

Marty M. Snyder, Supreme Court #11317
Kansas Attorney General's Office
120 SW 10th St, Second Floor
Topeka, KS 66612-1597

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

In the Matter of)

FIANA L. MARTIN, LMSW)
License No. 5930)
Respondent)
_____)

Case No. 07-MS-03

CONSENT AGREEMENT AND ORDER

NOW on this 12 day of March, 2007, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board) by agreement of Fiana L. Martin (Licensee) and the Kansas Behavioral Sciences Regulatory Board for the purpose of resolving the above-captioned case.

Licensee hereby acknowledges the following:

1. Fiana L. Martin is currently, and at all times relevant has been, a Licensed Master Social Worker within the meaning of the Kansas Social Workers Licensure Act, K.S.A. 65-6301 *et seq.*, and amendments thereto.

2. On or about June 26, 2006, Licensee reported to the Board that she had resigned her position at SRS because of a problem concerning her taking time off. On July 7, 2006, the Board subsequently received a report of alleged violation concerning Licensee's conduct. The complaint alleged Licensee falsified a doctor's note to excuse a week of absence and resigned after she was confronted with the misrepresentation.

3. The Board conducted an investigation concerning Licensee's alleged violation of statutes and regulations.

4. During the investigation, Licensee was informed of the reported information, was given the opportunity to respond to the allegations and did respond to the allegations in her letter received on December 26, 2006.

5. As a result of the investigation, the Board finds probable cause to believe the following facts:

a. Licensee was under a Corrective Action Plan with her employer, SRS, for a prior unsatisfactory work evaluation. Her supervisor scheduled a trainer to come in from out of town to meet with Licensee during the week of June 12, 2006. However, Licensee called in sick every day that week.

b. When Licensee was told that she would need a doctor's excuse regarding her absence, she located an old doctor's note and changed the dates. She turned the falsified note in to her supervisor.

c. After checking with the doctor's office and finding no treatment or work excuse was provided for the week in question, the supervisor confronted Licensee with the falsified note.

d. Licensee was given the choice to resign or be fired and submitted her resignation on June 26, 2006.

e. Licensee admits she changed the date on the doctor's note and states she "was under a tremendous amount of stress and could not cope."

6. The Board finds that reasonable grounds exist to believe Licensee has committed unprofessional conduct in violation of K.S.A. 65-6311(a)(4) as defined as

follows: K.A.R. 102-2-7(w): engaging in professional activities ... involving dishonesty, fraud, deceit or misrepresentation.

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 an evidentiary hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 07-MS-03.

WHEREFORE, Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions in relation to Case No. 07-MS-03.

WHEREFORE, Licensee consents to practice under supervised probation on the following terms and conditions when she returns to work as a social worker in Kansas:

(a) Twelve (12) months of supervised practice by a board-approved supervisor who is not in a subordinate, familial or other dual relationship with the Licensee. The supervisor shall be licensed in Kansas at the MSW level or higher. The focus of the supervision shall be on ethical conduct, organization and timeliness of paperwork. There shall be at least one one-hour supervision session per work week.

(b) The supervisor shall provide written progress reports to the Board every three (3) months regarding Licensee's compliance with the supervision process. In the event of non-compliance, the supervisor shall report to the Board immediately. Licensee shall provide the supervisor with a copy of this Agreement and shall make every effort to ensure that all conditions of the Agreement are met. Licensee shall cooperate with her supervisor to enable the supervisor to discharge these duties in a responsible manner.

(c) Within three (3) months of the effective date of this Consent Agreement and Order, Licensee shall take an *additional* (beyond the biennial requirements) six hours of Ethics CEUs and shall discuss the information obtained with her supervisor.

(d) Supervised hours will not count toward any supervised experience requirement for the next level of licensure.

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

(f) 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 her Master Social Worker license shall be suspended until such time as she can demonstrate compliance with all terms and conditions of this Agreement to the satisfaction of the Board.

(g) Licensee acknowledges that proof submitted to the Board by affidavit or other form of competent evidence that Licensee 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) 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.

(i) 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 Agreement in writing.

(j) If the Board does not approve this Consent Agreement and Order, Licensee waives any right she may have to object to the composition of any subsequent hearing panel due to hearing panel members having knowledge of matters contained within this Consent Agreement and Order.

(k) This Consent Agreement and Order constitutes the entire agreement between the Licensee and the Behavioral Sciences Regulatory 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 of 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.S.A. 65-6311 as defined by K.A.R. 102-2-7(w) as a result of this proceeding.

WHEREFORE, the Board further agrees that, at the conclusion of the twelve-month supervision period upon determination of Licensee's compliance with the conditions stated herein and upon Board receipt of an acceptable reference from Licensee's supervisor on a Board-approved form, Licensee shall be unconditionally licensed as a Licensed Master Social Worker.

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.

Wesley Jones, Ph.D.
Wesley Jones, Ph.D.
Chair, Complaint Review Committee

APPROVED AND CONSENTED TO:

Fiana L. Martin
Fiana L. Martin, LMSW
Respondent Licensee

March 7, 2007
Date

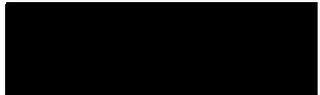
APPROVED BY:

Counsel for Respondent

Date

Certificate of Service

This is to certify that on this 13th day of March, 2007, 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:

Fiana L. Martin


[respondent counsel]

Roger Skurlock
For the Board