

KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

Eisenhower State Office Building

700 SW Harrison, Suite 420

Topeka, Kansas 66603-3240

In the Matter of)

Thomas C. Wolfe,)

Case No. 24-APP-019

Applicant for Reinstatement of)

License as a Licensed)

Professional Counselor and)

Licensed Master's Addiction)

Counselor.)

Pursuant to (K.S.A. 77-537)

Summary Proceeding Order Granting Reinstatement

The above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (the "Board") for consideration of the application filed by Thomas C. Wolfe for reinstatement of a license as a Licensed Professional Counselor and Licensed Master's Addiction Counselor. The Presiding Officers who considered the applications were the following Board members: Mary Jones, David Anderson, Andrea Perdomo-Morales, Cynthia Schendel, Jim Kilmartin, Jill Flessing, Laura Shaughnessy, Jacqueline Lightcap, David Stevens and Donna Hoerner-Queal. Board members Richard Nobles and Linda Heitzman-Powell were not present.

After reviewing its administrative records, the Board makes the following findings of fact, conclusions of law, and orders.

FINDINGS OF FACT

1. Thomas C. Wolfe ("Applicant") was at certain times relevant hereto, a Licensed Professional Counselor ("LPC") within the meaning of the Kansas Professional Counselors Licensure Act, K.S.A. 65-5801 *et seq.* and a Licensed Master's Addiction Counselor ("LMAC"), within the meaning of the Kansas Addiction Counselor Licensure Act (the "Act"), K.S.A. 65-6607 *et seq.* The Board previously issued Applicant LPC license No. 3194 on or about December 11, 2017 and LMAC license No. 214 on or about October 27, 2014.

2. Applicant's LPC and LMAC license were suspended pursuant to a Summary Proceeding Order of Suspension entered by the Board in Case Nos. 23-PC-0055 and 23-PC-0070 ("Summary Proceeding Order of Suspension") which became a final order of the Board no later than May 15, 2023. A true and correct copy of the Summary Proceeding Order of Suspension is attached hereto as Exhibit A and incorporated herein by reference.

3. The Summary Proceeding Order of Suspension, in relevant part, found that Applicant's engaged in unprofessional conduct as further defined in K.A.R. 102-3-21a(b)(2)(C), (10), (25), (27), (42) and (46) with respect to his LPC license. See Exhibit A at paras. 15 – 21.

4. The Summary Proceeding Order of Suspension, in relevant part, found that Applicant's engaged in unprofessional conduct as further defined in K.A.R. 102-7-11(a)(3), (g), (i), (v), (w)(1) and (ll) with respect to his LPC license. See Exhibit A at paras. 15 – 21.

5. The Summary Proceeding Order of Suspension, suspended Applicant's LPC and LMAC licenses for a period of one (1) year and allowed Applicant to seek reinstatement after the one (1) year period. The Summary Proceeding Order of Suspension further provided that "[i]f [Applicant] wishes to reinstate either or both licenses, Applicant must produce the results of a recent psychological evaluation. Based on the review of this report and other factors, the Board may consider reinstatement with possible license conditions."

6. On or about June 10, 2024, Applicant caused the Board to receive an Application for Reinstatement of a Suspended or Revoked LPC License (the "LPC Application") and an Application for Reinstatement of a Suspended or Revoked LMAC License (the "LMAC Application") (collectively the "Applications").

7. In connection with the Applications, Applicant caused the Board to receive:

- a. A letter from Applicant dated May 15, 2024 in support of the Applications;
- b. A psychological evaluation report from Nicholas C. Noll, Ph.D dated January 11, 2024;
- c. A letter from Applicant's therapist dated May 2, 2024 regarding therapy sessions attended from September 22, 2022 through May 2, 2024; and
- d. Letters from three (3) co-workers two (2) of whom hold professional licenses from the Board in support of the Applications.

8. Through the above-referenced letters and report Applicant relayed that he believed the Board was correct in suspending his LPC and LMAC licenses, that he has focused on his self-care and taken an active role in his personal therapy to adjust his life in order to return to the practice of professional counseling and addiction counseling. Applicant relayed that he has taken ownership of his misconduct and expressed his belief that he has made the necessary changes in his life to return to practice. The psychological evaluation opined in part that Applicant displays good self-awareness in regard to the issues of the Summary Proceeding Order of Suspension and that he has sincere desire to make certain that similar circumstances do not occur in the future.

APPLICABLE LAW

9. The Kansas Professional Counselors Licensure Act, K.S.A. 65-6801*et seq.* authorizes the Board to reinstate a Licensed Professional Counselor (“LPC”) license which has been suspended in a manner prescribed by the Board. See K.S.A. 65-5806(d). Because Applicant has applied for reinstatement of licensure as an LPC, the Board has jurisdiction over Applicant and this matter.

10. Pursuant to K.A.R. 102-3-9a(e)(1) – (5), if the LPC license of any individual has been suspended and the individual subsequently wants to apply for license reinstatement, the individual shall submit the following items:

- (1) a completed reinstatement application on forms approved by the board;
- (2) the required renewal fee and, if applicable, the late charge set forth in K.A.R. 102-3-2;
- (3) proof satisfactory to the board that the applicant has complied with the continuing education requirements;
- (4) proof satisfactory to the board that the applicant has complied with the terms of the suspension; and
- (5) any materials, information, evaluation or examination reports, or other documentation that the board may request that will enable the board to satisfactorily evaluate and determine whether or not the license should be renewed or reinstated. An applicant's license may be renewed or reinstated after the board considers the following factors:
 - (A) the extent to which the individual presently merits the public trust;
 - (B) the individual's demonstrated consciousness of the wrongful conduct that resulted in the license suspension;
 - (C) the extent of the individual's remediation and rehabilitation in regard to the wrongful conduct that resulted in the license suspension;
 - (D) the nature and seriousness of the original misconduct;
 - (E) the individual's conduct subsequent to the license suspension;
 - (F) the time elapsed since the license suspension; and
 - (G) the individual's present competence in professional counseling knowledge and skills.

11. K.A.R. 102-3-1(l) defines “merits the public trust” as an applicant or Applicant possesses the high standard of good moral character and fitness that is required to practice professional counseling as demonstrated by the following personal qualities:

- (1) Good judgment;
- (2) integrity;
- (3) honesty;
- (4) fairness;
- (5) credibility;

- (6) reliability;
- (7) respect for others;
- (8) respect for the laws of the state and nation;
- (9) self-discipline;
- (10) self-evaluation;
- (11) initiative; and
- (12) commitment to the professional counseling profession and its values and ethics.

12. Pursuant to K.S.A. 65-5809(a)(9), and in relevant part, the Board may reinstate a license, may condition or limit a license upon a finding that an applicant has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the Board.

13. Likewise, the Kansas Addiction Counselor Licensure Act, K.S.A. 65-6607 *et seq.* authorizes the Board to reinstate a Licensed Master's Addiction Counselor ("LMAC") license which has been suspended in a manner prescribed by the Board. See K.S.A. 65-6614(d). Because Applicant has applied for reinstatement of licensure as an LMAC, the Board has jurisdiction over Applicant and this matter.

14. Pursuant to K.A.R. 102-7-7a(a)(1) – (5), if the LMAC license of any individual has been suspended and the individual subsequently wants to apply for license reinstatement, the individual shall submit the following items:

- (1) The completed reinstatement application form;
- (2) the required reinstatement fee specified in K.A.R. 102-7-2;
- (3) the continuing education reporting form and documentation pursuant to K.A.R. 102-7-10;
- (4) proof satisfactory to the board that the individual has complied with sanctions and any other conditions imposed under the suspension; and
- (5) any materials, information, evaluation or examination reports, or other documentation that may be requested by the board and that will enable the board to satisfactorily evaluate and determine whether or not the license should be reinstated.

15. Pursuant to K.S.A. 65-6615(a)(9), and in relevant part, the Board may reinstate a license, may condition or limit a license upon a finding that an applicant has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the Board.

16. 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 the 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 standard 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.

CONCLUSIONS OF LAW

17. The use of summary proceedings pursuant to KAPA is appropriate in this case.

18. Reinstatement of Applicant's LPC license on the conditions stated herein is warranted pursuant to the application of the factors listed in K.A.R. 102-3-9a(e)(5)(A) – (G). Applicant has demonstrated that he merits the public trust as defined in K.A.R. 102-3-1(l), has demonstrated some consciousness of the unprofessional conduct which resulted in the suspension of his license, has demonstrated remediation and rehabilitation, has demonstrated positive conduct subsequent to suspension and given his experience is competent in the profession. However, due to the seriousness of the unprofessional conduct and the short time elapsed since the conduct at issue the Board finds that reinstatement with conditions and limitations is appropriate.

19. Reinstatement of Applicant's LMAC license on the conditions stated herein is warranted pursuant to K.A.R. 102-7-7a(a)(1) – (5) including, in relevant part, Applicant's completion of the period of suspension and completion of a psychological evaluation in accordance with the Summary Proceeding Order of Suspension.

20. The Board finds that given the seriousness of the unprofessional conduct as well as the recency of the unprofessional conduct, reinstatement of Applicant's LPC and LMAC licenses with the conditions / limitations of supervision and continued therapy is warranted.

ORDER

After consideration of the above findings of fact and conclusions of law, the Board hereby Orders that Applicant's Applications for Reinstatement of LPC and LMAC License are hereby GRANTED subject to the following conditions and limitations:

a. Applicant shall practice professional counseling and/or addiction counseling only under individual supervision by an independent clinical-level supervisor approved by the

Board. There shall be no dual relationship with the supervisor. Applicant shall have weekly one (1) hour meetings with his supervisor, which may be in a video conference manner. The focus shall be related to dual relationships/boundaries, professional ethics, and the professionalism of professional counseling and addiction counseling. The supervisor shall provide quarterly written reports to the Board regarding the supervision, to include whether or not Respondent is in compliance with the requirements of supervision. This requirement shall continue for two (2) years. The supervision requirement shall only apply when Respondent is engaged in the practice of professional counseling and/or addiction counseling; provided, however, that Respondent shall only accrue time towards the two (2) year supervision requirement when he is engaged in the practice of professional counseling and/or addiction counseling. Respondent must notify the Board within ten (10) days of any cessation and/or resumption of the practice of professional counseling and/or addiction counseling.

b. Before resuming the practice of professional counseling and/or addiction counseling, Applicant shall submit to the Board's licensing manager the name of his proposed supervisor. Applicant shall not resume the practice of professional counseling and/or addiction counseling until the Board approves a supervisor.

c. Applicant shall provide a copy of this Summary Order to the supervisor and authorizes the supervisor to provide written quarterly reports to the Board's licensing manager for two (2) year term of supervision. There shall be a minimum of eight (8) quarterly reports (every three [3] months) submitted to the Board during this two (2) year supervision timeframe.

d. During the time this Summary Order is in effect, Applicant shall not serve as a supervisor to any person actively using a license regulated by the Board in a position in which such license is required. In addition, Applicant shall not engage in the provision of clinical supervision to any person attaining supervised experience in preparation by the Board. Finally, Applicant shall not supervise any unlicensed person, including students or volunteers, when such persons are engaged in the delivery of professional counseling services.

e. Additionally, Applicant shall continue to receive therapy until the earlier of the end of the period of supervision or a determination by the therapist that Applicant no longer requires therapy.

f. Applicant shall be responsible for any costs and expenses incurred in satisfying the terms of this Summary Order.

g. Applicant shall submit to the Board's licensing manager at its offices located at 700 SW Harrison St, Suite 420, Topeka, Kansas, 66603, any and all documents evidencing compliance with the terms and conditions required by this Summary Order.

IT IS SO ORDERED.

Entered this 19th day of August, 2024.

A handwritten signature in black ink, appearing to read 'Mary Jones', with a stylized flourish at the end.

Mary Jones, Chairperson
Kansas Behavioral Sciences Regulatory Board

NOTICE OF RELIEF FROM SUMMARY PROCEEDING ORDER

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

David Fye, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison St., Suite 420
Topeka, KS 66603

This written request must be filed within eighteen (18) calendar days of the date listed in the Certificate of Service below (15 calendar days plus 3 calendar days for mail service). Pursuant to K.S.A. 77-503(c), the 18-day period begins the day after the date shown in Certificate of Service below and includes weekends and legal holidays. If the 18th day falls on a Saturday, Sunday, or legal holiday, then the 18-day period runs until 5:00 p.m. on the next day that 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.

The Board's designee who may receive service of a request for a hearing on behalf of the Board is:

David Fye, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison, Suite 420
Topeka, Kansas 66603

NOTICE OF ADMINISTRATIVE RELIEF

In the event that you do not timely request a hearing, the above Order will become a final order the day following the 18th day referenced above (i.e., 19 calendar days following the date listed in the Certificate of Service below). Pursuant to K.S.A 77-529, a party may file with the Board a petition for reconsideration within 15 days from the date the Summary Proceeding Order becomes a final order. Such petition must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking judicial review.

Pursuant to K.S.A. 77-528, a party may file, if applicable, a petition for stay of effectiveness of the order prior to the expiration of the time in which to file a petition for judicial review. The filing of a petition for a stay of effectiveness is not a prerequisite for seeking judicial review.

NOTICE OF JUDICIAL RELIEF

If a petition for reconsideration is not filed pursuant to K.S.A. 77-613, a party may file within 30 days from the date the Summary Proceeding Order becomes a final order a petition for judicial review with the appropriate district court as provided in the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.*

The designee who may receive service of a petition for reconsideration, a petition for stay, or a petition for judicial review on behalf of the Board is:

David Fye, Executive Director
Behavioral Sciences Regulatory Board
Eisenhower State Office Building
700 SW Harrison, Suite 420
Topeka, Kansas 66603-3240

CERTIFICATE OF SERVICE

This is to certify that on this 19th day of August, 2024, a true and correct copy of the above and foregoing Summary Proceeding Order Granting Reinstatement was placed in the U.S. mail, first-class postage prepaid, addressed to:

Thomas C. Wolfe



And by e-mail to:

Timothy D. Resner
Frieden & Forbes, LLP
1414 SW Ashworth Place, Suite 201
Topeka, KS 66604
tresner@fflawllp.com
Counsel for the Board of the Behavioral Sciences Regulatory Board

A handwritten signature in blue ink, appearing to read "Leslie A. Allen", written over a horizontal line.

Staff,
Kansas Behavioral Sciences Regulatory Board