

BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD

712 South Kansas Avenue
Topeka, Kansas 66603-3817

In the Matter)
)
 of)
)
 Kay Lynn Spaniol, LSCSW)
 License #1543)
 Respondent)
 _____)

Case No. 08-CS-0019

FINAL ORDER

Now on this 4th day of January, 2008, the above referenced matter comes before the Behavioral Sciences Regulatory Board's Hearing Panel in relation to the October 22, 2007 Summary Proceeding Order. The Hearing Panel is comprised of Board members Gary Price, Sharon Stuewe and Amory Lovin, assisted by Assistant Attorney General Camille Nohe serving as general counsel to the Hearing Panel. Petitioner appears by Assistant Attorney General Marty Snyder serving as disciplinary counsel on behalf of the Board's Complaint Review Committee. Respondent Kay Lynn Spaniol appears in person.

Petitioner and Respondent present testimony, statements and arguments in support of their respective positions. Respondent further addresses questions posed by members of the Hearing Panel.

Petitioner's Exhibits A, B, C and D are admitted.

Respondent's Exhibit 1 is admitted.

Following closing arguments, the Hearing Panel then deliberates in private, following which the Hearing Panel makes the following Findings of Fact, Conclusions of Law and Order.

Findings of Fact

1. Respondent's license to practice as an LSCSW expired on July 31, 2007.
2. The Board office began mailing renewal reminder postcards to all licensed social workers on March 31, 2006, informing licensees they could renew on-line and, unless a request was made, would not be receiving a renewal packet as had been the Board's practice in prior years.
3. Respondent does not recall receiving the reminder postcard.
4. Respondent does recall receiving a letter dated August 3, 2007 from the Board informing her that her license had expired; Respondent testified that she would have received this letter several days later, probably August 6 or 7.
5. Once she received the letter, Respondent telephoned the Board office regarding her situation.
6. The Board sent Respondent a reinstatement packet on August 9, 2007; after receipt of this packet, Respondent filled out the appropriate documents but did not return it immediately because she had not completed the required ethics course.
7. Respondent was on vacation from August 10 until August 20.
8. Upon her return from vacation, on August 23 Respondent completed an ethics course, inadvertently putting the date of August 24 on the reinstatement form, and mailed the reinstatement form to the Board along with the required fees totaling \$300.
9. Respondent's license was reinstated on August 29.
10. Respondent acknowledged that she practiced social work, although her license had expired, from August 1 to August 9, and after her return from vacation from August 21 to August 28; Respondent also acknowledged that she introduced herself as a social

worker while participating on a panel discussion on August 2.

11. Excluding weekends, it appears that Respondent practiced social work without a license for 13 days in August 2007.¹

12. While Respondent did not submit any bills to third-party payors during the time she was not licensed, after having her license reinstated she did submit bills for services provided during the time that she was not licensed.

13. Respondent believed that the welfare of her clients necessitated her continuing to practice even though her license had expired.

14. Respondent, who has been in practice for 19 years, has never had a complaint or disciplinary action taken against her.

15. Respondent testified that a \$500 fine would be a financial hardship on her, especially given that it was necessary for her to pay \$300 to have her license reinstated.

Conclusions of Law

1. K.S.A. 65-6303 prohibits persons from engaging in the practice of social work for compensation or holding forth as performing the services of a social worker unless such person is licensed.

2. Additionally, K.A.R. 102-2-7(yy) makes it unprofessional conduct for a person to practice social work after the expiration of the social worker's license.

3. Further K.A.R. 102-2-7(zz) makes it unprofessional conduct to continue after the expiration of a license to use any title prescribed by the board for use only by persons currently holding a type or class of license issued by the Board.

¹Although Respondent testified that she practiced without a license for only 11 days, by the Hearing Panel's count it was 13 days.

4. By practicing social work after expiration of her license, Respondent violated K.S.A. 65-6303, K.A.R. 102-2-7(yy) and (zz).

Policy Reasons for Decision

Based on the mitigating circumstances as testified to by Respondent, the Hearing Panel is of the opinion that the initially assessed fine in the amount of \$500 should be reduced, that the initially imposed censure should be reversed, and that costs of the proceeding should not be assessed to Respondent.

Accordingly, the Hearing Panel issues the following final order.

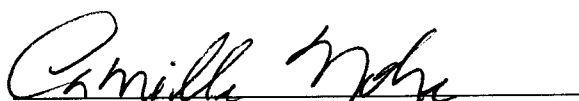
Order

IT IS THEREFORE ORDERED that, pursuant to K.S.A. 74-7507(c), Respondent be and hereby is assessed a fine in the amount of \$250 due and payable within 90 days of the date in the below Certificate of Service.

IT IS FURTHER ORDERED that the censure previously imposed by virtue of the letter summary proceeding order dated October 22, 2007, be and hereby is reversed. However, Respondent should carefully note the accompanying Education/Cautionary Letter.

IT IS FURTHER ORDERED that any costs associated with this proceeding be borne by the Board.

IT IS SO ORDERED.



Camille Nohe
Assistant Attorney General & General Counsel to the
Hearing Panel in Case No. 08-CS-0019
On behalf of and as authorized by the Hearing Panel

NOTICE OF RELIEF FROM THIS ORDER

This is a Final Order. It is effective upon the date indicated in the below Certificate of Service unless a stay is granted pursuant to K.S.A. 77-528. Within 15 days after service of the Final Order, any party may file a petition for reconsideration with the Behavioral Sciences Regulatory Board. 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. Judicial review may be had by filing a petition for judicial review with the appropriate district court as provided in the Kansas Act for Judicial Review, K.S.A. 77-601 et seq. The agency officer who may receive service of a petition for judicial review on behalf of the agency is Phyllis Gilmore, Executive Director, Behavioral Sciences Regulatory Board.

Certificate of Service

This is to certify that on the 16th day of January, 2008, a true and correct copy of the foregoing Final Order was deposited in the U.S. mail, first class postage prepaid addressed to:

Kay Spaniol



and a copy hand-delivered to:

Marty Snyder
Assistant Attorney General
Civil Litigation Division
120 SW 10th Avenue
Topeka, Kansas 66612

A handwritten signature in cursive script, reading "Camille Nohe", written over a horizontal line.

Camille Nohe
Assistant Attorney General & General Counsel to the
Hearing Panel in Case No. 08-CS-0019
On behalf of and as authorized by the Hearing Panel