

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

In The Matter Of)
)
TERRI L. VIERTHALER, LMSW,) Case No. 24-MS-0094
License No. 5090,)
)
Respondent.)

CONSENT AGREEMENT AND FINAL ORDER

Now, on this 14 day of October, 2024, the above-captioned matter comes before the Complaint Review Committee of the Kansas Behavioral Sciences Regulatory Board ("Board") by agreement of Terri L. Vierthaler, LMSW ("Respondent"), for the purposes of resolving the above-captioned matter.

1. The Board is represented herein by its counsel, Timothy D. Resner of Frieden & Forbes, LLP, 1414 S.W. Ashworth Place, Suite 201, Topeka, Kansas 66604. Respondent appears pro se.

2. The Board is the duly constituted and acting agency of the State of Kansas authorized to administer and enforce the provisions of the Kansas Social Workers Licensure Act, K.S.A. 65-6301 *et seq.*, and amendments thereto (the "Act") Pursuant to applicable provisions of the Act and the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.* ("KAPA"), whenever it is established that the applicant and/or Respondent has committed any of the acts described in K.S.A. 65-6311(a), the Board may refuse to issue, renew or reinstate a license, and/or revoke, suspend, censure, condition, and/or limit a Respondent and/or assess a fine against the applicant and/or Respondent in an amount not in excess of \$1,000.00 per violation

3. The Board's Complaint Review Committee has received certain information, has investigated and has determined that there are reasonable grounds to believe that Respondent has committed one or more acts in violation of the Act and/or the Board's Regulations that would justify, pursuant to the provisions of K.S.A. 65-6311(a), the imposition of disciplinary action against her license and the assessment of a civil fine against Respondent in an amount not to exceed \$1,000.00 per violation.

4. Respondent hereby admits and waives any further proof in this or any other proceeding before or initiated by the Board, and upon motion duly made, seconded and passed, the Board's Complaint Review Committee makes the following findings of fact, conclusions of law and approves of the disposition set forth herein.

I. FINDINGS OF FACT

5. Respondent is currently and was at all times relevant to this Consent Agreement and Final Order, an LMSW within the meaning of the Act.

6. Respondent was previously employed as a behavioral health professional for an employer providing contractual services to an institution in the State of Kansas.

7. Respondent initiated a self-report to the Board related to an admitted dual relationship with an inmate within the institution who was Respondent's client in individual therapy. Respondent relayed that an inmate professed his love for her, and she fell for the scam and entered into a non-sexual relationship with the inmate while he remained her client in individual therapy.

8. Respondent admitted to sending money to the client's mother on three occasions so that the client's mother could arrange to have the money added to the client's commissary account.

9. On or about January 24, 2024, Respondent's employer and the institution learned of the dual relationship, and after investigation, Respondent's employment was terminated.

10. On or about February 5, 2024, the Board received a report of alleged violation ("RAV") from the director of behavioral health of Respondent's former employer. The RAV corroborated Respondent's self-report and noted that Respondent had admitted to the dual relationship. The RAV further relayed that the State of Kansas is performing an investigation into Respondent's conduct and any future action by the State was presently unknown.

II. APPLICABLE LAW

11. Pursuant to 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 Respondent or may impose a fine not to exceed \$1,000 per violation upon a finding that a Respondent has engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the Board.

12. K.A.R. 102-2-7 provides in relevant part, that any of the following acts by a licensee shall constitute unprofessional conduct:

(j) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education, and experience and with accepted professional standards for social work;

(tt) engaging in a dual relationship with a client, supervisee, or student;

13. Pursuant to K.A.R. 102-2-1a(j), a "dual relationship" means a professional relationship with a client, student, or supervisee in which the objectivity of the licensee is impaired or compromised because of any of the following present or previous relationships:

- (1) Familial;
- (2) sexual;
- (3) social;
- (4) emotional;
- (5) financial;
- ~~(6) supervisory; or~~
- (7) administrative.

III. CONCLUSIONS OF LAW

14. Based on the facts stipulated to herein, Respondent is subject to sanction pursuant to K.S.A. 65-6311(a)(9) for engaging in unprofessional conduct as defined by applicable rules and regulations adopted by the Board, namely K.A.R. 102-2-7(j) and (tt).

IV. AGREEMENT

15. Respondent and the Board mutually desire to enter into a Consent Agreement and Final Order in lieu of further adjudicative proceedings at this time.

WHEREFORE, Respondent agrees and consents to, and the Board further orders, the following terms and conditions:

a. Respondent shall practice only under individual supervision by a clinical-level supervisor when employed using her social work license or any other license issued by the Board, for a period of one (1) year. The supervisor may be her employment supervisor, if qualified. The supervisor must be approved in advance and in writing by the Board. There shall be no dual relationship with the supervisor. Respondent shall have weekly one (1) hour meetings with her supervisor that will be conducted in-person (in the same place). The focus of the supervision shall include, but not be limited to, professional conduct, dual relationships and boundaries. Only time while Respondent is employed and using her social work license will count towards the one (1) year requirement. The supervision hours accrued under this Consent Agreement and Final Order shall not be used in support of any clinical supervision plan approved by the Board relating to another level of licensure.

b. Within thirty (30) days of the effective date of this Consent Agreement and Final Order, Respondent shall submit to the Board's investigator the name of her proposed supervisor. Respondent shall not engage in the practice of social work unless and until a proposed supervisor is approved in writing by the Board.

c. Respondent 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 the one (1) year term of supervision. There shall be a minimum of four (4) quarterly reports submitted to the Board's Investigator during this one (1) year supervision timeframe.

d. Respondent shall be required to obtain six (6) additional continuing education hours in professional conduct, dual relationships and boundaries. These hours may not be used toward the total number of continuing education hours required for license renewal.

e. Within ninety (90) days of the effective date of this Consent Agreement and Final Order, Respondent shall submit to the Board's investigator documentation of completion of the six (6) additional continuing education hours.

f. Respondent shall provide a copy of this Consent Agreement and Final Order to any employer during the term of supervision.

g. Respondent shall be responsible for any costs incurred in satisfying the terms of the Agreement.

h. Respondent acknowledges an affirmative duty to notify the Board within ten (10) days of any changes in personal or professional status that would inhibit compliance with any condition of this Consent Agreement and Final Order.

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

V. ADDITIONAL STIPULATIONS

16. Respondent agrees that all information in the possession of the Board's Complaint Review Committee, its staff, its investigators and its attorney regarding the matters which led to this disciplinary action, the investigation and all information discovered during the pendency of the disciplinary action may be disclosed to and considered by the Board's Complaint Review Committee as part of the presentation and consideration of the proposal of settlement in the form of this Consent Agreement and

Final Order, with or without the presence of the Respondent or her attorney. In the event that this Consent Agreement and Final Order is not accepted and approved by the Board's Complaint Review Committee, Respondent waives any objection to such Board members' consideration of this Consent Agreement and Final Order or the information mentioned in the preceding sentence and further waives the disqualification of any Board member, including any right to seek the disqualification of any Board member, based on such Board member's consideration of said document and information.

17. The stipulations and orders contained herein shall not become binding until this Consent Agreement and Final Order is approved and entered by the Complaint Review Committee. Respondent acknowledges that the approval of the Board's Counsel shall not constitute the approval of the Board or bind the Board to approve this Consent Agreement and Final Order.

18. Respondent agrees that this Consent Agreement and Final Order is in conformance with Kansas and federal law and the Board has jurisdiction to enter into it. Respondent further agrees that the Act referenced in paragraph 2 above is constitutional on its face and as applied in this case.

19. This stipulation constitutes the entire agreement of the parties and may only be modified by a subsequent writing signed by them. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

20. Respondent acknowledges that she has the following rights:

- (a) To have formal notice of charges served upon her;
- (b) To file a response to the charges;
- (c) To have notice of and participate in a formal adjudicative hearing with the Board or its designee making specific findings of facts and conclusions of law based only upon evidence admitted at such hearing; and
- (d) To take advantage of all applicable provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501 et seq. and the Kansas Judicial Review Act, K.S.A. 77-601 et seq.

Respondent freely waives these rights and acknowledges that such waiver is made voluntarily and in consideration of avoiding an administrative hearing and the Board's agreement to limit the disciplinary action taken against her in accordance with the terms and conditions provided for herein. Respondent also waives all of her rights to seek reconsideration, administrative review and/or judicial review of this Consent Agreement and Final Order or to otherwise challenge or contest this Consent Agreement and Final Order in any direct or collateral administrative or judicial proceedings.

21. Respondent acknowledges that she enters into this Consent Agreement and Final Order freely and voluntarily after consultation or a reasonable opportunity for consultation with counsel of her choosing. Respondent further acknowledges that her representatives have read this Consent Agreement and Final Order in its entirety, that they understand its legal consequences and that they agree that none of its terms or conditions is unconscionable, arbitrary, capricious or unreasonable.

22. Time is of the essence to this Consent Agreement and Final Order. Respondent acknowledges and agrees that any violation of this Consent Agreement and Final Order shall constitute a violation of a lawful Board order pursuant to K.S.A. 65-6311(a)(11) and grounds for further disciplinary action against him. The pendency of any disciplinary action arising out of any alleged violation of this Consent Agreement and Final Order shall not affect the obligation of Respondent to comply with all terms and conditions of this Consent Agreement and Final Order.

23. This Consent Agreement and Final Order constitutes the entire and final agreement of the parties. In the event any provision of this Consent Agreement and Final Order is determined to be invalid or unenforceable by a court of competent jurisdiction, it shall be severed and the remaining provisions of this Consent Agreement and Final Order shall be given full force and effect.

24. Upon execution by all parties and entry as an order by the Board, this Consent Agreement and Final Order shall be a public record in the custody of the Board

25. This Consent Agreement and Final Order shall become effective on the day it is approved by the signature of the Complaint Review Committee's Chairperson or designee below.

26. Respondent acknowledges that she has been advised by the Board that after the Consent Agreement and Final Order becomes effective Respondent has the right within 15 days after service of this Consent Agreement and Final Order to file a petition for reconsideration with the Board and the right within 30 days after service of the Consent Agreement and Final Order to file a petition for judicial review in the District Court of Shawnee County, Kansas in accordance with the Kansas Judicial Review Act, K.S.A. 77-601 et seq., which must be served on the Kansas Behavioral Sciences Regulatory Board by serving David Fye, its Executive Director, at 700 SW Harrison Street, Suite 420, Topeka, KS 66603-3240. However, Respondent expressly waives these rights.

27. In accordance with K.S.A. 77-531(a)(3), Respondent consents to service of this Consent Agreement and Final Order via electronic mail, addressed to Respondent at: tvierthaler24@gmail.com.

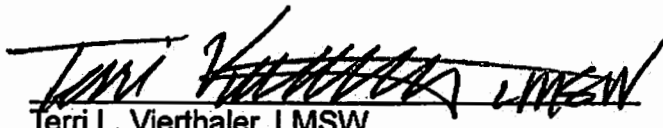
WHEREFORE, the parties consent to these provisions, which are hereby made the Final Order of the Kansas Behavioral Sciences Regulatory Board in the above-captioned case.

.. IT IS SO ORDERED.



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

AGREED AND CONSENTED TO BY:



Terri L. Vierthaler, LMSW Date 10/7/24
Respondent


CERTIFICATE OF SERVICE

This is to certify that on this 14 day of October, 2024, a true and correct copy of the above and foregoing Consent Agreement and Final Order was served via electronic mail only, addressed to:

Terri L. Vierthaler, LMSW


And by e-mail to:

Timothy D. Resner
Frieden & Forbes, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
tresner@fflawllp.com
*Counsel for the Board of the Behavioral
Sciences Regulatory Board*



Staff,
Kansas Behavioral Sciences Regulatory Board