

BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD

712 S. Kansas Ave., Topeka, KS 66603-3817
785-296-3240

IN THE MATTER OF
THE LICENSE OF
CHERYL LYNN NUSSBAUM
LSCSW NO. 857

CASE NO. 00-0022

**CONSENT AGREEMENT
AND FINAL ORDER**

Now on this 10th day of June, 2002, the Behavioral Sciences Regulatory Board (the "board"), represented by litigation counsel, Michelle Davis, Assistant Attorney General, and the licensee, Cheryl Nussbaum, represented by her attorney, Steve Schwarm, hereby enter into this agreement for the purpose of resolving this matter.

NATURE OF THE CASE

1. At all times relevant, licensee has been, and is currently, licensed as a Licensed Specialist Clinical Social Worker (LSCSW) pursuant to 65-6301, et seq.
2. K.S.A. 65-6311 sets forth the grounds for which the board may revoke, suspend, limit or deny a social worker's license.
3. The board received information alleging that licensee may have engaged in boundary violations and unprofessional and unethical conduct concerning licensee's involvement with a former client and the board investigated those allegations. During the investigation, licensee was informed of the reported information and was given the opportunity to respond to the allegations. Licensee provided the following information:

A professional/therapist relationship existed with client G.S. from 12/21/95 to

9/10/96; after that time, through 1997, 1998, and October of 1999, licensee continued to have contact with G.S. as a friend, as a supportive individual who provided assistance (financial, transportation) when G.S. was in crisis, and as a landlord/owner of one-half of a twin home in which G.S. resided; in the other half of the twin home, licensee operated her clinical social work practice beginning January, 1998, and G.S. assisted with selected secretarial and clerical duties; licensee began residing there in October, 1998.

4. As a result of the investigation, a board member reviewed the case material and found that probable cause existed to believe that licensee had engaged in unprofessional conduct, K.S.A. 65-6311(a)(4) and K.A.R. 102-2-7.

5. Licensee has the right to a hearing on this matter and to seek review of the findings from that hearing in accordance with the Kansas administrative procedure act and the Kansas act for judicial review and civil enforcement of agency actions. Licensee is waiving those rights and knowledgeably and voluntarily entering into this agreement instead of proceeding to a hearing.

6. Licensee denies the allegations made against her and that her actions constitute a violation of K.S.A. 65-6311. However, for the purpose of settlement, licensee does not contest, and therefore, the board finds that licensee's conduct was unprofessional under K.S.A. 65-6311(a)(4), defined by K.A.R. 102-2-7 as:

(a) conduct inconsistent with standards of moral and ethical social work established by the profession, and;

(b)(27) exercising undue influence on a client in a manner that will exploit the client for the personal gratification of the practitioner.

DISPOSITION

7. Licensee's license shall be subject to the following conditions:

A. Monitor of Practice.

Once a monitor is approved by the board, licensee's practice shall be monitored for a total of 12 months by a board approved monitor who is a LCSW and who is not in a subordinate, familial or other dual relationship with licensee. The focus of monitoring shall be social worker/client boundaries. During this monitoring period, licensee shall not violate any rule or regulation governing the conduct of licensed specialist clinical social workers. Within 30 days of the effective date of this order, licensee shall follow an "approval process" of providing in writing to the board the name, resume, and commitment letter of a proposed monitor stating that he or she has read this agreement and agrees to perform the obligations set forth herein. The board may approve or reject a proposed monitor on the basis of his or her qualifications. If the proposed monitor is rejected or licensee needs to find a new monitor, then licensee shall have another 30 days to repeat the approval process.

The monitor shall submit a written report to the board at least every 4 months, and upon the termination of the monitor's services, regarding licensee's compliance with the monitoring and focus of monitoring. If at any time the monitor believes that licensee is not in compliance with this agreement, is unable to practice with skill and with safety to clients, is practicing negligently, or has committed a violation of rules and regulations governing licensee's professional conduct, the monitor shall notify the board in writing of such fact.

Licensee shall ensure that complete and timely reports are submitted to the board. If the board so directs, or licensee becomes aware that the practice monitor has ceased

to adequately perform the functions specified in this agreement, then licensee shall recommence the approval process as stated above.

B. Notification of Practice.

Upon entering into this agreement and until 12 total months of monitoring have been completed, licensee shall notify the board in writing of all locations where she is engaged in the practice of social work, setting forth the name of any employer (if applicable) and the address and telephone number for each such location, of any change of location, and of any change in personal or professional status which would inhibit compliance with this agreement. If licensee does not practice for a period in excess of two weeks, then the monitoring requirement shall be stayed until licensee resumes her practice.

C. Costs.

Licensee is responsible for any costs incurred in satisfying this agreement.

8. Licensee's non-compliance with the conditions of this agreement may result in additional disciplinary action against licensee's license, subject to licensee's right to notice and a hearing. The only issues at such a hearing would be whether the licensee violated this agreement and what sanctions should be imposed. The pendency of any additional action shall not affect licensee's obligation to comply with the terms of the agreement.

9. The board shall notify any other professional board that licenses or certifies licensee of this agreement. This document is a public record that may be disclosed upon request.

10. At the conclusion of the conditional licensure period, if licensee has satisfied the conditions of this agreement, then licensee's status shall return to unconditionally licensed.

11. This constitutes the entire agreement between licensee and the board, and may be modified or amended only by written agreement of the parties.

By their signatures, the parties hereby acknowledge this agreement and consent to its provisions which are hereby made the final order of the Behavioral Sciences Regulatory Board effective upon the date indicated in the Certificate of Service below.

IT IS SO AGREED AND ORDERED.

Cheryl Nussbaum
Cheryl Nussbaum
Licensee
[Redacted] address)

5-9-02
Date

Steve Schwarm
Steve Schwarm #13232
Attorney for Licensee
515 S. Kansas Ave.
Topeka, Kansas 66603-3999
785-233-0593

06/02
Date

Michelle Davis
Michelle Davis
Assistant Attorney General
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120 S.W. 10th Street, Second Floor
Topeka, Kansas 66612-1597.
785-368-8436

6-10-02
Date

FOR THE BOARD

Anna Silva-Keith
Anna Silva-Keith, Chairperson
Behavioral Sciences Regulatory Board

6/10/02
Date

CERTIFICATE OF SERVICE

On the 12th day of June, 2002, I mailed, first-class postage prepaid, a true and correct copy of the above Consent Agreement and Final Order to Cheryl Nussbaum, to Steve Schwarm, and to Michelle Davis at their addresses listed above.

Roger Scurlock
Roger Scurlock, Special Investigator
Behavioral Sciences Regulatory Board