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BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In the Matter of)
)
MELISSA WADE,)
LPC #1016,)
Respondent)

Case No. 16-PC-062

CONSENT AGREEMENT AND ORDER

NOW, on this 13 day of December, 2016, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board [Board / BSRB], by and through Assistant Attorney General Marty M. Snyder, by agreement of Melissa Wade [Respondent / Licensee] and the Board for the purpose of resolving the above-captioned case.

Licensee hereby acknowledges the following facts which are found to be established by a preponderance of the evidence:

1. Melissa Wade, Licensee, is a Licensed Professional Counselor within the meaning of the Professional Counselors Licensure Act, K.S.A. 65-5801, *et seq.*, and amendments thereto.

2. On or about January 14, 2016, the Board received a report of alleged violations of the statutes and regulations governing the practice of professional counseling based upon the alleged conduct of Licensee.

3. The Board conducted an investigation, requesting Licensee to respond in writing to the allegations. Licensee timely responded in her letter received March 4, 2016.

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

a. Licensee was employed as a social worker with St. Francis Community Services. In January of 2016, employees of St. Francis witnessed her ~~adult~~^{mu} daughter come to Licensee's office and use the agency computer.

b. At that time, numerous confidential files were sitting on Licensee's desk, some closed and some open with visible client data. Licensee was having internet connectivity problems and was using a computer in a different room at the time.

c. A co-worker stated she heard the daughter calling out client names and concluded the daughter was doing some filing for Licensee.

d. Licensee agrees she allowed her daughter to come to her office to use the office computer for about 45 minutes while she was working in a different room. She agrees there were open client files visible on her desk. However, she denies that her daughter was performing any work on any agency files.

e. Licensee's employment with St. Francis Community Services was terminated the following day. However, Licensee failed to report the termination to the Board as required.

5. Based upon the above factual findings, the Complaint Review Committee of the Board, pursuant to K.S.A. 65-5809, concludes that probable cause exists to believe Licensee violated the following statute and regulation:

A. **K.S.A. 65-5809. Grounds for discipline.**

(n) unprofessional conduct as defined by rules and regulations adopted by the Board.

B. **K.A.R. 102-3-12a. Unprofessional conduct.**

(b) Any of the following acts by a . . . licensed clinical professional counselor . . . shall constitute unprofessional conduct:

(2) ... 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: (C) has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for some form of misfeasance, malfeasance, or nonfeasance;

(19) revealing information, a confidence, or a secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records;

(22) failing to exercise due diligence in protecting the information regarding and the confidences and secrets of the client from disclosure by other persons in one's work or practice setting.

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. 16-PC-062.

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. 16-PC-062.

WHEREFORE, the Board and Licensee agree to the following terms and conditions:

(a) Licensee shall complete an additional three hours of Ethics CEUs within six months of the effective date of this Agreement and furnish proof of completion to the Board's investigator. The program should focus on confidentiality in record-keeping.

(b) Licensee shall write a ten-page paper in APA format regarding her error and potential confidentiality breach and how to protect the confidentiality of client records in the future and the importance of implementing and observing such protections. The paper must be furnished to the Board's special investigator within six months from the effective date of this Agreement.

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

(d) Evidence of Licensee's breach, violation or failure to comply with any of the above conditions could result in suspension of her LPC license until such time as Licensee can demonstrate compliance with all terms and conditions of this Consent Agreement and Order to the satisfaction of the Board.

(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 Order in writing.

(f) 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. The Board may disclose this Consent Agreement and Order to any other licensing board upon request, and the Board shall

disclose this Consent Agreement and Order to any state or national databases as required by law, including but not limited to the Kansas Open Records Act.

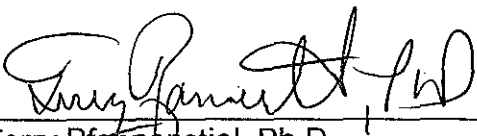
(g) This Consent Agreement and Order constitutes the entire agreement between Licensee and the Board and may be modified or amended only by written agreement signed by Licensee and the Board or a designee of the Board.

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, 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. 65-5809 and K.A.R. 102-3-12a 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 12th day of December, 2016.



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


APPROVED AND CONSENTED TO:

Melissa Wade
Melissa Wade, LPC
Licensee / Respondent

11-15-16
Date

CERTIFICATE OF SERVICE

This is to certify that on this 13 day of December, 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:

Melissa Wade


and a copy placed in building mail to:

Marty M. Snyder, Esq.
Assistant Attorney General
Disciplinary Counsel for the Board

Cindy D'Ercole
For the Board