

**BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD**

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

**IN THE MATTER OF THE LICENSE OF** )  
 )  
**DENIS P. CLEARY** )  
 )  
**LBSW # 3326** )  
\_\_\_\_\_ )

**CASE NO: 02-BS-17**

**CONSENT AGREEMENT  
AND FINAL ORDER**

Now on this 12<sup>th</sup> day of August, 2002, the Behavioral Sciences Regulatory Board (the “board”), represented by litigation counsel, Michelle Davis, Assistant Attorney General, and the “licensee”, Denis Cleary, hereby enter into the following agreement.

**NATURE OF THE CASE**

1. Denis Cleary is currently, and at all times relevant, has been, licensed as a baccalaureate social worker, #3326, pursuant to 65-6301, et seq.
2. The board received a complaint regarding licensee and conducted an investigation. Licensee was informed of the reported information and was given the opportunity to respond, and did respond to the allegations.
3. As a result of the investigation, the board found probable cause to believe that licensee’s conduct met the criteria set forth in K.S.A. 65-6311(a)(4), unprofessional conduct, for which the board may revoke, suspend, limit or deny a social worker’s license.
4. In lieu of further proceedings, licensee and the board enter into this agreement and order

to resolve this case, and thereby waive their right to an adjudicatory hearing conducted in accordance with the Kansas administrative procedure act and to seek reconsideration and appeal of the decision from that hearing in accordance with the Kansas act for judicial review.

5. Licensee has engaged in unprofessional conduct under K.S.A. 65-6311(a)(4) and K.A.R. 102-2-7(a), obtaining or attempting to obtain licensure for oneself or another by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact; based on the following facts:

On August 22, 2001, the board received a renewal application signed by licensee on August 21, 2001. The Social Work Continuing Education Reporting Form listing the 60 hours required for renewal was submitted with the application. Licensee's license was renewed September 1, 2001. Licensee was audited by the board. Licensee did not complete two seminars of 6 hours that he had reported on the form. The seminars, scheduled July 27 and August 3, had been cancelled due to low enrollment. Licensee then attended two classes in September for 9 hours and provided proof of attendance certificates and a modified CEU reporting form to the board.

### **DISPOSITION**

Licensee's license shall be suspended for a period of 6 months with all of the suspension stayed on the following conditions:

6. Monitor of Practice: Once a monitor is approved by the board, licensee's practice shall be monitored for 6 months by licensee's current supervisor or an alternate licensed monitor approved by the board who is not in a subordinate, familial or other dual relationship with licensee. The focus of monitoring shall ethical and competent practice by licensee. The board shall provide a copy of this order to the monitor. Licensee shall cooperate with his/her monitor to enable the monitor to discharge his/her duties in a responsible manner.

The monitoring shall consist of a one-hour supervisory session per week between the monitor and the licensee; a written report from the monitor addressing licensee's compliance with the monitoring and its focus, to be sent directly to the board upon the conclusion of the monitor's services, and at any time that the monitor reasonably believes that licensee is not in compliance with this order, is unable to practice with skill/safety to clients, is practicing negligently, or has violated regulations governing licensee's professional conduct.

7. 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 and commitment letter of licensee's current supervisor or the name, resume, and commitment letter of a proposed monitor. The letter shall state that the supervisor or proposed monitor 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. 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.

8. Licensee shall not violate any rule or regulation governing licensed social work.

9. Licensee shall notify the board in writing of all locations where he is practicing social work, setting forth the name of any employer (if applicable) and the address and telephone number for each such location, and of any change of location or in personal or professional status which would inhibit compliance with this agreement within 5 days of such change. In such event, a designee of the board is authorized to modify or amend this order in writing to address or remedy the ramifications of said change.

10. Evidence of licensee's failure to comply with any condition may result in a hearing, with notice an opportunity to be heard, to determine whether licensee has willfully failed to comply with any condition, and upon such a determination, licensee's license shall be suspended for 6 months. Proof submitted to the board by affidavit or other form of competent evidence shall be sufficient to support a finding of non-compliance.

11. At the conclusion of the monitoring period and a determination that licensee has complied with all conditions, including board receipt of an acceptable reference from licensee's monitor, licensee shall be unconditionally licensed and this agreement will terminate.

#### **MISCELLANEOUS**

12. The word license as used in this document means a current license and any future licenses issued to or applied for by licensee.

13. Licensee enters into this document voluntarily, after the opportunity to consult with counsel and with full understanding of its contents. This document is effective if and when it is accepted by the board as its order. If the board does not accept it, then licensee waives any right he may have to object to the composition of any subsequent hearing panel due to the members having knowledge of matters contained within this document.

14. This is a disciplinary action and notice of this order shall be provided to any other state licensing board where licensee is licensed, registered or certified. This order is subject to disclosure upon request as an "open record."

15. Licensee shall be responsible for any costs incurred in satisfying the terms of this order.

16. This is 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 distributed per the Certificate of Service below.

Denis P. Cleary LBSW

Denis P. Cleary, LBSW  
Licensee



6-21-02  
Date

Michelle Davis

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

7-8-02  
Date

FOR THE BOARD

Anna Silva-Keith

Anna Silva-Keith, Chairperson  
Behavioral Sciences Regulatory Board

8/12/02  
Date

**CERTIFICATE OF SERVICE**

On the 13<sup>th</sup> day of August, 2002, I mailed, first-class postage prepaid, a true and correct copy of the above Consent Agreement and Final Order to Denis Cleary and to Michelle Davis at their addresses listed above.

Roger Scurlock  
Roger Scurlock  
Special Investigator  
Behavioral Sciences Regulatory Board