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Kansas Office of the Attorney General
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Topeka, KS 66612-1597

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BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD

In the Matter of)
)
Pamela Esser, LBSW)
License #4045,) **Case No. 13-BS-0042**
Respondent)
_____)

CONSENT AGREEMENT AND ORDER

NOW, on this 5 day of August, 2014, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board [Board], by and through Assistant Attorney General Whitney L. Casement, by agreement of Pamela Esser [Licensee] and the Board for the purpose of resolving the above-captioned case.

Licensee hereby acknowledges the following:

1. Pamela Esser is currently, and was at all times relevant to this Consent Agreement and Order, a Licensed Bachelor Social Worker within the meaning of the Kansas Social Workers Licensure Act, K.S.A. 65-6301, *et seq.*, and amendments thereto.
2. On November 13, 2012, Licensee was subjected to a random audit which revealed possible violations of certain statutes and regulations governing unprofessional conduct.
3. On November 28, 2012, the Board's licensing department filed a Report of Alleged Violation stating Licensee may have violated certain statutes and regulations governing unprofessional conduct.
4. Licensee was informed of the reported information in a letter dated November 28, 2012 and was given an opportunity to respond by December 21, 2012.
5. Licensee failed to respond to the Board.

6. As a result of the report and subsequent response, the Board finds probable cause that the following facts have been established by clear and convincing evidence:

- a. Licensee is a Bachelor Social Worker currently licensed in Kansas.
- b. On November 13, 2012, Licensee submitted her Kansas licensure renewal application online.
- c. In the renewal application Licensee stated she had completed 40 hours of continuing education units. In addition, Licensee signed an attestation clause in the application that stated the information in the application was accurate.
- d. An audit conducted on November 28, 2012, revealed Licensee had completed five continuing education unit hours on November 19, 2012, after the online renewal.
- e. Licensee failed to respond to the Board.

7. The Complaint Review Committee of the Board finds that Licensee has violated the following statute and regulation:

A. K.S.A. 65-6311. Grounds for suspension, limitation, revocation or refusal to issue or renew license; procedure.

- (a) The board may suspend, limit, revoke, condition or refuse to issue or renew a license of any social worker upon proof that the social worker:
 - (2) has been found guilty of fraud or deceit in connection with services rendered as a social worker or in establishing needed qualifications under this act;
 - (4) has been found guilty of unprofessional conduct as defined by rules established by the board.

B. K.A.R. 102-2-7. Unprofessional Conduct. Any of the following acts by a licensee . . . shall constitute unprofessional conduct:

- (a) Obtaining or attempting to obtain a license for oneself or another by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;
 - (i) failing or refusing to cooperate in a timely manner with any request from

the board for a response, information that is not obtained in the context of a confidential relationship, 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. Each person taking longer than 30 days to provide the requested response, information, or assistance shall have the burden of demonstrating that the person acted in a timely manner;

C. K.A.R. 102-2-11a. Renewal audit.

- (a) A random audit of the continuing education documentation for 10 percent of the social worker licenses expiring each month shall be conducted by the board.
- (e) Failure to comply with this regulation shall be considered unprofessional conduct.

However, Licensee and the Board mutually desire to enter a Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations.

WHEREFORE, Licensee waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 13-BS-0042.

WHEREFORE, Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act in relation to Case No. 13-BS-0042.

WHEREFORE, Licensee consents to the following terms and conditions:

- (a) Licensee is hereby formally censured.
- (b) Licensee shall pay a \$100.00 fine to the Board within 30 days of the effective date of this Consent Agreement and Order.
- (c) Licensee shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Order.
- (d) Licensee understands that a notification of this Consent Agreement and Order shall be provided to any other state licensing board if Licensee is also licensed, registered or

certified in another state.

- (e) Licensee acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional status which would inhibit compliance with any condition of this Consent Agreement and Order. In such event, a designee of the Board is authorized to modify or amend this Consent Agreement and Order in writing.
- (f) This Consent Agreement and Order constitutes the entire agreement between the Licensee and the Behavioral Sciences Regulatory Board and may be modified or amended only by written agreement signed by Licensee and the Board or a designee of the Board.

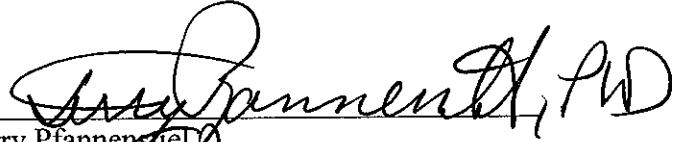
WHEREFORE, Licensee consents to the submission of this Consent Agreement and Order to the Board's Complaint Review Committee and understands that, upon approval by the Complaint Review Committee, this Consent Agreement and Order will become a Final Order of the Board. The Board has authorized the Complaint Review Committee to determine approval of this Consent Agreement and Order.

WHEREFORE, this Consent Agreement and Order acts as a Formal Censure pursuant to K.S.A. 74-7508(f).

WHEREFORE, the Board agrees that, so long as Licensee complies with the above conditions, the Board will not initiate further disciplinary action against Licensee in relation to violations of K.S.A. 65-6311, K.A.R. 102-2-7, and K.A.R. 102-2-11a as a result of this proceeding.

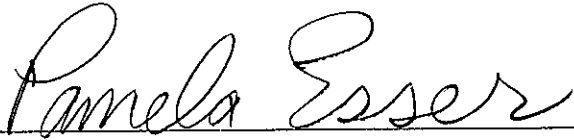
WHEREFORE, the foregoing provisions are consented to, are hereby made the final Order of the Kansas Behavioral Sciences Regulatory Board, and become effective on the date indicated in the Certificate of Service below.

IT IS SO ORDERED.

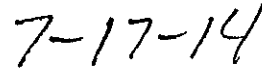


Terry Pfannenschel
Chair, Complaint Review Committee

APPROVED AND CONSENTED TO:



Pamela Esser
Licensee

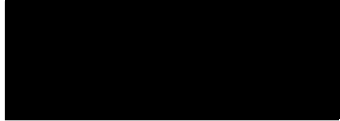


Date

CERTIFICATE OF SERVICE

This is to certify that on this 5 day of August, 2014, a true and correct copy of the above Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Pamela Esser



and a copy delivered via interoffice mail to:

Whitney L. Casement
Assistant Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612
Disciplinary Counsel for the Board

Cindy D'Ercole
For the Behavioral Sciences Regulatory Board