

Jane E. Weiler, KS S. Ct. #25276
Assistant Attorney General
120 SW 10th Ave., Second Floor
Topeka, KS 66612
(785) 296-2215



BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In The Matter Of

**MICHAEL NICHOLS,
UNLICENSED**

Respondent

Case No. 19-NL-0073

Pursuant to K.S.A. 77-536

ORDER TO CEASE AND DESIST

NOW, on this 3 day of May, 2019, the above-captioned matter comes before the Complaint Review Committee of the Kansas Behavioral Sciences Regulatory Board (Board).

FINDINGS OF FACT

The Board finds that the following facts have been established by a preponderance of the evidence:

1. At all times relevant to this Order, Michael Nichols ("Respondent") has not possessed any license issued by the Kansas Behavioral Sciences Regulatory Board that would permit the practice of providing mental health services in the State of Kansas.
2. Specifically, Respondent has no behavioral sciences license of any kind in the State of Kansas to practice as a Licensed Addiction Counselor ("LAC").
3. However, Respondent was hired by Mirror, Inc. in Wyandotte County Kansas as an LAC on approximately August 29, 2018.

4. Furthermore, Respondent had listed in his resume that he was an LAC in the State of Kansas.

5. After assuming this position, Respondent presented himself to agency staff and to clients that he was an LAC.

6. Subsequently, Mirror Inc. questioned whether Respondent was licensed in Kansas as an LAC. When asked to provide evidence of a present license to practice as an LAC in Kansas, Respondent told Mirror Inc. that his license was at home buried in another box.

7. Respondent was not able to provide a copy of his license, as he was not or had not been licensed to practice as an LAC in the State of Kansas.

8. On or about November 14, 2018, Respondent resigned his position at Mirror, Inc. since he was not licensed as an LAC in Kansas.

APPLICABLE LAW

9. Pursuant to K.S.A. 2017 Supp. 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 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 standards 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.

10. Pursuant to K.S.A. 65-6608(c): “Licensed addiction counselor” means a person who engages in the practice of addiction counseling limited to substance abuse disorders and who is licensed under this act.

11. Pursuant to K.S.A. 74-7508(b)(3)(A), if the board determines that an individual has practiced without a valid license a profession regulated by the board for which the practitioners of the profession are required by law to be licensed in order to practice the profession, in addition to any other penalties imposed by law, the board, in accordance with the Kansas Administrative Procedure Act, may issue a cease and desist order against such individual.


CONCLUSIONS OF LAW

WHEREFORE, Respondent is in violation of K.S.A. 65-6608(c), in that Respondent held himself out as a Licensed Addiction Counselor, licensed by the Board. However, Respondent was not and has not held a license to practice as an LAC in the State of Kansas.

ORDER

WHEREFORE, pursuant to K.S.A. 74-7508(b)(3)(A), Respondent shall immediately upon receipt of this Order **CEASE AND DESIST** the practice of unlicensed addiction counseling in the State of Kansas.

IT IS SO ORDERED ON THIS 28th DAY OF April, 2019.



Chairperson, Complaint Review Committee
On behalf of the Behavioral Sciences
Regulatory Board

NOTICE OF RELIEF FROM SUMMARY PROCEEDING ORDER

Pursuant to K.S.A. 77-537 and K.S.A. 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:

Max Foster, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison St., Suite 420
Topeka, KS 66603-3929

This written request must be filed within fifteen (15) calendar days from the date indicated in the below Certificate of Service. Pursuant to K.S.A. 77-503(c), the 15-day period begins the day after the date indicated in the Certificate of Service and includes weekends and legal holidays. If the 15th day falls on a Saturday, Sunday, or legal holiday, then the 15-day period runs until 5:00 p.m. on the next day which 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.

CERTIFICATE OF SERVICE

This is to certify that on this 3 day of May, 2019, a true and correct copy of the above and foregoing Summary Proceeding Order of Suspension was deposited in the U.S. mail, first class postage prepaid, addressed to:

Michael Nichols
[REDACTED]
[REDACTED]

and a copy delivered via interoffice mail to:

Jane E. Weiler, Esq.
Assistant Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612
Disciplinary Counsel for the Board

Cindy D'Ercole
For the Board