

**Sam Brownback**  
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Executive Director



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May 5, 2014

Sean P. Edward  
Sanders Warren & Russell LLP  
40 Corporate Woods  
9401 Indian Creek Parkway, Suite 1250  
Overland Park, Kansas 66210

Re: Consent Agreement 10-CS-0042  
Randy Floyd

Dear Mr. Edwards,

This letter is to confirm that your client satisfied all of the conditions set forth in the Consent Agreement and Order dated November 11, 2011. The case is now closed.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Cindy D'Ercole".

Cindy D'Ercole  
Special Investigator

Marty M. Snyder, KS S Ct #11317  
Assistant Attorney General  
120 SW 10th Avenue, Second Floor  
Topeka, KS 66612-1597  
(785) 296-2215

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

In the Matter of )  
 )  
RANDY B. FLOYD, )  
LSCSW #03873 )  
\_\_\_\_\_ )

Case No. 10-CS-42

**CONSENT AGREEMENT AND ORDER**

NOW, on this 14<sup>th</sup> day of November, 2011, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board [Board] by agreement of Randy B. Floyd [Licensee / Respondent] and the Kansas Behavioral Sciences Regulatory Board for the purpose of resolving the above-captioned case. Licensee is represented by Sean P. Edwards, Sanders Warren & Russell LLP, and the Board is represented by Marty M. Snyder, Assistant Attorney General.

**FACTS**

Licensee hereby acknowledges and the Board finds the following facts to be established by a preponderance of clear and convincing evidence:

1. Randy B. Floyd is currently and, at all times relevant, has been a Licensed Specialist Clinical Social Worker within the meaning of the Kansas Social Workers Licensure Act, K.S.A. 65-6301, *et seq.*, and amendments thereto.

2. On September 30, 2009, the Board received a report of information concerning Licensee's conduct, alleging Licensee may have violated certain statutes

and regulations governing the practice of social work related to his job as a Licensed Specialist Clinical Social Worker.

3. The Board conducted an investigation concerning Licensee's alleged violation of statutes and regulations. During the investigation, Licensee was informed of the reported information and was given the opportunity to respond to the allegations. Licensee did respond by letter dated November 16, 2010. The Board then received additional documentation from counsel for Complainant on November 22, 2010; November 30, 2010; January 13, 2011; April 6, 2011 and May 11, 2011.

4. As a result of the investigation, the Board finds that the following facts have been established by a preponderance of clear and convincing evidence:

a. Licensee has advertised misleading information to the public regarding professional services that he did not have the qualifications or expertise to offer. At a June 2011 meeting, Licensee stated he no longer uses that advertising and no longer offers the same services.

b. Licensee appeared to guarantee or create consumer expectations for a three-day "cure" for anxiety-related problems. At a June 2011 meeting, Licensee stated that he no longer offers the three-day weekend option.

c. Another clinic alleges Licensee copied its advertising materials without authorization from the clinic and placed that information in his own advertising. At a June 2011 meeting, Licensee, without admitting this allegation, stated he has removed the information in question.

d. Licensee's advertising offered educational instruction on certain techniques at a time when Licensee was himself, in fact, a student in training in these techniques and was unqualified to teach them. At the time of the representations made by Licensee, he had possessed a clinical license for less

than a year. At a June 2011 meeting, Licensee stated he has completed the Alexian Brothers training in Chicago and has not taught any classes in these techniques. Since obtaining his Licensed Masters Social Worker license in 2006, he has practiced mostly in the area of anxiety disorders.

5. The Complaint Review Committee finds that probable cause exists to believe Licensee has violated the following regulation:

**K.A.R. 102-2-7. Unprofessional Conduct.** Any of the following acts by a licensee or an applicant shall constitute unprofessional conduct:

(j) offering to perform or performing services clearly inconsistent or incommensurate with one's training, education and experience with accepted professional standards for social work;

(w) engaging in professional activities, ... involving ... misrepresentation;

(ff) guaranteeing that satisfaction or a cure will result from the performance of professional services.

However, Licensee 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, Licensee 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 [KAPA] in relation to Case No. 10-CS-42.

WHEREFORE, Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act [KJRA] in relation to Case No. 10-CS-42.

WHEREFORE, the Board and Licensee agree to the following terms. Licensee's LSCSW license shall be suspended for a period of two years; however, the suspension shall be stayed during the same period of time so long as Licensee complies with the following terms and conditions:

(a) Licensee will submit to the Committee proposals for changing the name of his clinic. He shall cease and desist from advertising as an expert in anxiety disorders. Licensee shall remove representations regarding camps from his advertising and clinic brochures. These terms shall be completed within thirty (30) days of the effective date of this Consent Agreement and Order.

(b) Licensee will have a one-hour supervision meeting for every thirty (30) hours of client contact with a Board-approved supervisor licensed at the independent clinical level and who has expertise in the techniques Licensee is advertising. The supervisor shall provide quarterly attendance and progress reports to the Board but shall contact the Board immediately with any observed problems. The focus of supervision shall be upon competent practice and appropriate diagnosis and management of anxiety problems as they present within Licensee's patient population. Recommendation by the supervisor for a longer or shorter term of supervision will be considered by the Committee. Licensee shall provide a copy of the Acumen evaluation from Case No. 10-CS-131 and this Consent Agreement and Order to his supervisor. Within thirty days of the effective date of this Order, Licensee shall submit to the Committee the names of proposed supervisors. At the June 2011 meeting, Licensee discussed the possibility of supervision by individuals working with Menninger at Baylor University in Houston, Texas. The Committee stated its strong preference for in-person supervision. Licensee stated he understand the Board's concerns and wishes to make the most of this opportunity for professional development.

(c) Licensee shall be responsible for any costs and expenses incurred in satisfying the terms of this Consent Agreement and Order.

(d) Evidence of Licensee'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 Licensee has in fact breached, violated or failed to comply with any conditions. Upon determination at such hearing that Licensee has breached, violated or failed to comply with any condition, Licensee understands and agrees that the stay shall be lifted and his Licensed Specialist Clinical Social Worker license shall be suspended until such time as Licensee can demonstrate compliance with all terms and conditions of this Consent Agreement and Order to the satisfaction of the Board.

(e) Licensee 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.

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

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

WHEREFORE, Licensee 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 Licensee complies with the above conditions, the Board will not initiate further disciplinary action against Licensee in relation to violations of K.A.R. 102-2-7 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.**


  
\_\_\_\_\_  
Terry Pfannenstiel  
Chair, Complaint Review Committee

**APPROVED AND CONSENTED TO:**

  
\_\_\_\_\_  
Randy B. Floyd, LSCSW  
Licensee

11/2/11  
\_\_\_\_\_  
Date

**APPROVED:**

  
\_\_\_\_\_  
Sean P. Edwards, Esq.  
Counsel for Licensee / Respondent

11-2-11  
\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

This is to certify that on this 14<sup>th</sup> day of November, 2011, a true and correct copy of the above and foregoing Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Randy B. Floyd



Sean P. Edwards, Esq.  
Sanders Warren & Russell, LLP  
40 Corporate Woods, #1250  
9401 Indian Creek Parkway  
Overland Park, KS 66210

and a copy by building mail to:

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

  
\_\_\_\_\_  
For the Board