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BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD
700 SW Harrison Street, Suite 420
Topeka, Kansas 66603-3929

In the Matter of)
JESSICA RENEE SMITH, LMSW)
LMSW License No. 11493) Case No. 20-MS-0151
Respondent/Licensee.)

CONSENT AGREEMENT AND FINAL ORDER

NOW on this 13th day of November, 2020, 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 Jessica Renee Smith, ("Licensee"), for the purposes of resolving the above-captioned matter.

The parties knowingly and voluntarily agree as follows:

1. On August 13, 2019, the Board issued Licensee an original Licensed Master Social Worker ("LMSW") No. 11493. This license expires on August 31, 2021. 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.*

CASE NO. 20-MS-0151

2. On or about April 27, 2020, Licensee submitted to the Board a self-report that she may have violated certain statutes and regulations governing the practice of licensed master social workers in the State of Kansas.

3. Licensee reported that she was employed as a Clinical Support Social Worker at Ascension Via Christi Behavioral Health ("VCBH") in Wichita, Kansas.

4. While employed at VCBH, Licensee experienced attendance issues during the month of March. One morning she was tardy, and as a result of this tardiness, she was not available to provide a group session to clients. In another instance, Licensee was absent from VCBH, which included the scheduled groups for that day.

5. Additionally, Licensee also reported that missed a scheduled appointment with her clinical supervisor, and was not truthful to her clinical supervisor as to why she missed the appointment.

6. On or about September 3, 2020, during the course of a follow-up regarding this investigation, Licensee then informed Board staff that she was terminated from her position at VCHB on June 1, 2020. Licensee reported that she was terminated for the attendance issues, specifically reporting that it was because of her physical and mental health.

7. Licensee failed to report to the Board in a reasonable period of time that she had been terminated from her position at VCHB.

APPLICABLE LAW

8. 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.

9. 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(b)(3): except when the information has been obtained in the context of a confidential relationship, failing to notify the board, within a reasonable period of time that they have been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has

resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance.

- b. K.A.R. 102-2-7(h): failing to recognize, seek intervention, and otherwise appropriately respond when one's own personal problems, psychosocial distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests.

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. 20-MS-0151.

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. 20-MS-0151.

13. The Board accepts Licensee's waiver of rights and stipulations.

14. A protective order is hereby entered to protect all confidential information under 42 CFR Part II.

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(b)(3), in that Licensee failed to report in a reasonable period of time that she had been terminated for malfeasance.

The Board also finds Licensee was in violation of K.S.A. 65-6311(a)(9), as defined in K.A.R. 102-2-7(h), in that Licensee failed to recognize and appropriately respond to her physical and mental health, which impacted the care to her clients.

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 practice only under individual supervision by a clinical-level supervisor, which can be an employment based supervisor, to be approved by the Board if employed using her LMSW license. There shall be no dual relationship with the supervisor. 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 client care responsibility. This requirement shall continue for one (1) year.

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

17. Licensee shall provide a copy of this Consent Agreement and Final Order to the supervisor and authorize the supervisor to provide written quarterly reports to the Board's Investigator for 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.

18. During the time this Consent Agreement and Final Order is in effect, Licensee shall not serve as a supervisor to any person licensed by the Board, any person attaining supervised experienced in preparation for licensure by the Board, or any unlicensed person, including students or volunteers, who participate in the delivery of social work services.

19. Hours of supervision attained by Licensee pursuant to this Consent Agreement and Final Order shall not count toward any supervised experience hours required for a higher level of licensure.

20. Licensee shall receive individual therapy until the therapist concludes the process is complete or that therapy is no longer needed. Licensee shall provide the name of her therapist to the Board within thirty (30) days of the effect date of the Consent Agreement and Final Order, along with a release from the therapist for reports. Licensee shall ensure that her therapists submits to the Board's investigator quarterly reports until the therapist deems therapy is no longer needed.

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

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

23. Licensee shall 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

Separate person

compliance with the terms and conditions required by this Consent Agreement and Final Order.

24. 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.

25. 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], 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].

26. Except as provided in paragraph 25, 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).

27. 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.

28. 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.

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

30. 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.

31. 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.

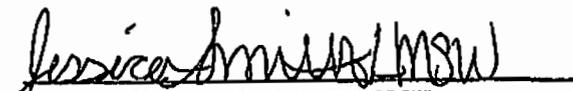
IT IS SO ORDERED.

Dated this 13 day of November 2020.



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

AGREED AND CONSENTED TO BY:


Jessica Renee Smith, LMSW
Respondent/Licensee

11/13/2020
Date

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was served on this 18 day of November 2020, by depositing the same in the United States mail, postage prepaid, addressed to:

Jessica Renee Smith, LMSW



and by email to: jane.weiler@ag.ks.gov

Jane E. Weiler, Esq.
Assistant Attorney General
Disciplinary Counsel for the Board

Cindy D'Ercole
For the Behavioral Sciences
Regulatory Board