

COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF LICENSED PROFESSIONAL COUNSELORS
CASE NO. 2021-LPC-00013

Kentucky Board of Licensed Professional Counselors,

Petitioner;

v.

Marsha McCarty, LPCA, License No. 172226,

Respondent.

AGREED ORDER

The Kentucky Board of Licensed Professional Counselors (the "Board"), and Marsha McCarty, Licensed Professional Counselor Associate ("LPCA") license #172226, hereby agree as follows:

FACTS

1. The complaint submitted to the Board and assigned agency case number 2021-LPC-00013 alleged several violations of the Board's supervision regulation and code of ethics, including 201 Kentucky Administrative Regulations ("KAR") 36:060 §§ 3, 6(2), and 6(3) and 201 KAR 36:040 §§ 5(1)(c), 5(4), 5(22), 7(1), and 7(3).
2. After all parties were afforded an opportunity to respond pursuant to applicable law, the Board conducted an investigation.
3. Upon review of all available information, the Board concluded that there is sufficient evidence that McCarty violated several provisions of the Board's supervision regulation and code of ethics, including 201 Kentucky Administrative Regulations ("KAR") 36:060 §§ 3, 6(2), and 6(3) and 201 KAR 36:040 §§ 5(1)(c), 5(4), 5(22), 7(1), and 7(3).
4. McCarty agrees that the Board has authority to revoke her LPCA license pursuant to KRS 335.515(7) and KRS 335.540(1)(e).

5. McCarty and the Board mutually agree to the Board's revocation of her LPCA license in resolution of this complaint and in lieu of pursuing a formal disciplinary action.

The Board and McCarty now therefore agree to this Agreed Order, which resolves Complaint Number 2021-LPC-00013 on the following terms and conditions:

FINDINGS

McCarty admits the facts set forth herein. McCarty acknowledges that the Board could find by a preponderance of the evidence that she engaged in conduct that violates the provisions of KRS 335.540; 201 KAR 36:060 §§ 3, 6(2), and 6(3); and 201 KAR 36:040 §§ 5(1)(c), 5(4), 5(22), 7(1), and 7(3).

VOLUNTARY WAIVER OF RIGHTS

McCarty has had the opportunity at all times to seek advice concerning this matter from competent counsel of her choice. No coercion has been exerted upon McCarty, nor have any promises been made other than those reflected in this Agreed Order, to induce her to execute this Agreed Order. McCarty has freely and voluntarily entered into this Agreed Order, motivated only by a desire to resolve the issues addressed herein. McCarty has executed this Agreed order only after a careful reading of it and a full understanding of all of its terms. McCarty waives the right to challenge any term or condition of this Agreed Order notwithstanding any other statutory provision of KRS 335.500 to 335.599, or 201 KAR Chapter 36. McCarty expressly agrees those terms and conditions contained therein are exclusively a matter of private right.

McCarty is fully aware of her rights to contest charges in a formal hearing. Those rights include: representation by an attorney at McCarty's own expense, the right to a public hearing on any charges contained in the Board's formal complaint, the right to confront and cross-examine witnesses called to testify against McCarty, the right to present evidence on McCarty's behalf,

the right to compulsory process to secure the attendance of such witnesses, the right to testify on McCarty's own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the Board's formal complaint, the right to obtain judicial review of the Board's decision, and the right to appeal any final order of the Board to the Circuit Court as otherwise allowed by KRS 335.550.

McCarty understands that by entering into this Agreed Order she waives all of those rights in consideration for the Board's acceptance of this Agreed Order.

JURISDICTION

McCarty acknowledges that the Board has jurisdiction over McCarty and the conduct which has precipitated this Agreed Order. McCarty also acknowledges that the Board has the legal power to take disciplinary action up to and including revocation of McCarty's license to practice professional counseling in Kentucky. McCarty acknowledges the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Agreed Order have been met to the satisfaction of the Board.

PUBLICATION

McCarty acknowledges that, once adopted by the Board, this Agreed Order is considered a public document, available for inspection at any time by any member of the public under the Kentucky Open Records Act. Further, McCarty understands the Board is free to make any use it deems appropriate of the contents of this Agreed Order, which shall include the Board's ability to share the content of this Agreed Order with any governmental or professional board or organization, publication of a summary in the Board's newsletter, reporting under federal law, and availability via the Board's web site.

TERMS

In consideration of the mutual promises, covenants, and agreements contained herein, the adequacy and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

1. McCarty shall execute and return a copy of this Agreed Order to the Board within thirty (30) days of receipt of the Agreed Order or it shall be null and void.
2. McCarty's LPCA license shall be revoked.
3. McCarty shall cease and desist from the practice of professional counseling.
4. McCarty may apply for reinstatement of her LPCA license only as provided by KRS 335.540(2) and 201 KAR 36:075(2)(a).
5. Upon approval of this Agreed Order by the Board, the Board shall dismiss complaint number 2021-LPC-00013.
6. McCarty acknowledges that at all times relevant hereto she has had the opportunity to retain and consult with competent legal counsel of her choosing.
7. All parties agree to take all actions necessary that would cause the conditions and obligations under this Agreed Order to become effective upon the effective date of this Agreed Order, or, in the event that additional documents may need to be executed after the effective date of this Agreed Order, the parties agree to cooperate with each other and execute such additional documents to effectuate the purposes as stated herein.

ACCEPTANCE BY THE BOARD

McCarty acknowledges that this Agreed Order, after her execution of same, shall be presented to the Board with a recommendation for approval from the Board's Counsel at the next regularly scheduled meeting of the Board following receipt of the executed agreement. The

Agreed Order shall not become effective until it has been approved by the Board and endorsed by the Chair of the Board. McCarty understands the Board is under no obligation to accept or reject this Agreed Order, and hereby waives any right she may have had to challenge, based upon the presentation of this Agreed Order to the Board, the impartiality of the Board to hear an administrative action if this Agreed Order is rejected. If this Agreed Order is rejected by the Board, it shall be regarded as null and void, and of no effect. No statement or term contained in this Agreed Order will be regarded as evidence in any subsequent disciplinary hearing, nor shall any inference be taken from McCarty's willingness to enter into this Agreed Order.

ENFORCEABILITY

All parties and their undersigned representatives warrant and represent that they have the requisite power and authority to enter into this Agreed Order and to effectuate the purposes herein, and that this Agreed Order shall be legally binding and enforceable against each party in accordance with terms of the Agreed Order.

EFFECTIVE DATE

The effective date of this Agreed Order shall be the date it is accepted by the Board and signed by the Chairperson of the Board.

CHOICE OF LAW, VENUE, AND TRIAL RIGHTS

This Agreed Order shall be governed in all respects by the laws of the Commonwealth of Kentucky. Any disputes arising under this Agreed Order shall be resolved in the Circuit Court of Franklin County, Kentucky; the parties consent and agree to the *in personam* jurisdiction of such Court. The parties agree that trial of any such litigation shall be by bench trial only, and each party hereby waives its right to jury trial in any dispute arising from this Agreed Order.

COSTS

The parties shall bear their respective costs.

MODIFICATION

This Agreed Order may not be altered, amended, or modified except by a written agreement executed by all parties.

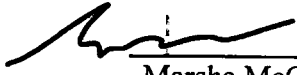
RELEASE OF LIABILITY

McCarty and McCarty's executors, administrators, successors and assigns hereby release and forever discharge the Commonwealth of Kentucky, the Board, and the Public Protection Cabinet, and each of their members, agents, and employees in their individual and representative capacities from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that McCarty ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this Agreed Order, or its administration.

ENTIRE AGREEMENT

This Agreed Order embodies the entire agreement between the Board and McCarty. This Agreed Order shall constitute a binding contract between McCarty and the Board, subject only to approval by the Board as set forth above. McCarty shall not rescind, revoke, withdraw, or seek to modify this Agreed Order prior to or during its presentation to the Board at a regularly scheduled meeting of the Board.

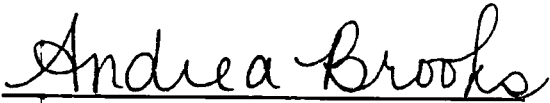
HAVE SEEN AND AGREED:



Marsha McCarty, LPCC, License No. 172226
Respondent

05/10/2022

Date



Dr. Andrea Brooks
Chair
Kentucky Board of Licensed Professional Counselors

5-27-22

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Agreed Order was mailed today by certified mail, return receipt requested and via electronic mail to:

Marsha McCarty, LPCA

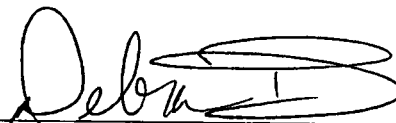


Respondent

And via electronic mail to:

Michael Barnett
Kentucky Board of Licensed Professional Counselors
500 Mero Street
2 SW 19
Frankfort, Kentucky 40602
michael.barnett@ky.gov
Board Counsel

Date: 5-27-22



Board Administrator