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BY: _____

BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In the Matter of)

DENISE A. SMITH,)
LAC #494,)
Respondent)

Case No. 16-AC-048

CONSENT AGREEMENT AND ORDER

NOW, on this 19 day of September, 2016, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board [Board], by and through Assistant Attorney General Marty M. Snyder, by agreement with Denise A. Smith [Respondent / Licensee], for the purpose of resolving the above-captioned case.

Respondent hereby acknowledges the following:

1. Denise A. Smith, at all times relevant, has been a Licensed Addictions Counselor within the meaning of the Addictions Counselor Licensure Act, K.S.A. 65-6601, *et seq.*, and amendments thereto.

2. On November 6, 2015, the Board received a report of information concerning Respondent's conduct, alleging Respondent may have violated certain statutes and regulations governing the practice of addictions counseling in Kansas.

3. The Board conducted an investigation concerning Respondent's alleged violation of statutes and regulations. During the investigation, Respondent was informed of the reported information and was given the opportunity to respond to the allegations. She supplied information directly in a timely manner.

4. As a result of the investigation, the Board finds that the following facts have been established by a preponderance of persuasive evidence:

a. Licensee was employed as an addictions counselor at the Center for Change in Wichita, Kansas and had approximately 49 patients assigned to her in the Fall of 2015. At that time the facility had approximately 500 patients and 16 employees.

b. On October 19, 2015, Licensee was observed on the Center's security cameras removing items from her office and taking them out to her car in the parking lot.

c. A human resources employee who observed this activity confronted Licensee in the parking lot to inquire what she was doing. Earlier that same day, Licensee had admitted that she was considering terminating her employment and inquired about getting a recommendation letter before making a decision. The human resources employee informed her she should arrange a meeting with her supervisor and the medical director before she could obtain such a letter.

d. During the discussion in the parking lot, Licensee stated, "It is just time." She provided vague answers and then admitted she was quitting without notice and would not provide a letter of resignation to human resources. She in fact did leave her employment on October 19, 2015.

e. The letter of complaint from the Center's medical director stated that Licensee abandoned 49 patients without giving notice to them or Center staff or her supervisor.

f. Licensee's written response to the complaint did not deny the factual allegations. She stated she was overwhelmed by her workload and

personal family health issues. She stated she was "used up – emotionally, physically and spiritually" and "needed to get back to taking care of myself."

Conclusions of Law

The Complaint Review Committee of the Board finds that probable cause exists to believe Respondent has violated the following statutes and regulations:

- A. K.S.A. 65-6615 (c), (g).**
- B. K.A.R. 102-7-11-- Unprofessional Conduct.**

Each of the following acts shall be considered unprofessional conduct for a licensed addiction counselor:

(g) failing to recognize, seek intervention and otherwise appropriately respond when one's own personal problems, psychosocial distress or mental health difficulties interfere with ... professional judgment, professional performance and functioning or the ability to act in the client's best interests;

(ii) failing to notify the client promptly if one anticipates terminating or interrupting service to the client;

(jj) failing to seek continuation of service, or abandoning or neglecting a client under or in need of professional care, without making reasonable arrangements for that care; and

(kk) abandoning employment under circumstances that seriously impair the delivery of professional care to clients and without providing reasonable notice to the employer.

However, Respondent 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, Respondent 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 [KAPA] in relation to Case No. 16-AC-048.

WHEREFORE, Respondent waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act [KJRA] in relation to Case No. 16-AC-048.

WHEREFORE, the Board and Respondent agree to the following terms and conditions until she has completed one year of supervised practice:

(a) Once Respondent becomes employed in a position using her LAC license, she shall immediately notify the Board's investigator of the details of her employment.

(b) Licensee shall obtain six additional Ethics CEUs within six months of the effective date of this Consent Agreement and Order [CAO]. Three hours may be online but three hours must be completed in person. The focus of these Ethics CEUs shall be on professional responsibility, client abandonment, maintaining therapeutic alliances and self-care. She shall furnish notice of completion to the Board's investigator.

(c) Licensee may practice only under supervision by a Board-approved clinical level supervisor and shall meet for one hour per week in person for supervision. The focus of the supervision shall be on building and maintaining therapeutic alliances, recognizing when personal problems interfere with the therapeutic relationship, professional responsibility and abandonment of vulnerable clients.

(d) Licensee shall provide her supervisor with a copy of this Consent Agreement and Order, and the supervisor shall provide quarterly written progress reports to the Board's investigator, but initiate immediate contact if there are any problems.

(e) Respondent shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Order.

(f) Evidence of Respondent's failure to comply with any of these conditions may result in suspension of Respondent's Kansas Addictions Counselor license until such time as she can demonstrate compliance with all terms and conditions of this Consent Agreement and Order to the satisfaction of the Board.

(g) Respondent acknowledges an affirmative duty to notify the Board's Investigator 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.

(h) Respondent understands that a notification of this Consent Agreement and Order shall be provided to any other state licensing board if Respondent is also licensed, registered or certified in another state and as otherwise required by law.


(i) This Consent Agreement and Order constitutes the entire agreement between Respondent and the Board and may be modified or amended only by written agreement signed by Respondent and the Board or a designee of the Board.

WHEREFORE, Respondent 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, the Board agrees that, so long as Respondent complies with the above conditions, the Board will not initiate further disciplinary action against Licensee in relation to violations of K.S.A. 65-6615 and K.A.R. 102-7-11 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 this 6th day of September, 2016.


Terry Pfannenstiel, Ph.D., LCP, LCMFT
Chair, Complaint Review Committee

APPROVED AND CONSENTED TO:


Denise A. Smith, LAC
Licensee / Respondent

8/30/16
Date

CERTIFICATE OF SERVICE

This is to certify that on this 19 day of September, 2016, 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:

Denise A. Smith


and emailed to: 

and a copy sent by building mail to:

Marty M. Snyder
Assistant Attorney General


For the Board