

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 )  
RICK SCHOLES, JR., LPC ) Case No. 19-PC-0009  
License No. 876 )  
)  
Respondent/Licensee. )

**CONSENT AGREEMENT AND FINAL ORDER**

NOW on this <sup>13</sup>25<sup>th</sup> day of ~~January~~ February, 2019, 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 Rick Scholes, Jr., (“Licensee”), for the purposes of resolving the above-captioned matter.

The parties knowingly and voluntarily agree as follows:

1. On August 13, 2003, the Board issued Licensee an original Licensed Professional Counselor (“LPC”) license, No. 876. This license expires on August 31, 2019. Licensee is currently, and was at all times relevant to this Consent Agreement and Final Order, an LPC within the meaning of the laws relating to regulation of professional counselors, K.S.A. 65-5801 *et seq.*

**CASE NO. 19-PC-0009**

2. On or about July 18, 2018, a Report of Alleged Violation was received by the Board alleging Licensee may have violated certain statues and regulations governing the practice of professional counselors in the State of Kansas.

3. Licensee was providing services to a client. This client needed to pay off an outstanding probation fine.

4. Licensee hired his client to complete work on his garage at his house.
5. Licensee did pay his client to complete this work.

### APPLICABLE LAW

6. 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.

7. K.S.A. 65-5809(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 licensure 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. 102-3-12a(b)(27): exercising undue influence over any client, student, directee, or supervisee, including promoting sales of services or goods, in a manner that will exploit the client, student, directee, or supervisee for the financial gain, personal gratification, or advantage of oneself or a third party.
- b. K.A.R. 102-3-12a(b)(46): engaging in a dual relationship with a client, student, or supervisee.

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

9. 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. 19-PC-0009.

10. 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. 19-PC-0009.

11. 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. 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(27), in that Licensee exercised undue influence over his client when he had to client complete work at his home, despite paying the client to complete this work.

Further, the Board finds that Licensee was in violation of K.S.A. 65-5809(a)(9), as defined in K.A.R. 102-3-12a(b)(46), in that Licensee engaged in a dual relationship when he had a client complete work at his home.

**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:

12. Licensee shall practice only under individual supervision by an independent clinical-level supervisor to be approved by the Board. Licensee shall have monthly one (1) hour meetings with his supervisor in a face to face fashion.

13. 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. These written reports shall be due by April 1, 2019, July 1, 2019, October 1, 2019, and January 1, 2020.

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

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

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

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. 65-5806 [Licensure; expiration and renewal; continuing education; reinstatement of suspended or revoked license; notice of change of address], and K.S.A. 65-5809 [Refusal to issue, suspension, limitation, refusal to renew, condition or revocation of license; grounds; 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.

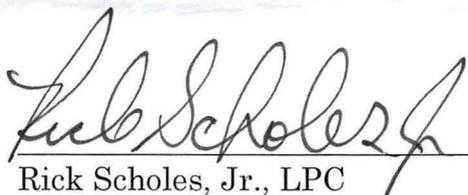
**WHEREFORE**, the parties consent to these provisions, which are hereby made the Final Order of the Kansas Behavioral Sciences Regulatory Board in the above-captioned case.

**IT IS SO ORDERED.**

Dated this 11<sup>th</sup> day of February 2019.

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

**AGREED AND CONSENTED TO BY:**

  
\_\_\_\_\_  
Rick Scholes, Jr., LPC  
Respondent/Licensee

1/25/19  
\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this <sup>13</sup>~~25th~~ day of <sup>February</sup>~~January~~ 2019, by depositing the same in the United States mail, postage prepaid, addressed to:

Rick Scholes, Jr., LPC

[REDACTED]

And a copy delivered via interoffice mail to:

Jane E. Weiler, Assistant Attorney General  
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*

\_\_\_\_\_  
For the Kansas Behavioral Sciences  
Regulatory Board