

KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

Eisenhower State Office Building
700 SW Harrison, Suite 420
Topeka, Kansas 66603-3240

In the Matter of)
)
 Kathleen Behan,)
)
 Applicant for Licensure as a)
 Master Social Worker)

Case No. 22-MS-003

Summary Proceeding Order

The above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board) for consideration of the application submitted by Kathleen Grace Behan for licensure as a master social worker. The Presiding Officers who considered her application were the following Board members: Leslie Sewester, David Anderson, Jacqueline Lightcap, Bruce Nystrom, Andrea Perdomo-Morales, Laura Shaughnessy, Ric Steele, Deb Stidham, and Carolyn Szafran. Board members Mary Jones, Johnna Norton, and Donna Hoener-Queal were not present.

After reviewing its administrative records, the Board makes the following findings of fact, conclusions of law, and orders.

Findings of Fact

1. On February 24, 2022, the Board received an application for licensure as master social worker from Kathleen G. Behan (Applicant). She received her master's degree in social work in 2001, but has not been licensed in Kansas.

2. On February 23, 2022, Applicant filed a Report of Alleged Violation (RAV) against herself stating she informed her direct supervisor, who is licensed by the Board as a licensed psychologist, that she was not a licensed social worker when she began working at facility. However, she was eligible to take the licensing examination but needed to submit her application to do so. After talking to the Board's staff, Applicant's supervisor believed that Applicant could perform the duties of social worker under the supervisor's license until Applicant obtained her license.

3. Relying on her supervisor's advice, Applicant had patients sign an Authorization for Supervision Release form prior to their visit with her. The form notified the patients about Applicant's education and that she was not licensed as a social worker. The form also notifies the patients that Applicant's supervisor reviews their file and they could contact her supervisor if they had questions about their treatment.

4. The facility's chief compliance officer later contacted the Board's staff for clarification on whether Applicant could work under the license of her direct supervisor. The Board's staff informed the compliance officer that because Applicant was not a student in a social worker program, Applicant could not practice social work under the supervision of her supervisor and doing so meant she was practicing social work without a license. The chief compliance officer also filed a RAV detailing the events of Applicant conduct and stating billings had been processed for the patients Applicant had seen.

5. Applicant's supervisor reviewed the response that the chief compliance officer received from the Board's staff and realized she had misunderstood the guidance that was previously given to her. Applicant had seen a total of 12 patients from December 13, 2021, (when she began her employment) and February 22, 2022 (when she was removed from duties that required a social worker license).

6. In her RAV, Applicant stated she did not tell any of the patients that she was a "licensed social worker." However, in her biographical information on the facility's website, Applicant stated: "*As a social worker, I take a person-in-environment approach to working with individuals and families.*" (Emphasis added.)

7. Applicant submitted two professional reference forms. Both references recommended her for licensure and are licensed by the Board as a master social worker. One had known Applicant for 12 years and the other reference had known her for more than 6 years.

Conclusions of Law

8. The Board is authorized under the Kansas Social Workers Licensure Act (Act), K.S.A. 65-6301 *et seq.*, to issue a license as a master social worker to qualified applicants. K.S.A. 65-6306(b). Applicant has applied for licensure as a master social worker. The Board has jurisdiction over Applicant and this matter.

9. The Board may refuse to issue, condition or limit a social worker license or issue a public or private censure if the applicant has violated a provision of the Act or a regulation of the Board or has been found to have engaged in unprofessional conduct as defined in a regulation adopted by the Board. K.S.A. 65-6311(a)(5) and (a) (9), respectively. The definition of unprofessional conduct includes the following provision: "using without a license, or continuing to use after the expiration of a license, any title or abbreviation prescribed by the Board for use only by persons currently holding that type or class of license." K.A.R. 102-2-7(zz).

10. K.S.A. 65-6307(a) states that persons who hold "a valid, unsuspended and unrevoked license issued under the provisions of this Act shall have the right to practice and use the title and the abbreviations prescribed by the Board for use by persons holding the license held by such persons."

11. K.S.A. 65-6303(a) prohibits any person who is not licensed by the Board as a social worker from engaging in the practice of social work for compensation or holding

“forth as performing the services of a social worker unless such person is licensed in accordance with the provisions of this Act.” Similarly, K.S.A. 65-6303(b) states that a qualified person may work within the standards and ethics of their profession and calling if “they do not hold themselves out to the public by any title or description of services as being engaged in the practice of social work.”

12. Applicant performed social worker services, her clients were billed for those services, and she presented herself to the public as a “social worker” in her biographical information on the facility’s webpage. The Board concludes that Applicant violated K.S.A. 65-6307(a) and K.S.A. 65-6303(a) and (b) during the two and one-half months that she practiced social work for compensation and presented herself to the public as a social worker but was not licensed by the Board as a social worker. The Board also concludes that Applicant violated K.S.A. 65-6311(a)(9) by committing unprofessional conduct as defined in K.A.R. 102-2-7(zz) during the two and one-half months that she presented herself as a social worker but was not licensed by the Board as a social worker.

13. Applicant relied upon her supervisor to determine whether the Act allowed her to practice social work without license while being supervised rather than becoming familiar herself with the requirements. However, Applicant has provided positive recommendations from two professionals who are licensed as a master social worker by the Board.

14. Based upon the above factual findings and conclusions of law, the Board determines that Applicant shall be publicly censured for her violations of the Act. The Board further determines that Applicant’s violation of the Act and K.A.R. 102-2-7(zz) shows cause exists to place conditions upon Applicant’s license to practice as master social worker. Therefore, the Board hereby grants Applicant’s application to practice as a master social worker subject to the following terms and conditions.

(A) Applicant will hold the license as a master social worker with the conditions imposed herein for a minimum of twelve (12) months.

(B) Applicant shall complete six (6) hours of continuing education on ethics and the professional practice of social work that are approved by the Board. This continuing education can be completed by attending in person or an electronic medium. The continuing education hours shall be in addition to the continuing education hours required for renewal of her master social worker license. Applicant shall submit proof of completion of this continuing education to the Board within one year from the date on the Certificate of Service below.

(C) Applicant shall bear any expense and costs incurred in satisfying the terms of this Order.

(D) Applicant must obey all federal, state, and local laws, including the statutes and regulations governing the practice of social work.

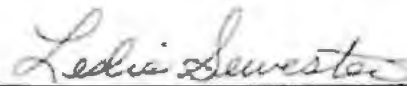
(E) Applicant must successfully pass the required examination for licensure as a master social worker.

Order

WHEREFORE, after consideration of the above findings of fact and conclusions of law, it is the decision and order of the Board that Kathleen G. Behan be publicly censured for her violations of the Act and that her license as a master social worker be granted subject to the conditions set forth above.

IT IS SO ORDERED.

Kansas Behavioral Sciences Regulatory Board



Leslie Sewester, Board Chair and
Presiding Officer

NOTICE OF ADMINISTRATIVE RELIEF

Pursuant to K.S.A. 77-537(b) and 77-542(a), a written request for a hearing before the Board on the above Summary Proceeding Order may be filed with the Board within fifteen (15) days of the date listed on the certificate of service below. If a hearing is not requested in the time and manner stated, the above Summary Proceeding Order becomes effective upon expiration of the fifteen (15) day time. 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

CERTIFICATE OF SERVICE

This is to certify that on this 18th day of April 2022 a copy of the above and foregoing Summary Proceeding Order and Notice of Administrative Relief was placed in the U.S. mail, first-class postage prepaid addressed to:

Kathleen G. Behan



Staff,
Kansas Behavioral Sciences Regulatory Board