

**KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD**  
Eisenhower State Office Building  
700 SW Harrison Street, Suite 420  
Topeka, Kansas 66603-3240

In the Matter of )  
 )  
Cora Simmerman-Berry, ) Case No. 23-LC-0184  
LCPC License No. 103 )  
 )  
Respondent )  
Pursuant to (K.S.A. 77-537)

**Summary Proceeding Order**

Now on this 23 day of September, 2024, the above-captioned matter comes before the Complaint Review Committee of the Kansas Behavioral Sciences Regulatory Board (the "Board"). After reviewing its administrative records and otherwise being duly advised in the premises, the Board makes the following findings of fact, conclusions of law, and orders.

**FINDINGS OF FACT**

1. The Board is the duly constituted and acting agency of the State of Kansas authorized to administer and enforce the provisions of the Kansas Professional Counselors Licensure Act, K.S.A. 65-5801, *et. seq.*, and amendments thereto (the "Act").
2. Respondent Cora Simmerman-Berry ("Respondent") is an individual with a last known mailing address of 812 W. 13<sup>th</sup> Street, McCook, NE 69001.
3. At all times relevant to the subject matter of this Summary Proceeding Order, Respondent was licensed as a Clinical Professional Counselor (LCPC) within the meaning of the Act.
4. Respondent previously was licensed as a mental health practitioner, drug counselor and certified professional counselor by the State of Nebraska Department of Health and Human Services Division of Public Health ("Nebraska DHHS").
5. On or about April 3, 2023 the State of Nebraska Department of Health and Human Services Division of Public Health entered an Order for Temporary Suspension of License to Practice as a Mental Health Practitioner, Drug Counselor and Certified Professional Counselor ("Nebraska Order") which suspended Respondent's Nebraska licenses effective upon the service of the Nebraska Order on the basis that Respondent's continued practice would constitute an imminent danger to public health and safety, and subject to a hearing on the

Nebraska DHHS's Petition for Disciplinary Action and Temporary License Suspension. A true and correct certified copy of the Nebraska Order is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

6. In relevant part, the Nebraska Order set forth detailed allegations which supported violations of Nebraska law including the practice of her profession(s) while impaired; abuse of alcohol, benzodiazepines and marijuana; and diagnoses of alcohol use disorder, severe; and dependence and sedative hypnotic use disorder, mild.

7. On or about May 17, 2023, Respondent's Nebraska licenses as a mental health practitioner, drug counselor and certified professional counselor were revoked by Nebraska DHHS stemming from the allegations of the Petition for Disciplinary Action and Temporary License Suspension.

8. On or about May 30, 2023, the Board sent Respondent a report of alleged violation ("RAV") and requested a response thereto. Because Respondent did not reply to the RAV, a follow up request was sent by email on July 23, 2023. Respondent has failed to respond to the Board's requests for a response to the RAV.

9. Respondent's LCPC license expired on September 30, 2023 and Respondent has not sought to renew her license.

#### **APPLICABLE LAW**

10. The Act authorizes the Board to condition, limit, revoke or suspend a license as a clinical professional counselor, and/or publicly or privately censure a licensee or impose a fine not to exceed \$1,000 per violation upon a finding that a licensee violates any provision of K.S.A. 65-5809(a)(1) – (11).

11. K.S.A. 65-5809(a)(9) and (10) provide in relevant part that the board may condition, limit, revoke or suspend a license, publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee:

....

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board;

(10) has had a professional registration, license or certificate revoked, suspended or limited, or has had other disciplinary action taken, or an application for a registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;

12. K.A.R. 102-3-12a(b)(2)(A) and (9) provides in relevant part that the following acts by an LPCP shall constitute unprofessional conduct:

(2) except when the information has been obtained in the context of confidentiality, failing to notify the board, within a reasonable period of time, that any of the following circumstances apply to any person regulated by the board or applying for a license or registration, including oneself:

(A) Had a professional license, certificate, permit, registration, certification, or professional membership granted by any jurisdiction, professional association, or professional organization that has been limited, conditioned, qualified, restricted, suspended, revoked, refused, voluntarily surrendered, or allowed to expire in lieu of or during investigatory or disciplinary proceedings;

.....

(9) failing or refusing to cooperate in a timely manner with any request from the board for a response, information, or assistance with respect to the board's investigation of any report of an alleged violation filed against oneself or any other applicant or professional who is required to be licensed or registered by the board. Any person taking longer than 30 days to provide the requested response, information, or assistance shall have the burden of demonstrating that the person has acted in a timely manner;

13. Pursuant to K.S.A. 77-537(a) of the Kansas Administrative Procedure Act ("KAPA"), a state agency may use summary proceedings, subject to a party's request for a hearing on the order, if:

(1) The use of those proceedings in the circumstances does not violate any provision of law;

(2) the protection of the public interest does not require the state agency to give notice and an opportunity to participate to the persons other than the parties;

(3) based upon an investigation of the facts by the state agency, beyond receipt of the allegations, the state agency believes in good faith that the allegations will be supported to the applicable standard of proof, provided however that an alleged failure to meet the standard set forth in this subsection shall not be subject to immediate judicial review and shall not invalidate any later agency action that has been supported to the applicable standard of proof; and

(4) the order does not take effect until after the time for requesting a hearing has expired.

### **CONCLUSIONS OF LAW**

14. The use of summary proceedings pursuant to KAPA is appropriate in this case.

15. Respondent is in violation of K.S.A. 65-5809(a)(9), in that Respondent has engaged in unprofessional conduct as defined in K.A.R. 102-3-12a(b)(2)(A) and (9). Respondent failed to timely notify the Board of suspension of her Nebraska licenses through the Nebraska

Order, and the subsequent revocation of her Nebraska licenses. Respondent has further failed and/or refused to cooperate in a timely manner with a Board investigation.

16. Respondent is in violation of K.S.A. 65-5809(a)(10), in that Respondent has had her Nebraska licenses suspended and revoked.

### ORDER

WHEREFORE, in consideration of the above findings of fact and conclusions of law, and pursuant to the authority granted by K.S.A. 65-5809(a) and K.S.A. 77-537, the Complaint Review Committee on behalf of the Board hereby finds and orders that Respondent is hereby PUBLICLY CENSURED for her violations of the Act.

In the event that Respondent seeks reinstatement of her LCPC license or seeks any other licensure from the Board, the Board reserves the right to consider the aforementioned violations of the Act, Respondent's fitness to practice as an LCPC (or other licensure level) and consistent with K.A.R. 102-3-9a(e)(5), any materials, information, evaluation or examination reports, or other documentation that the board may request that will enable the board to satisfactorily evaluate and determine whether or not Respondent's LCPC license should be renewed or reinstated, or issued another license. The Board consideration will include without limitation the following factors:

- (A) the extent to which the individual presently merits the public trust;
- (B) the individual's demonstrated consciousness of the wrongful conduct that resulted in the license suspension;
- (C) the extent of the individual's remediation and rehabilitation in regard to the wrongful conduct that resulted in the license suspension;
- (D) the nature and seriousness of the original misconduct;
- (E) the individual's conduct subsequent to the license suspension;
- (F) the time elapsed since the license suspension; and
- (G) the individual's present competence in professional counseling knowledge and skills.

**IT IS SO ORDERED.**

Entered this 23 day September, 2024.



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Mary Jones, Chairperson

Kansas Behavioral Sciences Regulatory Board  
Complaint Review Committee  
**NOTICE OF RELIEF FROM SUMMARY PROCEEDING ORDER**

Pursuant to K.S.A. 77-537 and 77-542, this Summary Proceeding Order is subject to your request for a hearing. If you desire a hearing, you must direct a written request for hearing to:

David Fye, Executive Director  
Behavioral Sciences Regulatory Board  
700 SW Harrison St., Suite 420  
Topeka, KS 66603

This written request must be filed within eighteen (18) calendar days of the date listed in the Certificate of Service below (15 calendar days plus 3 calendar days for mail service). Pursuant to K.S.A. 77-503(c), the 18-day period begins the day after the date shown in Certificate of Service below and includes weekends and legal holidays. If the 18<sup>th</sup> day falls on a Saturday, Sunday, or legal holiday, then the 18-day period runs until 5:00 p.m. on the next day that is not a Saturday, Sunday, or legal holiday. A request is considered "filed" on the date it is received at the Board's office. If a hearing is not requested in the time and manner stated, this Summary Order becomes a final order subject to judicial review. A petition for judicial review should be directed to the above recipient.

The Board's designee who may receive service of a request for a hearing on behalf of the Board is:

David Fye, Executive Director  
Behavioral Sciences Regulatory Board  
700 SW Harrison, Suite 420  
Topeka, Kansas 66603

**NOTICE OF ADMINISTRATIVE RELIEF**

In the event that you do not timely request a hearing, the above Order will become a final order the day following the 18<sup>th</sup> day referenced above (i.e., 19 calendar days following the date listed in the Certificate of Service below). Pursuant to K.S.A 77-529, a party may file with the Board a petition for reconsideration within 15 days from the date the Summary Proceeding Order becomes a final order. Such petition must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

Pursuant to K.S.A. 77-528, a party may file, if applicable, a petition for stay of effectiveness of the order prior to the expiration of the time in which to file a petition for judicial review. The filing of a petition for a stay of effectiveness is not a prerequisite for seeking judicial review.

## **NOTICE OF JUDICIAL RELIEF**

If a petition for reconsideration is not filed pursuant to K.S.A. 77-613, a party may file within 30 days from the date the Summary Proceeding Order becomes a final order a petition for judicial review with the appropriate district court as provided in the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The designee who may receive service of a petition for reconsideration, a petition for stay, or a petition for judicial review on behalf of the Board is:

David Fye, Executive Director  
Behavioral Sciences Regulatory Board  
Eisenhower State Office Building  
700 SW Harrison, Suite 420  
Topeka, Kansas 66603-3240

**CERTIFICATE OF SERVICE**

This is to certify that on this 23 day of September, 2024, a true and correct copy of the above and foregoing Summary Proceeding Order was placed in the U.S. mail, first-class postage prepaid, addressed to:

Cora Simmerman-Berry  
812 W. 13<sup>th</sup> Street  
McCook, NE 69001

And by e-mail to:

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

*Cindy D'Ercole*

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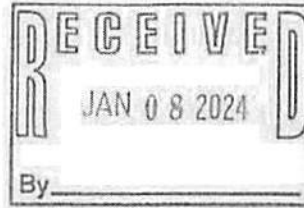
Staff,  
Kansas Behavioral Sciences Regulatory Board

**EXHIBIT A**

# NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES



Jim Pillen, Governor

## NEBRASKA CERTIFICATION

Credential Type	Name	Address	Date of Birth
Mental Health Practitioner, No. 393	Cora Simmerman Berry	812 W 13 St McCook NE 69001	05/19/1954
Professional Counselor, No. 284			
Alcohol and Drug Counselor, No. 11			

Number	Issuance Date	Expiration Date	Current Status
393	09/01/1994	09/01/2024	Revocation
284	7/26/1988	09/01/2024	Revocation
11	06/16/1992	09/01/2024	Revocation

Obtained by	School	Graduation Date
Transfer	CHADRON STATE COLLEGE	

Disciplinary or Non-Disciplinary Action	
Petition for Disp Action & Temp Susp Temporary Suspension	03/31/2023 05/17/2023 04/07/2023 05/17/2023

This license has had DISCIPLINARY ACTION taken against it and attached are true and correct copies of the original disciplinary documents filed and of record in the Department of Health and Human Services.

If you have questions, contact Carrie Oldehoeft at 402-471-4918 or by e-mail at: [carrie.oldehoeft@nebraska.gov](mailto:carrie.oldehoeft@nebraska.gov)

DATED AT LINCOLN, Lancaster County, Nebraska 01/04/24.

  
 Lindsay Braddock, Unit Administrator  
 Licensure Unit  
 301 Centennial Mall South  
 Lincoln, NE 68509-4986

You may verify licenses under the following INTERNET Web Site Address:  
<http://www.nebraska.gov/LISSearch/search.cgi>



FILED

STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

MAY 17 2023

STATE OF NEBRASKA ex rel. MICHAEL T.  
HILGERS, Attorney General,

Plaintiff,

vs.

SIMMERMAN BERRY, CORA,

Defendant.

DHHS Hearing Office

230346 LMHP LADC CPC

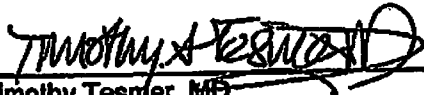
ORDER ON  
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on May 5, 2023.

ORDER

1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
2. The facts as set out in the Petition are taken as true and adopted herein.
3. The parties shall comply with all of the terms of the Agreed Settlement.

Date: 05/17/2023

  
 Timothy Tesmer, MD  
 Chief Medical Officer  
 Division of Public Health  
 Department of Health and Human Services

Civil penalty, if imposed, should be mailed to: DHHS, Division of Public Health, Licensure Unit, ATTN: Diane Pearson, P.O. Box 94988, Lincoln, NE 68509.

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was sent on the date below by certified United States Mail, postage prepaid, return receipt requested, and/or electronically to the following:

CORA BERRY  
 812 W 13<sup>TH</sup> ST  
 MCCOOK NE 68001  
 TERRY ROGERS  
 ATTORNEY AT LAW  
 5581 S 48TH ST STE 232D  
 LINCOLN NE 68516  
 MINDY LESTER  
 ASSISTANT ATTORNEY GENERAL  
 AGO.HEALTH@NEBRASKA.GOV

Date: May 17, 2023

  
 DHHS Hearing Office  
 P.O. Box 98914  
 Lincoln, NE 68509-8914  
 P. (402) 471-7237 F. (402) 742-2376  
 dhhs.hearingoffice@nebraska.gov

7019 0700 0001 7090 1268

7019 0700 0001 7090 1244

**STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH**

**STATE OF NEBRASKA ex rel. MICHAEL  
T. HILGERS, Attorney General,** )

**Plaintiff,** )

**vs.** )

**CORA SIMMERMAN BERRY, LMHP, CPC,  
PLADC,** )

**Defendant.** )

**AGREED SETTLEMENT**

The Plaintiff and the Defendant, Cora Simmerman Berry, LMHP, CPC, LADC, in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Cora Simmerman Berry, LMHP, CPC, LADC, has been the holder of a mental health practitioner license (#399), a professional counselor certificate (#284), and an alcohol and drug counselor license (#11) issued by the Nebraska Department of Health and Human Services Division of Public Health ("Department").

2. The Defendant acknowledges service of a copy of the Petition for Disciplinary Action and Temporary License Suspension ("Petition") on her by the Red Willow County Sheriff's Office on or about April 7, 2023, and waives the need for further service of the Petition upon her.

3. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to a hearing. The Defendant also waives any right to judicial review of a disciplinary order which approves the terms of this Agreed Settlement.

4. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce her to enter into this Agreed Settlement.

5. Defendant acknowledges that she is licensed to practice as a professional counselor in Kansas.

6. The Defendant acknowledges that she has read the Petition filed by the Attorney General's Office and neither admits nor denies the allegations in the Petition.

7. The Plaintiff and the Defendant consent to the Chief Medical Officer entering a final disciplinary order which a) finds that the allegations of the Petition for Disciplinary Action and Temporary License Suspension are true, b) finds that grounds exist to revoke the Defendant's licenses and c) revokes the Defendant's mental health practitioner license, professional counselor certificate, and alcohol and drug counselor license.

8. The Defendant acknowledges that the revocation of her Nebraska mental health practitioner license, professional counselor certificate, and alcohol and drug counselor license is for a minimum period of two (2) years and reinstatement of her licenses is at the discretion of the Department and upon approval of the Nebraska Board of Mental Health Practice and the Nebraska Board of Alcohol and Drug Counselors.

9. The Attorney General has given notice of this Agreed Settlement to the Board of Mental Health Practice and the Board of Alcohol and Drug Counselors and has received their input in accordance with Neb. Rev. Stat. § 38-190 (Reissue 2016).

10. If this Agreed Settlement is not approved by the Chief Medical Officer, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

AGREED TO:

BY:

Cora Simmerman Berry, LMHP, CPC,  
LADC  
Defendant

State of Nebraska )  
County of Red Willow ) ss.

Acknowledged before me by Cora Simmerman Berry, LMHP, CPC, LADC, on this  
24th day of April, 2023.



Linda L. Koetter  
Notary Public  
My Commission Expires: 11-13-2025

STATE OF NEBRASKA, ex rel.  
MICHAEL T. HILGERS, Attorney  
General,  
Plaintiff,


BY: MICHAEL T. HILGERS, #24483  
Attorney General

BY: Mindy L. Lester  
Mindy L. Lester, #24421  
Assistant Attorney General  
2115 State Capitol  
Lincoln, NE 68509-8920  
(402) 471-1815

Attorneys for the Plaintiff.

**STATE OF NEBRASKA, ex rel. MICHAEL T.  
HILGERS, Attorney General,  
Plaintiff,**

**BY: MICHAEL T. HILGERS, #24483  
Attorney General**

**BY:**   
Mindy L. Lester, #24421  
Assistant Attorney General  
2115 State Capitol  
Lincoln, NE 68509  
(402) 471-1815

**Attorneys for the Plaintiff.**

**FILED**

**APR 17 2023**

**STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**DHHS Hearing Office**

**STATE OF NEBRASKA ex rel. MICHAEL  
T. HILGERS, Attorney General,**

**Plaintiff,**

**vs.**

**SIMMERMAN BERRY, CORA,**

**Defendant.**

**230346 LMHP LADC CPC**


**ORDER**

The Motion for Continuance filed by the Defendant on April 14, 2023, came on for consideration. The Hearing Officer, being fully advised, finds that the motion should be granted. Defendant's credentials shall remain suspended pending a final determination on the merits.

**IT IS THEREFORE ORDERED** that the hearing in this matter is now scheduled as follows:

**Tue 6/20/2023  
9:00 AM Central Time  
DHHS Hearing Office RM 259  
Nebraska State Office Building  
301 Centennial Mall South, 5<sup>th</sup> Floor  
Lincoln, Nebraska**

**DATED** this 17th day of April, 2023.

  
**Robert E. Harkins**  
**Hearing Officer**

**CERTIFICATE OF SERVICE**

The undersigned certifies that the date below a copy of the foregoing was sent by United States Mail, postage prepaid, and/or electronically to the following:

CORA BERRY  
812 W 13<sup>TH</sup> ST  
MCCOOK NE 68001

TERRY ROGERS  
ATTORNEY AT LAW  
6581 S 48TH ST STE 232D  
LINCOLN NE 68516

MINDY LESTER  
ASSISTANT ATTORNEY GENERAL  
AGO.HEALTH@NEBRASKA.GOV

Date: April 17, 2023.



DHHS Hearing Office  
P.O. Box 98914  
Lincoln, NE 68509-8914  
P. (402) 471-7237 F. (402) 742-2376  
dhhs.hearingoffice@nebraska.gov

FILED

APR 17 2023

STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH  
DHHS Hearing Office

STATE OF NEBRASKA, ex. rel. MICHAEL ) Case No. 230346  
T. HILGERS, Attorney General, )  
Plaintiff )  
vs. ) WAIVER AND  
 ) AGREEMENT TO  
 ) CONTINUANCE  
CORA SIMMERMAN BERRY, LMHP, )  
LADC, CPC, )  
Defendant. )

COMES NOW, the defendant, by and through her attorney, Terry L. Rogers of Terry L. Rogers Law Firm, agrees to a continuance of the hearing presently set for April 18, 2023 at 1:00 p.m. and waives her right to a hearing regarding her temporary suspension and the issues raised therein within thirty days as required by Neb. Rev. Stat. § 38-183(2) and agrees to a hearing on June 20, 2023 starting at 9:00 a.m.

IT IS SO WAIVED AND AGREED this 16<sup>th</sup> day of April, 2023.

CORA BERRY, Defendant

by: /s/ Terry L. Rogers  
Terry L. Rogers, #18978  
5561 S. 48th St., Ste. 232D  
Lincoln, Nebraska 68516  
Phone: (402) 560-2023  
trterryrogers@gmail.com  
Attorney for Defendant



**FILED**

**APR 13 2023**

**STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH**

**DHHS Hearing Office**

**STATE OF NEBRASKA ex rel.  
DOUGLAS J. PETERSON, Attorney  
General,**

**Plaintiff,**

**v.**

**CORA SIMMERMAN BERRY, LMHP,  
LADC, CPC,**

**Defendant.**

**PRAECIPE FOR SUBPOENA**

**TO: DHHS Division of Public Health:**

**Please issue a Subpoena, for service upon the following individuals to appear on**

**April 18, 2023, at 1:00 p.m. to testify at the hearing in the above matter:**

**Dennis Berry  
P.O. Box 785  
McCook, NE 69001**

**Kimberly Kolbo  
38256 Finch Trail  
McCook, NE 69001**

**Deb Korte  
71821 Calabria Drive  
McCook, NE 69001**

**Whitney Schoenemann, APRN  
37536 US Highway 34  
Culbertson, NE 69024-8272**

**The subpoena(s) should be delivered to Plaintiff's counsel for service.**

**FILED**

**APR 3 2023**

**STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**DHHS Hearing Office**

**STATE OF NEBRASKA ex rel.  
MICHAEL T. HILGERS, Attorney  
General,**

**Plaintiff,**

**vs.**

**SIMMERMAN BERRY, CORA,**

**Defendant.**

**230346 LMHP LADC CPC**

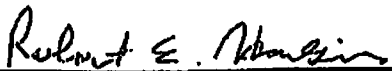
**NOTICE OF HEARING**

**A Petition for Disciplinary Action was filed with the Director on March 31, 2023, in the above captioned matter.**

**The Director has set this matter presented by said Petition for hearing on April 18, 2023 at 1:00 p.m. Central Time. Report to the DHHS Hearing Office Room 259 located in the Nebraska State Office Building, 301 Centennial Mall South, 5th Floor, Lincoln, Nebraska.**

**You shall have the opportunity to appear and defend against said Petition at said time and place. You are further notified that you may present such witnesses and such evidence at said time and place as you may care to present in answer to the charge of said Petition and that you may be represented by legal counsel at said hearing. Hearings are conducted according to Neb. Rev. Stat. §§ 38-186, 38-196 and 84-901 et seq., and the Rules of Practice and Procedure to the Department, 184 NAC 1, (a copy of which can be obtained from <http://www.dhhs.ne.gov>). If auxiliary aides or reasonable accommodations are needed for participation in the hearing please call the Hearing Office, (402) 471-7237, or for persons with hearing impairments (800) 833-7352 TDD, or the Nebraska Relay System, 711 TDD, prior to the hearing date.**

**DATED this 3rd day of April, 2023.**

  
**Robert E. Harkins**  
**Hearing Officer**

**FILED**

**APR 3 2023**

**STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH**

**DHHS Hearing Office**

**STATE OF NEBRASKA ex rel. MICHAEL )  
T. HILGERS, Attorney General, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CORASIMMERMAN BERRY, LMHP, )  
LADC, CPC, )  
 )  
Defendant. )**

**ORDER FOR TEMPORARY  
SUSPENSION OF LICENSE TO  
PRACTICE AS A MENTAL HEALTH  
PRACTITIONER, ALCOHOL AND  
DRUG COUNSELOR AND  
CERTIFIED PROFESSIONAL  
COUNSELOR**

**THIS MATTER** came on for consideration before the Nebraska Department of Health and Human Services Division of Public Health Chief Medical Officer on Plaintiff's Petition for: Disciplinary Action and Temporary License Suspension ("Petition") and upon the affidavit in support of the request for temporary suspension. The Chief Medical Officer finds that there is reasonable cause to believe that grounds exist under Neb. Rev. Stat. §§ 38-183 (Reissue 2016) and 38-178 (Cum. Supp. 2022) for the suspension of the Defendant's license to practice as a mental health practitioner, professional counselor, and alcohol and drug counselor on the basis that the Defendant's continued practice at this time would constitute an imminent danger to public health and safety.

**IT IS THEREFORE ORDERED:**

1. The licenses (LMHP #393, CPC (#284) and LADC (#11)) of the Defendant, Cora Simmerman Berry., to practice as a mental health practitioner, alcohol and drug counselor, and professional counselor certificate is suspended effective upon service of this Order upon the Defendant in accordance with Neb. Rev. Stat. § 38-183 (Reissue 2016).

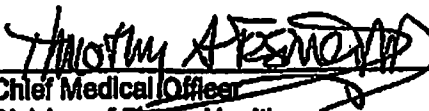
2. Pursuant to Neb. Rev. Stat. § 38-183 (Reissue 2016), the hearing on the merits of the allegations of the Petition shall be held. A separate Notice of Hearing shall be issued by the Nebraska Department of Health and Human Services Division of Public Health to be served upon the Defendant along with the Order and the Petition. The Defendant shall have the opportunity to appear and defend against the Petition at such time and place. The Defendant is further notified that she may present such witnesses and such evidence at said time and place as she may care to present in answer to the allegations of the Petition, and she may be represented by legal counsel at said hearing.

3. The investigative report and supporting documents attached to the affidavit of Carla Cue are hereby sealed and shall remain a non-public record pursuant to Neb. Rev. Stat. § 38-1,106 (Reissue 2016).

4. The Red Willow County, Nebraska, Sheriff is appointed, pursuant to 184 NAC 006.01E, to personally serve the Defendant with copies of this Order and the Petition.

DATED this 3<sup>RD</sup> day of April, 2023.

BY:



Chief Medical Officer  
Division of Public Health  
Nebraska Department of Health and Human Services

**FILED**

**STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH**

**MAR 31 2023**

**DHHS Hearing Office**

**STATE OF NEBRASKA ex rel. MICHAEL )  
T. HILGERS, Attorney General, )**

**Plaintiff, )**

**vs. )**

**CORA SIMMERMAN BERRY, LMHP, )  
LADC, CPC, )**

**Defendant. )**

**PETITION FOR: DISCIPLINARY  
ACTION AND TEMPORARY  
LICENSE SUSPENSION**

The Plaintiff alleges as follows:

**ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

1. Jurisdiction is based on Neb. Rev. Stat. §§ 38-176 (Reissue 2016) and 38-183 and 38-186 (Cum. Supp. 2020).

2. At all times relevant herein, the Defendant, Cora Simmerman Berry, LMHP, LADC, CPC, has been the holder of a mental health practitioner license (#393), an alcohol and drug counselor license (#11), and a professional counselor certificate (#284) issued by the Department of Health and Human Services Division of Public Health ("Department").

3. The Department is the agency of the State of Nebraska authorized to enforce the provisions of the Uniform Credentialing Act regulating the practice of mental health practice, professional counseling, and alcohol and drug counseling.

4. The Nebraska Board of Mental Health Practice and the Nebraska Board of Alcohol and Drug Counselors considered the investigation of this matter and made recommendations to the Attorney General to file disciplinary proceedings against the

**Defendant's license to practice as a mental health practitioner, professional counselor, and alcohol and drug counselor license in Nebraska.**

**5. On June 4, 2022, the Defendant was admitted to C.H., McCook, Nebraska, after a fall the evening before while the Defendant was intoxicated. The Defendant hit her face on a table after consumption of alcohol and was brought to C.H. by a friend who reported the Defendant is an alcoholic. The Defendant's medical record documents a diagnosis of Chronic Alcoholism, Benzodiazepine Dependence, and Polypharmacy. The Defendant's blood results included a high positive for alcohol. The Defendant's lab results indicated her blood alcohol content was .155.**

**6. On June 7, 2022, the Defendant was taken to C.H., McCook, Nebraska, via ambulance, following a fall that resulted in a laceration to her face. The Defendant exhibited tremors in the emergency department and did not remember falling. The Defendant's medical records indicate active problems with Acute Intoxication, Chronic Alcoholism, Benzodiazepine Dependence, and Polypharmacy. The emergency medical service records indicate the Defendant was found on the floor of her home next to a bottle of Xanax, which had been filled nine (9) days prior and contained 70 out of 90 prescribed pills. Emergency medical responders took the medication for disposal.**

**7. On June 9, 2022, the Defendant saw her primary care provider, who expressed concern with early refills of Xanax, Buspar, Ambien, and Amitriptyline. The Defendant's PCP requested the Defendant submit to a blood test prior to additional refills of any medication. The Defendant initially consented to bloodwork, but subsequently refused. The Defendant refused the primary care providers offer of services for alcohol use disorder treatment.**

8. On June 13, 2022, the Defendant was taken to G.P.H., North Platte, Nebraska, by her child after "abusing alcohol drinking dally for a while now". The Defendant indicated she had not consumed alcohol for four (4) days upon admission. The Defendant's urine drug screen was positive for marijuana and Benzodiazepines.

9. Between June 2022 and August 2022, the Defendant was taken to Torrington, Wyoming and admitted to a hospital for detox. The Defendant was then transferred to C.B.I. for treatment. The Defendant left C.B.I. to attend inpatient treatment at H.C.C., as set forth below.

10. On August 22, 2022, the Defendant was admitted to H.C.C., Center City, Minnesota, for inpatient treatment. The Defendant is diagnosed with Alcohol Use Disorder, Severe, Dependence, and Sedative, hypnotic or anxiolytic use disorder, mild, in sustained remission.

11. On August 31, 2022, the Defendant was discharged from H.C.C. conditionally. H.C.C. records indicate "The recommendation is that patient complete a level 3.5 residential treatment, however, patient was insistent on leaving early and was willing to set up continuing care." The Defendant was discharged with a recommendation that she attend Intensive Outpatient Treatment through V.H., Nebraska. The Defendant's prognosis upon discharge was "poor" due to the Defendant's repeated insistence that her alcohol use is not problematic.

12. On September 3, 2022, the Defendant was admitted to N.A.T.C., for substance use treatment. The Defendant fulfilled program requirements on October 18, 2022.

**13. During an interview with a Department Investigator on November 2, 2022, the Defendant admitted:**

- a. The Defendant was intoxicated during the falls set forth above;**
- b. The Defendant is currently sober and abstaining from the use of alcohol;**
- c. There were no in person meetings through N.A.T.C.;**
- d. The Defendant was hospitalized in Wyoming for detoxification of alcohol in the summer of 2022; and**
- e. Between May of 2022 and August of 2022, the Defendant used alcohol.**

**14. In December 2022, the Defendant visited Las Vegas, Nevada. While there, the Defendant became intoxicated and fell down an escalator. The Defendant's blood alcohol content was greater than .4.**

**15. On January 22, 2023, the Defendant was admitted to C.H., McCook, Nebraska, after the Defendant fell. Medical records indicate the Defendant fell after consumption of alcohol throughout the evening and fractured her elbow. The Defendant is diagnosed with Alcohol Intoxication, Active, Chronic Alcoholism, Active, and Benzodiazepine Dependence, Active.**

**16. On March 2, 2023, the Defendant had a telehealth appointment scheduled with Client A. Client A reported the Defendant was slurring her words, unresponsive for long periods of time, and eventually snoring on the phone.**

**17. Witness A and Witness B reported to the Defendant's home office. The Defendant was providing client services to two people. The Defendant displayed slurred speech, tremors, and unsteady gait.**



18. On March 2, 2023, law enforcement responded to the Defendant's home at Defendant's request. Law enforcement records indicate a client of the Defendant had an appointment with Client A. Client A reported the Defendant was under the influence at the time of Client A's appointment. The Defendant agreed to submit to a breathalyzer test for alcohol. The Defendant then refused to provide a breath sample. The Defendant displayed slurred speech, unsteady gait, and obvious tremors. Law enforcement reported the Defendant was under the influence of some substance.

19. On March 11, 2023, emergency medical services responded to the Defendant's home around 2:30 – 3:00 in the morning. The Defendant was found on the floor in the living room of her home by her adult child. The Defendant was bleeding, intoxicated, and uncooperative with emergency services personnel. Law enforcement was called for assistance. The Defendant agreed to be transported to C.H., Norfolk, Nebraska. The Defendant's medical record for this note includes "[s]he refuses to speak of her alcohol use and does not find it an issue." The Defendant is diagnosed with Alcohol Intoxication, Active, Chronic Alcoholism, Active, and Benzodiazepine Dependence, Active.

20. Witness B reported to the Department Investigator the Defendant frequently mixed milk with whiskey or vodka and consumed the same during client meetings until the drinks were taken from her.

21. During an interview with a Department Investigator on March 16, 2023, the Defendant admitted:

- a. Mixing whiskey or vodka with milk;

b. The Defendant is not abstinent, is still drinking, but asserts she "drink[s] in moderation"; and

c. When asked how her alcohol content was above .4 during the December 2022 Las Vegas, incident, the Defendant replied it was "situational".

22. The Defendant continues to see client's, approximately ten per day, and to consume alcohol.

### **FIRST CAUSE OF ACTION**

23. Paragraphs 1 through 22 are hereby incorporated herein by reference.

24. Neb. Rev. Stat. § 38-178(7) (Cum. Supp. 2022) provides that a professional license may be disciplined for the practice of the profession while the ability to practice is impaired by alcohol, controlled substances, drugs, mind-altering substances, physical disability, mental disability, or emotional disability.

25. The Defendant's practice of the profession while impaired, as set forth herein above, is grounds for discipline.

### **SECOND CAUSE OF ACTION**

26. Paragraphs 1 through 22 are incorporated herein by reference.

27. Neb. Rev. Stat. § 38-178(3) (Cum. Supp. 2022) provides that a professional license may be disciplined for abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance.

28. The Defendant's active abuse of alcohol, benzodiazepines, and marijuana, as set forth above, are grounds for discipline.

### **THIRD CAUSE OF ACTION**

29. Paragraphs 1 through 22 are incorporated herein by reference.

30. Neb. Rev. Stat. § 38-178(3) (Cum. Supp. 2022) provides that a professional license may be disciplined for abuse of, dependence on, or active addiction to alcohol, any controlled substance, or any mind-altering substance.

31. The Defendant's diagnoses of Alcohol Use Disorder, Severe, Dependence, and Sedative, hypnotic or anxiolytic use disorder, mild are ground for discipline.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that the Chief Medical Officer temporarily suspend the Defendant's license to practice as a mental health practitioner, professional counselor, and alcohol and drug counselor, pursuant to Neb. Rev. Stat. § 38-183 (Reissue 2016), set this matter for hearing, enter an order for appropriate disciplinary action pursuant to Neb. Rev. Stat. § 38-196 (Reissue 2016), and tax the costs of this action to the Defendant.

STATE OF NEBRASKA, ex rel.  
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