-12. Unprofessional Conduct.**

(b) Any of the following acts by either a marriage and family therapy licensee or a marriage and family therapy licensure applicant shall constitute unprofessional conduct:

(26) making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been one's client;

However, Respondent and the Board mutually desire to enter a Consent Agreement and Order in lieu of adjudicative proceedings to resolve the reported violations.

WHEREFORE, Respondent waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 14-CT-0058.

WHEREFORE, Respondent waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act in relation to Case No. 14-CT-0058.

WHEREFORE, Respondent consents to the following terms and conditions:

(a) Respondent shall practice only under individual supervision by a Board-approved LCMFT supervisor and shall meet with her supervisor in person for a minimum of one hour for every forty hours of client contact, not to exceed two hours of supervision per month, for a period of two years. Only the time in which Respondent practices under supervision shall be counted towards the two-year period of supervision. The focus of the supervision shall be on ethics, boundaries, and dual relationships. Respondent shall provide a copy of this Consent Agreement to the supervisor and authorize the supervisor to provide written quarterly reports to the Board's Special Investigator for the two-year term of supervision.

(b) Respondent shall not supervise other marriage and family therapists during the two-year term of supervision.

(c) Respondent shall complete three extra hours of continuing education on ethics, focusing on professional boundaries and dual relationships. The three additional hours of continuing education shall be conducted by Respondent in person within 90 days of the effective date of this Consent Agreement and Order. This condition shall be deemed satisfied upon the Board's receipt of Respondent's written proof of completion of the three extra hours of continuing education within 90 days of the effective date of this Consent Agreement and Order. Failure to provide the Board with written proof of completion of the extra continuing education hours within 90 days of the effective date is a violation of this Consent Agreement and Order and may result in further action by the Board.

(d) Respondent shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Order.

(e) Respondent understands that a notification of this Consent Agreement and Order may be provided to any other state or federal agency with which Respondent is licensed, registered, or certified.

(f) Respondent acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional status which would inhibit compliance with any condition of this Consent Agreement and Order. In such event, a designee of the Board is authorized to modify or amend this Consent Agreement and Order in writing.

(g) This Consent Agreement and Order constitutes the entire agreement between the Respondent and the Behavioral Sciences Regulatory Board and may be modified or amended only by written agreement signed by Respondent and the Board or a designee of the Board.

WHEREFORE, Respondent consents to the submission of this Consent Agreement and Order to the Board's Complaint Review Committee and understands that, upon approval by the Complaint Review Committee, this Consent Agreement and Order will become a Final Order of the Board. The Board has authorized the Complaint Review Committee to determine approval of this Consent Agreement and Order.

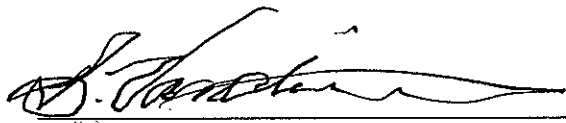
WHEREFORE, the Board agrees that, so long as Respondent complies with the above conditions, the Board will not initiate further disciplinary action against Respondent in relation to violations of K.S.A. 65-6408 and K.A.R. 102-5-12 as a result of this proceeding.

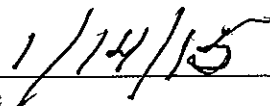
WHEREFORE, the foregoing provisions are consented to, are hereby made the Final Order of the Kansas Behavioral Sciences Regulatory Board, and become effective on the date indicated in the Certificate of Service below.

**IT IS SO ORDERED.**

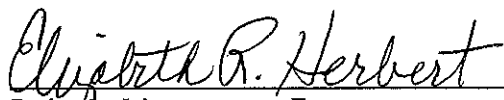
  
Terry Pfannenstiel  
Chair, Complaint Review Committee

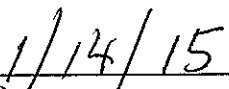
**APPROVED AND CONSENTED TO:**

  
A. Barbara Vandiver  
*Respondent*

  
Date

**APPROVED BY:**

  
Pedro L. Irigonegaray, Esq.  
Elizabeth R. Herbert, Esq.  
*Counsel for Respondent*

  
Date

CERTIFICATE OF SERVICE

This is to certify that on this 28 day of January, 2015, a true and correct copy of the above Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Pedro L. Irigonegaray, Esq.  
Elizabeth R. Herbert, Esq.  
Irigonegaray & Associates  
1535 S.W. 29th Street  
Topeka, KS 66611-1901

and a copy delivered via interoffice mail to:

Whitney L. Casement  
Assistant Attorney General  
120 SW 10th Ave., 2nd Floor  
Topeka, KS 66612  
*Disciplinary Counsel for the Board*

Cindy D'Ercole  
For the Behavioral Sciences Regulatory Board