

BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD

712 Kansas Avenue
Topeka, Kansas 66603-3817

In The Matter)
)
 of)
)
 Philip Wurtz, Ph.D.)
 Licensed Professional Counselor)
 _____)

Case No. 687

COPY

CONSENT AGREEMENT AND ORDER

Now on this 9 day of Feb., 1998, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board) by agreement of Philip Wurtz (Licensee) and the Kansas Behavioral Sciences Regulatory Board for the purpose of settling the above-captioned case.

Licensee hereby acknowledges the following:

1. Philip Wurtz is a licensed professional counselor within the meaning of the Kansas Professional Counselors Act, K.S.A. 1996 Supp. 65-5801 *et seq.* and amendments thereto.

2. During November 1996, the Board received a report of information concerning Licensee's conduct alleging Licensee may have violated certain statutes and regulations governing the practice of professional counseling:

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, and was given the opportunity to respond to the allegations, and did respond to the allegations.

5. As a result of the investigation, the Board makes the following factual determinations:

Philip Wurtz, Ph.D., provided counseling services to _____ from the period of 7/12/89 through 4/25/96. During this period of time, Dr. Wurtz improperly billed for 130 of these sessions (See attached Exhibit #1, color coded chronology with highlighted pink dates indicating improper billing). These improper billings occurred when _____'s husband, _____, was listed as the patient on the insurance claim forms and these services were billed to his insurance.

Blue Cross-Blue Shield. In actuality, _____ was the recipient of services for 130 of those times. On other occasions (highlighted in green on Exhibit #1), _____ was listed on the claim forms as the patient and billed upon her husband's policy, in accordance with the benefit plan of Mr. _____ insurance.

On November 1, 1993, _____ obtained her own insurance coverage. There were proper billings on this insurance. (See Exhibit #1) However, 67 of the 130 improper billings on Mr. _____ insurance occurred after this date. This was a time when _____ apparently was not entitled to any services under her husband's policy. Nevertheless, for the 67 dates identified after November 1, 1993, she was the person who received the services whereas her husband was listed as the patient on the claim form and the services were billed to his policy.

An interview with Dr. Wurtz on 3/6/97 by Richard Baldwin, BSRB Investigator, revealed that Dr. Wurtz took care of his billings. He reportedly has the patient fill out the top half of the insurance claim form and then he signs off on the bottom half. He indicated that _____ filled out the claim forms for her counseling sessions.

6. As a result of the investigation, the Board determined that reasonable grounds exist to believe the Licensee violated K.S.A. 1996 Supp. 65-5809(d), obtaining any fee by fraud, deception or misrepresentation, and K.S.A. 1996 Supp. 65-5809(n), unprofessional conduct as defined by K.A.R. 102-2-10(b)(5), taking credit for work not personally performed.

7. Licensee disputes the Board's determinations and asserts that his billing was an honest misunderstanding rather than purposeful fraud, deception or misrepresentation.

HOWEVER, Licensee and the Board mutually desire to enter into the 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 in relation to Case No. 687.

WHEREFORE Licensee waives the right to file a motions for reconsideration and all rights of appeal pursuant to the Kansas act for judicial review in relation to Case No. 687.

WHEREFORE Licensee consents to suspension of his license to practice professional counseling for 18 months, with all of the 18 months of suspension stayed, on the following conditions:

(1) Within 6 months of the date indicated in the below Certificate of Service, Licensee will research, write and submit a 15 page professional paper on the subject of ethical and legal standards of billing for counseling services. The paper shall be double spaced, in APA format, and contain at least 10 professional references that are integrated within the context of the paper.

(2) That during the 18 months of stayed suspension of his license, Licensee shall have his monthly billing statements reviewed and approved by a certified public accountant or other professional person who is knowledgeable about health care billing practices before submitting claims to third party payors. Licensee may select a certified public accountant without board approval but shall obtain board approval if he wishes the reviewer to be someone who is not a certified public accountant. Licensee shall ensure that the reviewer will submit quarterly reports to the Board certifying the accuracy and legality of the claims.

(3) No later than six (6) months from the date indicated in the below Certificate of Service License shall provide restitution to _____ in the amount of \$360 for counseling services utilized by Mr. _____ for that period of time that Mr. _____ was not eligible for insurance reimbursement because the claims filed by Licensee (for services actually rendered to _____) had exhausted Mr _____ benefits for counseling services.

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

(5) Notification of the Consent Agreement and Order shall be provided to another jurisdiction's licensing board if the Licensee is also licensed, registered or certified in another jurisdiction.

(4) Evidence of Licensee's willful 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 willfully breached, violated or failed to comply with any conditions. Upon determination at such hearing that Licensee has willfully breached, violated or failed to comply with any condition, Licensee understands and agrees that the license shall be suspended for 1 year.

(5) 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 conditions. In such event, a designee of the Board is authorized to modify or amend this Consent Agreement and Order in writing.

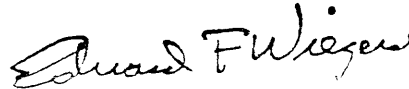
(6) This Consent Agreement and Order constitutes the entire agreement between the Licensee and may be modified or amended only by written agreement signed by the parties.

WHEREFORE Licensee consents to the submission of this Consent Agreement and Order to the Kansas Behavioral Sciences Regulatory Board, and understands that upon approval of the Board, this Consent Agreement and Order becomes a final order of the Board.

WHEREFORE the Board agrees that so long as Licensee complies with the above conditions that the Board will not initiate further disciplinary action against Licensee in relation to violation of K.S.A. 1996 Supp. 65-5809(d), obtaining any fee by fraud, deception or misrepresentation, and K.S.A. 1996 Supp. 65-5809(n), unprofessional conduct as defined by K.A.R. 102-2-10(b)(5), taking credit for work not personally performed.

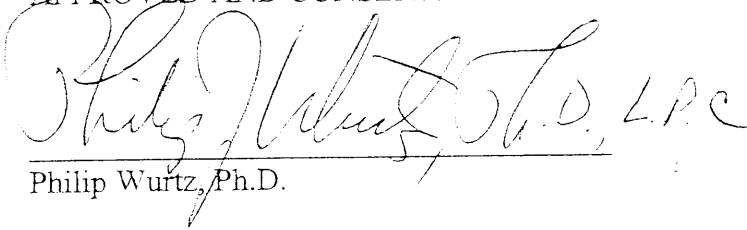
WHEREFORE the provisions above are consented to and are hereby made the final order of the Kansas Behavioral Sciences Regulatory Board which become effective on the date indicated in the below Certificate of Service.

IT IS SO ORDERED.



Ed Wieggers, Chairman
Behavioral Sciences Regulatory Board

APPROVED AND CONSENTED TO:

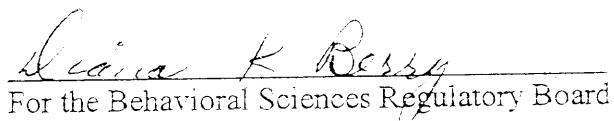
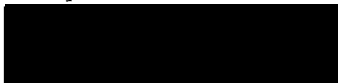

Philip Wurtz, Ph.D.

2/6/98
(date)

Certificate of Service

This is to certify that on the 30th day of March, 1998 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:

Philip Wurtz, Ph.D.


For the Behavioral Sciences Regulatory Board

SEP 22 1998
B.S.R.B.

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

In the Matter)
)
 of)
)
 Philip Wurtz, Ph.D.)
 Licensed Professional Counselor)
 _____)

Case No. 687

COPY

ADDENDUM
TO CONSENT AGREEMENT AND ORDER

Now on this 14 day of SEP, 1998, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board by agreement of Philip Wurtz (Licensee) and the Kansas Behavioral Sciences Regulatory Board for approval of the following Addendum to the Consent Agreement and Order entered herein:

1. Condition (2) shall read as follows: The during the 18 months of stayed suspension, Licensee shall have his monthly billing statements reviewed and approved by a certified public accountant or other professional person who is knowledgeable about health care billing practices before submitting claims to third party payors. Licensee may select a certified public accountant without board approval but shall obtain board approval if he wishes the reviewer to be someone who is not a certified public accountant. Licensee shall ensure that the reviewer will submit quarterly reports to the Board certifying the accuracy and legality of the claims.

2. For purposes of the CPA or other professional complying with the condition to review Licensee's monthly billing statements for accuracy of claims made to any third party payor, Licensee may provide the CPA or other professional with his clinical records. By signing below, the CPA or

other professional acknowledges that information contained in Licensee's clinical records shall not be disclosed to any person. If necessary to indicate in reports to the Board specific inaccurate billing claims, the CPA or other professional shall give a number to any identifiable patient or client and shall not identify the patient or client by name.

IT IS SO ORDERED.

Langley E. Wood
Chairman
Behavioral Sciences Regulatory Board

APPROVED:

Larry Hays, Ph.D.
Dr. Larry Hays
Behavioral Sciences Regulatory Board Member

7/24/98
(date)

Philip J. Wurtz, Ph.D.
Dr. Philip Wurtz

8-4-98
(date)

R. Todd Wurtz
CPA/Other Board-Approved Professional

8-5-98
(date)

Certificate of Service

This is to certify that on the 16th day of September, 1998, a true and correct copy of the above ADDENDUM TO CONSENT AGREEMENT AND ORDER was deposited in the U.S. mail, first class postage prepaid, addressed to:

Dr. Philip Wurtz

Jane J. Bartlett
For the Behavioral Sciences Regulatory Board



BILL GRAVES
Governor

Phyllis Gilmore
Executive Director
(785) 296-3207
E-mail: bsrb04@ink.org

Behavioral Sciences Regulatory Board

712 S. Kansas Ave.

Topeka, Kansas 66603-3817

(785) 296-3240

FAX (785) 296-3112

November 8, 1999

Dr. Phillip Wurtz


Dear Dr. Wurtz:

I am pleased to notify you that you have successfully completed the terms of your Consent Agreement and Order (687) effective September 16, 1999. I have appreciated your cooperation in fulfilling the conditions of the order.

Sincerely,

Larry W. Hays, Ph.D.