BEFORE THE MINNESOTA
BOARD OF OCCUPATIONAL THERAPY PRACTICE

In the Matter of
Ren Elizabeth Kellogg, O.T.A.
License No. 202430

**STIPULATION AND CONSENT ORDER**

## STIPULATION

Ren Elizabeth Kellogg, O.T.A. ("Licensee"), and the Minnesota Board of Occupational Therapy Practice Complaint Resolution Committee ("Committee") agree the above-referenced matter may be resolved without trial of any issue or fact as follows:

## I.

## JURISDICTION

1. The Minnesota Board of Occupational Therapy Practice ("Board") is authorized pursuant to Minnesota Statutes sections 148.6401 to 148.6449 to license and regulate the practice of occupational therapy, and to take disciplinary action as appropriate.

2. Licensee holds a license to practice as an occupational therapy assistant in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Consent Order.

## II.

## BACKGROUND

3. Following a thorough review of all available information, the Committee determined the matter could be resolved with a Stipulation and Consent Order.

4. Licensee is aware that she may choose to be represented by legal counsel in this matter. Licensee has chosen to appear *pro se*. Nicholas Lienesch, Assistant Attorney General, represents the Committee in this matter.

## III.

## FACTS

5. The parties agree this Stipulation and Consent Order is based upon the following facts:

a. On April 11, 2019, Licensee was licensed to practice as an occupational therapy assistant in Minnesota.

b. Licensee signed a participation agreement with the Health Professionals Services Program on April 2, 2019, for monitoring of a substance use disorder and psychiatric disorders, including dissociative identity disorder. Licensee's participation agreement required her to submit random toxicology screens, among other requirements.

c. Licensee suffered from an episode of her dissociative identity disorder on July 6, 2019. Licensee reported that her employer felt that she misdocumented her services to patients on that day.

d. Licensee failed to comply with the toxicology screen requirement of her participation agreement, including toxicology screens submitted August 12, October 14, and November 13, 2019, that all tested positive for alcohol metabolites. In approximately December 2019 Licensee stopped submitting toxicology screens altogether.

## IV.

## LAWS

6. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minnesota Statutes section 214.355 (violated the terms of HPSP participation agreement), and justifies the disciplinary action described in section V. below.

## V.

## DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

A. Suspension

10. The Board **SUSPENDS** Licensee's license to practice as an Occupational Therapy Assistant. Licensee shall not engage in any act which constitutes the practice of occupational therapy as defined in Minnesota Statutes section 148.6402, subdivision 15 and shall not imply by words or conduct that Licensee is authorized to practice occupational therapy.

B. Reinstatement of License

11. Licensee may request reinstatement of her license following 12 months from the date of this order. The burden of proof shall be upon Licensee to demonstrate by a preponderance of the evidence that she is capable of practicing occupational therapy in a fit and competent manner, is successfully participating in a program of chemical dependency rehabilitation, and has been sober and free from non-prescribed mood-altering chemicals during the 12 months immediately preceding her request, and has maintained stable mental health during the 12 months immediately preceding her request including provider-recommended treatment as appropriate. At the time of Licensee's request, Licensee shall meet with the Committee, and comply with, at a minimum, the following:

a. Self-Report. Licensee shall submit to the Board a report from Licensee herself. The report shall be submitted at the time Licensee petitions for reinstatement of her license. The report shall provide and address:

1) Licensee's sobriety, including the date Licensee last used mood-altering chemicals, including alcohol, and the circumstances surrounding any use while this Order is in effect;

2) Licensee's treatment and participation in a chemical dependency rehabilitation program, including weekly attendance at a chemical dependency support group such as Alcoholics Anonymous during the twelve months preceding the petition; evidence of participation shall include, but need not be limited to, attendance sheets that have been legibly signed or initialed and dated by a participant who attended the weekly meeting;

3) The type of employment in which Licensee has been involved;

4) Licensee's physical and mental health status, treatment plan, medications, and compliance with treatment;

5) Licensee's work schedule;

6) Licensee's future plans in occupational therapy and the steps she has taken to prepare herself to return to practice; and

7) Any other information Licensee believes would assist the Board in its ultimate review of this matter.

b. Reports Verifying Sobriety. Licensee shall cause to be submitted to the Board reports from two adult persons, at least one of whom is not related to Licensee by blood or marriage, who can attest to Licensee's sobriety. These reports shall be submitted at the time Licensee petitions for reinstatement of her license. Each report shall provide and address:

1) Licensee's regular participation in a chemical dependency support group such as AA or other structured chemical dependency rehabilitation program;

2) Licensee's sobriety, including the date she last used mood-altering chemicals, including alcohol; and

3) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

c. Report From Employer. Licensee shall cause to be submitted to the Board a report from Licensee's employer. The report shall be submitted at the time Licensee petitions for reinstatement of her license. The report shall provide and address:

1) Licensee's sobriety;

2) Licensee's ability to perform assigned tasks;

3) Licensee's attendance and reliability;

4) Licensee's ability to handle stress;

5) Licensee's typical work schedule; and

6) Any other information the employer believes would assist the Board in its ultimate review of this matter.

d. Report From Mental Health Treatment Professional. Licensee shall cause to be submitted to the Board a report from any mental health treatment professional whom Licensee consults while this Order is in effect. The report shall be submitted to the Board at the time Licensee petitions for reinstatement of her license. The report shall provide and address:

1) Verification the mental health professional has reviewed this Order;

2) Identification of all diagnoses and a plan of treatment, including any medications devised for Licensee;

3) A statement of the involvement between Licensee and the mental health professional, including the number and frequency of meetings;

4) Licensee's progress with therapy and compliance with the treatment plan;

5) Licensee's awareness of her mental health challenges and ability to handle stress;

6) All documentation related to any evaluation(s) and/or assessment(s) of Licensee conducted by the mental health professional;

7) The mental health professional's conclusion as to the need for continuing therapy and Licensee's discontinuance of therapy; and

8) Any other information the mental health professional believes would assist the Board in its ultimate review of this matter.

e. Report From Health Care Professional. Licensee shall cause to be submitted to the Board a report from any health care professional whom Licensee consults for mental health, or chemical dependency treatment while this Order is in effect. The reports shall be submitted at the time Licensee petitions for reinstatement of her license. The report shall provide and address:

1) Verification the health care professional has reviewed this Order;

2) Identification of diagnoses and any plans of treatment, including medications, devised for Licensee;

3) Licensee's progress with therapy and compliance with the treatment plan;

4) A statement regarding Licensee's mental health status;

5) A statement regarding Licensee's sobriety;

6) Recommendations for additional treatment, therapy, or monitoring; and

7) Any other information the health care professional believes would assist the Board in its ultimate review of this matter.

f. Report of Prescribed Mood-Altering Chemicals. Licensee shall cause to be submitted to the Board a report from any and all physicians, dentists, and other authorized health care professionals who have prescribed mood-altering chemicals for Licensee during the period this Order is in effect. The report is due at the time of petition and shall provide and address:

1) The name, dosage, frequency, and purpose of the mood-altering chemicals for Licensee;

2) Confirmation the physician, dentist, or other health care professional has been informed of Licensee's chemical dependency history; and

3) Any other information the reporter believes would assist the Board in its ultimate review of this matter.

g. Chemical Dependency Support Group Attendance. Licensee shall submit evidence that she has attended a chemical dependency support group, such as AA, on a weekly basis. Evidence of participation shall include, but need not be limited to, attendance sheets which have been legibly signed or initialed and dated by a participant who attended the weekly meeting.

h. Chemical Dependency Evaluation. During the petition process, the Board may direct Respondent to obtain a chemical dependency evaluation. Respondent shall undergo a

chemical dependency evaluation performed by a chemical dependency treatment professional, within 30 days of being directed to do so by Board staff. Respondent shall submit, or cause to be submitted, the credentials of the chemical dependency evaluator for review and preapproval by Board staff for purposes of this evaluation. Respondent is responsible for the costs of the evaluation. The results of the evaluation shall be sent directly to the Board and must include a statement verifying the evaluator has reviewed this Order and any evaluation and/or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation.

i. Compliance With Evaluator's Recommendations. Respondent shall comply promptly with any recommendations for additional evaluation and treatment made by the chemical dependency evaluator.

j. Mental Health Evaluation. During the petition process, the Board may direct Respondent to obtain mental health evaluation performed by a psychiatrist or a licensed psychologist, within 30 days of being directed to do so by Board staff. Respondent shall submit, or cause to be submitted, the credentials of the evaluator for review and preapproval by Board staff for purposes of this evaluation. Respondent is responsible for the cost of the evaluation. The results shall be sent directly to the Board and shall provide and address:

1) Verification the evaluator has reviewed a copy of this Order and any evaluation and/or treatment records deemed pertinent by the Board or the evaluator prior to the evaluation;

2) Diagnosis and any recommended treatment plan;

3) Respondent's ability to handle stress;

4) Recommendations for additional evaluation or treatment; and

5) Any other information the evaluator believes would assist the Board in its ultimate review of this matter.

k. Compliance With Evaluator's Recommendations. Respondent shall comply promptly with any recommendations for additional evaluation and treatment made by the mental health evaluator.

l. Additional Information. Licensee shall provide any additional information reasonably requested by the Board or Complaint Resolution Committee.

m. Licensure Requirements. Licensee shall meet all licensure requirements in effect at the time of her petition for reinstatement, including but not limited to completing the appropriate application, paying requisite fees, and completing any necessary continuing education requirements.

12. The Board may, at any regularly scheduled meeting following Licensee's petition for reinstatement pursuant to paragraph 11 above, take any of the following actions:

a. Reinstate Licensee's license;

b. Reinstate Licensee's license with limitations upon the scope of Licensee's practice and/or with conditions for Licensee's practice; or

c. Continue the suspension of Licensee's license upon her failure to meet the burden of proof.

## VI.

## CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

14. If Licensee fails to comply with or violates this Stipulation and Consent Order, the Committee may, in its discretion, seek additional discipline either by initiating a contested

case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least 20 days before the hearing, the Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Committee and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. The Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

d. Licensee's correction of a violation before the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's

authority to impose discipline for the violation. A decision by the Committee not to seek discipline when it first learns of a violation shall not waive the Committee 's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Licensee's license is in a suspended status.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board shall dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations on Licensee's practice, an additional period of suspension, additional conditions of reinstatement, or revocation of Licensee's license.

f. Nothing herein shall limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 214.077, based on a violation of this Stipulation and Consent Order or based on conduct of Licensee not specifically referred to herein.

## VII.

## ADDITIONAL INFORMATION

15. Within ten days of execution of this Stipulation and Consent Order, Licensee shall provide the Board with the names of all states in which Licensee is licensed to practice occupational therapy or has applied for licensure as an occupational therapy assistant.

16. Licensee waives the contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

17. Licensee waives any claims against the Board, the Minnesota Attorney General's Office, the State of Minnesota, and their agents, employees, and representatives related to the

investigation of the conduct herein, or the negotiation or execution of this Stipulation and Consent Order, which may otherwise be available to Licensee.

18. This Stipulation and Consent Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

19. Either party may seek enforcement of this Stipulation and Consent Order in any appropriate civil court.

20. Licensee has read, understands, and agrees to this Stipulation and Consent Order and has voluntarily signed the Stipulation and Consent Order. Licensee is aware this Stipulation and Consent Order must be approved by the Board before it goes into effect. The Board may either approve the Stipulation and Consent Order as proposed, approve it subject to specified change, or reject it. If the changes are acceptable to Licensee, the Stipulation and Consent Order will take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the Stipulation and Consent Order, it will be of no effect except as specified in the following paragraph.

21. Licensee agrees that if the Board rejects this Stipulation and Consent Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Consent Order or of any records relating to it.

22. This Stipulation and Consent Order shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or admission of Licensee which constitutes grounds for disciplinary

action and which is not directly related to the specific facts and circumstances set forth in this document.

## VIII.

## DATA PRACTICES NOTICES

23. This Stipulation and Consent Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Therefore, employers and other individuals will be able to see this entire Stipulation and Consent Order by searching Licensee's name on the Board's website, or by requesting a copy of this Stipulation and Consent Order from the Board. Data regarding this action will be provided to data banks as required by Federal law and consistent with Board policy. While this Stipulation and Consent Order is in effect, information obtained by the Board pursuant to this Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

24. This Stipulation contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies this Stipulation.

CONSENT:

BOARD OF OCCUPATIONAL THERAPY PRACTICE COMPLAINT RESOLUTION COMMITTEE

Ren Elizabeth Kellogg

Ren Elizabeth Kellogg O.T.A.
Licensee

Dated: 2/20, 2020

Samantha Dan OTD, OTR/L

Board Member

Dated: 5-7, 2020

## ORDER

Upon consideration of the Stipulation, the Board places Licensee's license in a **SUSPENDED** status and adopts all of the terms described above on this 7 day of May, 2020.

MINNESOTA BOARD OF
OCCUPATIONAL THERAPY PRACTICE

CHRISTINA BOURLAND, OTR/L
Executive Director