

**COMMONWEALTH OF KENTUCKY
BOARD OF LICENSURE FOR OCCUPATIONAL THERAPY
AGENCY CASE NO. 2018BOT-01 & 2019BOT-02**

**KENTUCKY BOARD OF LICENSURE FOR
OCCUPATIONAL THERAPY**

COMPLAINANT

V.

BRIANNE MCKINNEY

RESPONDENT

FINAL ORDER

Complainant, the Kentucky Board of Licensure for Occupational Therapy (“Board”), filed this action seeking to revoke the license of Brianne McKinney as an occupational therapy assistant in the Commonwealth of Kentucky. Respondent, Brianne McKinney, failed to respond, and Complainant, by counsel, timely moved for default judgment. On October 9, 2020, the Hearing Officer issued a Recommended Order Granting Petitioner’s Motion for Default Judgment and recommending that the license be revoked for the Respondent’s previously admitted act of taking an occupational therapy client with a history of substance abuse out to purchase alcohol. *See* Recommended Findings of Fact, Conclusions of Law, and Order of Default Judgment entered October 9, 2020 attached, as Exhibit A. Respondent filed no exceptions to the Recommended Findings of Fact, Conclusions of Law, and Order of Default Judgment.

The Board has considered the record including, the Recommended Findings of Fact, Conclusions of Law, and Order of Default Judgment entered October 9, 2020. The Board incorporates by reference into this Final Order the information contained in both the Complaint and the Motion for Default Judgment, and hereby orders as follows:

1. The Hearing Officer's Recommended Order Granting Default Judgment issued on October 9, 2020 is hereby adopted;
2. The license of Respondent as an occupational therapy assistant is revoked; and
3. This Final Order shall be subject to appeal within thirty (30) days after the order is mailed under KRS 13B.140.

Date: 11/12/2020


JOSH SKULLER, BOARD CHAIR

Certificate of Service

I hereby certify that a true and correct copy of this pleading was mailed to each of the following, as indicated below:

Honorable Eden Davis Stephens
Deputy Executive Director
Office of Administrative Hearings
500 Mero Street, 218NC
Frankfort, Kentucky 40601
(502) 782-7685
eden.stephens@ky.gov
Hearing Officer
Via e-mail

Leah Cooper Boggs
Office of Legal Services
Public Protection Cabinet
500 Mero Street
Frankfort, Kentucky 40601
lboggs@ky.gov
Counsel for the Board
Via e-mail

Ms. Brianne McKinney
284 Paul Ennis Road
Greensburg, KY 42743
Mckinney.brianne@yahoo.com
Respondent Pro Se
Via e-mail and U.S. mail, first-class, postage prepaid

Date: 11/12/2020


Plato Chukpue-Padmore
Kentucky Board of Licensure for
Occupational Therapy
Board Administrator

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
KENTUCKY BOARD OF LICENSURE FOR OCCUPATIONAL THERAPY
ADMINISTRATIVE ACTION NO. 2020-KBLOT-
AGENCY CASE NO. 2018BOT-01 & 2019BOT-02**

**KENTUCKY BOARD OF LICENSURE
FOR OCCUPATIONAL THERAPY**

PETITIONER

**V. RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER OF DEFAULT JUDGMENT**

BRIANNE MCKINNEY

RESPONDENT

* * * * *

This Claim was initiated by the Petitioner, the Kentucky Board of Licensure for Occupational Therapy, seeking to revoke Brianne McKinney’s license to provide occupational therapy for the previously admitted act of taking an occupational therapy client with a history of substance abuse out to purchase alcohol.

FINDINGS OF FACT

Ms. McKinney failed to respond or participate in any way in this action since its referral to the Kentucky Board of Licensure for Occupational Therapy. Ms. McKinney has failed to appear at any scheduled Pre-Hearing Conference with this assigned hearing officer, nor has she appeared at the scheduled Show Cause Hearing, as described below.

Ms. McKinney has been provided notice of all events through e-mail and mailed correspondence. A return receipt, signed by Ms. McKinney on June 12, 2020, was provided by counsel, showing Ms. McKinney is aware of this Administrative Complaint.

Ms. McKinney first failed to appear at the scheduled pre-hearing conference call on August 3, 2020. The Hearing Officer attempted to call Ms. McKinney after Ms. Boggs joined the call, leaving a voicemail for Ms. McKinney with a number to dial to join as soon as possible. Ms. McKinney did not call back during the remainder of the pre-hearing conference, nor did she respond to any communication after that date by phone call, letter, or e-mail.

A second Pre-Hearing Conference was held in the above-styled case on September 17, 2020 through Zoom teleconference software. Hon. Leah Boggs, counsel for the Complainant, was

present at the appointed time. Ms. McKinney did not appear. Ms. Boggs relayed she has had no contact with Ms. McKinney since the last conference call and moved for a default judgment.

Based on the Respondent's failure to attend two Pre-Hearing Conferences, or provide alternate information at which she could be reached, a Show Cause Order was entered on September 18, 2020, requiring the Respondent to show good cause for her failure by appearing at 9:30 a.m. on September 24, 2020 at the provided Zoom link for a teleconference Show Cause Hearing. Ms. McKinney was warned that failure to appear or make contact prior to that time would result in the undersigned sustaining the Petitioner's motion for a Default Judgment. Ms. McKinney failed to appear at 9:30 a.m. on September 24, 2020 and did not make contact with either the Office of Administrative Hearings or the Board of Licensure of Occupational Therapy.

CONCLUSIONS OF LAW

KRS 13B.080 (6) provides:

If a party properly served under KRS 13B.050 fails to attend or participate in a prehearing conference, hearing, or other stage of the administrative hearing process, or fails to comply with the orders of a hearing officer, the hearing officer may adjourn the proceedings and issue a default order granting or denying relief as appropriate, or may conduct the proceedings without the participation of the defaulting party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. A default order shall be considered a recommended order and shall be processed as provided in KRS 13B.110.

The Petitioner has properly served the Respondent, Brianne McKinney, in this matter, and Ms. McKinney has failed to attend or participate at any stage of this administrative hearing process. Based on this continued failure to appear or participate, the Complainant's Motion for Default Judgment is GRANTED.

RECOMMENDED ORDER

Pursuant to KRS13B.080(b), these proceedings are adjourned with the following recommendations:

1. That the allegations against Brianne McKinney in the Complaint be accepted as true,
2. That a Default Judgment in favor of the Petitioner be entered in this matter, including the requested relief for revocation of Brianne McKinney's license.

NOTICE OF EXCEPTION AND RIGHTS TO APPEAL

If the party does not agree with the recommended order and wishes to appeal, case law requires a litigant to file exceptions with the Board or agency to preserve the right to review by the circuit court. You also have a right to appeal the Final Order of the agency pursuant to KRS 13B.140 (1) which states:

- (1) All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

Pursuant to KRS 13B.110(4) you have the right to file exception to this recommended decision:

- (4) A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order may be sent by regular mail to the last known address of the party.

Pursuant to KRS 23A.010(4), "Such review by the Circuit Court shall not constitute an appeal, but an original action." The Kentucky Court of Appeals has suggested an appeal to circuit court begins upon the filing of the appeal petition and the issuance of a summons within the 30-day time period for filing an appeal.

SO RECOMMENDED THIS 9th DAY OF OCTOBER, 2020.



Eden Davis Stephens,
Deputy Director
Public Protection Cabinet
500 Mero Street, 218 NC
Frankfort, KY 40601
eden.stephens@ky.gov
502-782-7685

CERTIFICATE OF SERVICE

I certify that on October 9, 2020, a true and correct copy of the foregoing was served upon the following via electronic mail:

Hon. Leah Cooper Boggs
Executive Advisor
Office of Legal Services
Public Protection Cabinet
500 Mero Street
Frankfort, KY 40601
lboggs@ky.gov
Counsel for Petitioner

Plato Chukpue-Padmore
Kentucky Board of Licensure for Occupational Therapy
Records Custodian and Board Administrator

And by e-mail AND first-class mail:

Brianne McKinney
284 Paul Ennis Road
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Pro Se


Eden Davis Stephens