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BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD
712 South Kansas Avenue
Topeka, Kansas 66603-3817

In the Matter of)	
)	
JUDY E. DUNN,)	Case No. 05 RD 0076
RAODAC #0101)	Case No. 08 RD 0038
)	Case No. 08 RD 0080
)	

CONSENT AGREEMENT AND ORDER

NOW, on this 8th day of November, 2010, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board), by and through Assistant Attorney General Marty M. Snyder, by agreement of Judy E. Dunn (Respondent/Registrant), by and through counsel Robert A. Martin, and the Board for the purpose of resolving the above-captioned case.

Registrant hereby acknowledges the following:

1. Judy E. Dunn, Registrant, at all times relevant, was a Registered Alcohol and Other Drug Abuse Counselor within the meaning of the Alcohol and Other Drug Abuse Counselor Registration Act, K.S.A. 65-6601 *et seq.*, and amendments thereto.
2. The Board conducted investigations concerning Registrant's alleged violations of statutes and regulations. During the investigations, Registrant was informed of the reported information and was given the opportunity to respond to the allegations.

FINDINGS OF FACT

As a result of the investigations, the Board finds probable cause that the following facts have been established by a preponderance of clear and convincing evidence:

A. Case No. 05-RD-0076.

1. On or about June 23, 2005, the Board received information that the Registrant had billed for services other than those provided or for which she did not provide or provided by telephone or email rather than in person as required by the provider contract. [Exhibit 1]

2. Registrant was informed about the complaint and was requested to respond in writing. The Board received written responses on or about October 7, 2005, March 11, 2010, and March 30, 2010, from Registrant's counsel, Robert A. Martin, in which Registrant indicated that, while she may have made mistakes with administrative detail and that mistakes were made by her office staff, all sessions were conducted, and progress notes, paperwork and/or client signatures indicate that all clients were actually seen on the particular dates. Additionally, Registrant utilized the billing codes as provided by Blue Cross/Blue Shield. [Exhibits 2, 3, 4]

3. A criminal investigation concluded Registrant's numerous misleading billings caused Blue Cross/Blue Shield to overpay between \$1,000 and \$25,000 to Registrant; grounds exist to charge Registrant with felony theft and four counts of making false information. [Exhibit 5] Registrant has denied any criminal violations.

B. Case No. 08-RD-0038

1. On or about November 2, 2007, the Board received information that the Registrant had: a) reported distorted, erroneous or misleading alcohol or drug abuse counseling information; b) engaged in fraudulent or deceitful billing practices; c) violated confidentiality; d) abandoning or neglecting a client in need of care without making reasonable arrangements; and e) acted with gross incompetence or negligence. [Exhibit 6]

2. Registrant was informed about the complaint and was requested to respond in writing. The Board received a written response on or about December 19, 2007 [Exhibit 7], in which Registrant stated as follows:

a) On September 23, 2007, Registrant had communications with the client and left messages for the client that since the client was unwilling to communicate with Registrant, Registrant would probably be discharging her as a client because Registrant felt she was no longer therapeutically effective to the client and to call back if she wished to try to work this out. However, this description is disputed. [Exhibit 8]

b) Registrant had individual counseling sessions with client on 9/7/07 at client's apartment in Lawrence and on 9/21/07 at client's Ottawa residence. All billings were probation officer approved and paid in full.

c) Registrant made it clear to client that she could not talk to the landlord without a written release. Client verbally insisted that it was okay for Registrant to talk to the landlord because "he knew everything about her." At the 9/21/07 meeting where some individual therapy occurred and was billed and paid to Registrant, the landlord was present.

Registrant tried on several occasions to get him to leave the room.

However, neither Registrant nor her assistant ever had release forms available meetings with this client. Although she was paid for the therapy session, Registrant denies the extent to which confidential information was discussed in this case in the presence of the landlord, who was also the client's boyfriend.

d) Upon Registrant discharging client, client would not talk with Registrant so she could assist client in getting further care.

e) Registrant never expressed that her services were necessary for the return of client's daughter and accepted all completed assignments as they were turned in. At no time did Registrant refuse a completed assignment from client. Registrant did not tell client that she did not have to her fines in Douglas County. Registrant tried communicating with client about her attitude and behaviors towards Registrant and tried to talk with client to work things out.

C. Case No. 08-RD-0080

1. On or about March 4, 2008, the Board received information that Registrant had practiced beyond the scope allowed by her registration, practiced and billed for unsupervised psychotherapy, engaged in fraudulent billings practices, violated client confidentiality and exercised undue influence over a client. [Exhibits 9, 10, 11]

2. Registrant was informed about the complaint and was requested to respond in writing. The Board received a written response on or about March 10, 2008, from Registrant's counsel, Robert A. Martin, which included a hand-

written note from the client. [Exhibit 12] The complainant was not the client.

3. Registrant billed the client excessively for counseling services beyond those necessary for alcohol or other drug abuse counseling.

CONCLUSIONS OF LAW

The Complaint Review Committee of the Board finds that probable cause exists to believe Registrant has violated the following regulations:

A. K.A.R. 102-6-12, Unprofessional Conduct.

(b) The following acts by an alcohol or other drug abuse counselor shall constitute professional conduct:

- (1) Practicing in an incompetent manner;
- (2) offering to perform or performing services that are clearly unwarranted by education, training, or experience;
- (4) reporting distorted, erroneous, or misleading alcohol or drug abuse counseling information;
- (6) engaging in fraudulent or deceitful billing practices;
- (32) failing to obtain written, informed consent from any client . . . before performing any of the following:
 - (B) releasing information to a third party concerning any client or patient, except as permitted or required by law; or
 - (C) permitting a third-party observation of patient or client activities;
- (37) abandoning or neglecting any client or patient under or in need of care without making reasonable arrangements for the continuation of that care;
- (41) acting with gross incompetence or gross negligence in the practice of the profession.

However, Registrant and the Board mutually desire to enter a Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations.

WHEREFORE, Registrant waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 05 RD 0076, Case No. 08 RD 0038 and Case No. 08 RD 0080.

WHEREFORE, Registrant waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act in relation to Case No. 05 RD 0076, Case No. 08 RD 0038 and Case No. 08 RD 0080.

WHEREFORE, the Board and Registrant agree to the following terms and conditions:

- A. The Registered Alcohol and Other Drug Addiction Counselor license of Judy Dunn shall be suspended for two years.
- B. Registrant shall provide to the Board a copy of the agreement with Blue Cross/Blue Shield that Blue Cross/Blue Shield does not require reimbursement or that Blue Cross/Blue Shield is non-responsive to this request or that the funds are not otherwise due Blue Cross/Blue Shield.
- C. Registrant shall pay a fine of \$1,000.00 to the Behavioral Sciences Regulatory Board within 90 days of the effective date of this Order.
- D. Upon completion of the terms in paragraph B and C above, Registrant may provide proof of completion with a request for reinstatement of her registration for consideration by the Complaint Review Committee.
- E. Registrant shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Order.
- F. Evidence of Registrant's breach, violation or failure to comply with any of the conditions will result in a hearing, with notice and opportunity to be heard, to

determine whether Registrant has in fact breached, violated or failed to comply with any conditions. Upon determination at such hearing that Registrant has breached, violated or failed to comply with any condition, Registrant understands and agrees that her Kansas Registered Alcohol and Other Drug Abuse Counselor registration shall be suspended until such time as Registrant can demonstrate compliance with all terms and conditions of this Consent Agreement and Order to the satisfaction of the Board.

G. Registrant acknowledges that proof submitted to the Board by affidavit or other form of competent evidence that Registrant has breached, violated or failed to meet the conditions of this Consent Agreement and Order shall be good and sufficient evidence to support an alleged violation of breach, violation or non-compliance.

H. Registrant acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional status which would inhibit compliance with any condition of this Consent Agreement and Order. In such event, a designee of the Board is authorized to modify or amend this Consent Agreement and Order in writing.

I. Registrant understands that a notification of this Consent Agreement and Order shall be provided to any other state licensing board if Registrant is also licensed, registered or certified in another state.

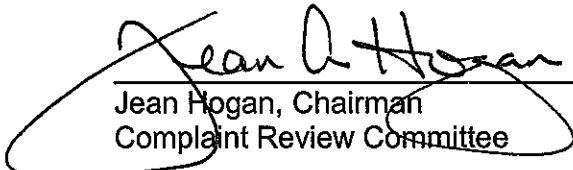
J. This Consent Agreement and Order constitutes the entire agreement between Registrant and the Board and may be modified or amended only by written agreement signed by Registrant and the Board or a designee of the Board.

WHEREFORE, Registrant consents to the submission of this Consent Agreement and Order to the Board's Complaint Review Committee and understands that, upon approval by the Complaint Review Committee, this Consent Agreement and Order will become a Final Order of the Board. The Board has authorized the Complaint Review Committee to determine approval of this Consent Agreement and Order.

WHEREFORE, the Board agrees that, so long as Registrant complies with the above conditions, the Board will not initiate further disciplinary action against Registrant in relation to violations of K.A.R. 102-6-12 as a result of this proceeding.


WHEREFORE, the foregoing provisions are consented to, are hereby made the final Order of the Kansas Behavioral Sciences Regulatory Board, and become effective on the date indicated in the Certificate of Service below.

IT IS SO ORDERED.



Jean Hogan, Chairman
Complaint Review Committee

APPROVED AND CONSENTED TO:

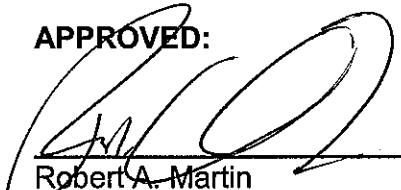


Judy E. Dunn
Registrant

10/28/10

Date

APPROVED:



Robert A. Martin
Counsel for Registrant

11/1/10

Date

CERTIFICATE OF SERVICE


This is to certify that on this 8th day of November, 2010, a copy of the above and foregoing Consent Agreement and Order was placed in the U.S. mail, first-class postage prepaid, addressed to:

Judy E. Dunn



Marty M. Snyder
Assistant Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612

Robert A. Martin
Norton, Wasserman, Jones, Kelly, LLC
P.O. Box 2388
Salina, KS 67401



For the Board