

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

KIMBERLY S. DUNN, LAC
License #019

Respondent

Case No. 20-AC-0056

Pursuant to K.S.A. 77-536

SUMMARY PROCEEDING ORDER

NOW, on this 5 day of March, 2020, 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. Kimberly S. Dunn ("Respondent") was at all times relevant, a Licensed Addiction Counselor ("LAC"), having been issued LAC License No. 019 within the meaning of the Kansas Addiction Counselor Licensure Act, K.S.A. 65-6607, *et seq.*, and amendments thereto.
2. On or about July 31, 2019, Respondent's license to practice as an LAC in the State of Kansas expired.
3. On or about September 11, 2019, the Board sent to Respondent notice that her license had expired.

4. On or about September 12, 2019, Respondent submitted to the Board her renewal application. In addition, in her renewal Respondent reported that she had practiced as an LAC while her license was expired.

5. Further, Respondent provided to the Board two different reasons as to why she failed to renew her LAC license.

6. Of note, Respondent's explanations to the Board as to why she failed to renew her license were inconsistent with the account she told her employer.

7. On or about September 15, 2019, Respondent was terminated from her employment in Wichita related to her inconsistent assertions regarding her expired license.

APPLICABLE LAW

8. Pursuant to 65-6615(c): Administrative proceedings and disciplinary actions regarding licensure under the addiction counselor licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the addiction counselor licensure act shall be in accordance with the Kansas judicial review act.

9. Pursuant to K.S.A. 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 use disorders and who is licensed under this act. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or in completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2017 Supp. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt from licensure under K.S.A. 59-29b46(n), and amendments thereto.

11. Pursuant to K.S.A. 65-6615(a)(5): The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license has violated a provision of the addiction counselor licensure act or one or more of the rules and regulations of the board have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board. Specifically:

- a. K.A.R. 102-7-11(a)(3): 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;
- b. K.A.R. 102-7-11(ss): practicing addiction counseling after one's license expires; and
- c. K.A.R. 102-7-11(tt): using without a license, or continuing to use after a license has expired, any title or abbreviation defined by regulation.

CONCLUSIONS OF LAW

12. Respondent is in violation of K.S.A. 65-6615(a)(5), as defined in K.A.R. 102-7-11(a)(3), in that Respondent was terminated from her employment related to malfeasance.

13. Additionally, Respondent is in violation of K.S.A. 65-6615(a)(5), as defined in K.A.R. 102-7-11(ss) and K.A.R. 102-7-11(tt), in that Respondent practiced addiction counseling and held herself out as an LAC after her license expired.

ORDER

WHEREFORE, based on the above Findings of Fact and Conclusions of Law and pursuant to the authority granted by 65-6615(a) and K.S.A. 77-537, the Complaint Review Committee of behalf of the Board finds that the Kansas LAC license of Respondent Kimberly S. Dunn should be and is hereby **PUBLICALLY CENSORED** for her violations of the Kansas Addiction Counselor Licensure Act.

IT IS SO ORDERED ON THIS 24th DAY OF March, 2020.



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 5 day of March, 2020, 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:

Kimberly S. Dunn, LAC


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



For the Board