

Marty M. Snyder, Supreme Court #11317
Kansas Attorney General's Office
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2007 OCT 10 10:09 AM

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

In the Matter of)	
)	
Richard O. McKinney, LSCSW, LCMFT)	Case No. 06 - CS - 58
License No. 0421, 0217)	Case No. 06 - CT - 60
Respondent)	
_____)	

CONSENT AGREEMENT AND ORDER

NOW on this 4th day of October, 2007, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board) by agreement of Richard O. McKinney, LSCSW, LCMFT (Licensee), his counsel Robert V. Eye and the Kansas Behavioral Sciences Regulatory Board for the purpose of resolving the above-captioned case.

Licensee hereby acknowledges the following:

1. Richard O. McKinney is currently, and at all times relevant has been, a Licensed Specialist Clinical Social Worker and a Licensed Clinical Marriage and Family Therapist within the meaning of the Kansas Social Workers Act, K.S.A. 65-6301 *et seq.* and the Kansas Marriage and Family Therapists Licensure Act, K.S.A. 65-6401 *et seq.* and amendments thereto.

2. On or about February 14 and February 22, 2007, the Board received reports of information concerning Licensee's conduct, alleging Licensee had engaged in a dual relationship with therapy clients, had violated client confidentiality and had abandoned professional care.

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 most of the allegations in his letter received on April 12, 2007.

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

a. Licensee was a family therapist for the ██████████ family. In addition, his wife was a marriage counselor for Mr. and Mrs. ██████████.

b. At a family therapy session in Licensee's office, he told the ██████████ that his wife mentioned they were looking for a place to live and that he had a house for rent. The ██████████ looked at the house, signed a rental agreement with Licensee and took possession November 1, 2005.

c. To avoid disciplinary action, Licensee told the ██████████ that his brother Don McKinney, who lived in Alma, would be their landlord. While he signed one landlord statement for SRS with his own name, he signed his brother's name to another.

d. Occasionally, Licensee would conduct family therapy sessions in the rental house because of the [REDACTED] transportation problems. During this time, rent payments were made directly to Licensee. The therapy sessions became more infrequent - from weekly sessions to monthly sessions in the fall of 2006.

e. In September of 2006, the [REDACTED] moved into the house next door and never heard from Licensee again regarding continuing therapy or transfer to another therapist.

f. In January of 2007, Mrs. [REDACTED] learned from the new renters of Licensee's rental house that Licensee had made several negative comments about the [REDACTED] family in addition to disclosing the fact that they were his clients in family counseling and that the couple had sought marital counseling.

g. Licensee's employer, Topeka Family Service and Guidance Center, conducted an investigation, found that Licensee engaged in a prohibited dual relationship and concluded that his conduct did not meet the Agency's standard of care.

h. In his response to the BSRB complaint, Licensee minimized his misconduct, attempted to place blame on his clients, filed false statements and procured a false notarized statement from his brother. Official records of the Shawnee County Appraiser's Office for Parcel ID [REDACTED] [REDACTED] establish that the sole owner of the property in question for the past thirty years is Licensee Richard O. McKinney. Assuming that Licensee is not deceased, a bequest is insufficient to transfer any ownership interest in the property, if in fact such a bequest of real property to Don McKinney exists in Licensee's will.

i. The Board notes that Licensee denies there is evidence that he made improper disclosures or abandoned his clients but stipulates to the dual relationship violation.

6. The Board finds that reasonable grounds exist to believe Licensee has violated K.S.A. 65-6311(4) unprofessional conduct and (6) negligence or wrongful actions in the performance of duties and K.S.A. 65-6408(3) violation of the act, rules or regulations and (7) unprofessional conduct, as defined as follows:

- a. K.A.R. 102-2-7 [SW] (s) revealing information, (t)(3) failure to obtain consent before releasing information and K.A.R. 102-5-12(b) [MFT] (19) revealing information and (20) failure to obtain consent before releasing information;
- b. K.A.R. 102-2-7 [SW] (tt) engaging in a dual relationship with a client and K.A.R. 102-5-12(b) [MFT] (44) engaging in a dual relationship with a client;
- c. K.A.R. 102-2-7 [SW] (mm) failing to notify the client when termination or interruption of services is anticipated, (nn) failing to seek continuation of service or abandoning or neglecting a client without making arrangements for care and K.A.R. 102-5-12(b) [MFT] (38) failing to notify the client when one anticipates terminating or interrupting service to the client, (39) failing to seek continuation of service or abandoning or neglecting a client without making arrangements for care.

However, Licensee and the Board mutually desire to enter a Consent Agreement and Order in lieu of adjudicative proceedings to resolve the reports 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. 07-CS-58 and Case No. 07-CT-60.

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-CS-58 and Case No. 07-CT-60.

WHEREFORE, Licensee consents to suspension of his license for twelve (12) months. Following expiration of the suspension period, should Licensee seek reinstatement, his practice shall be supervised for twelve (12) months on the following terms and conditions:

(a) If Licensee is employed in a setting requiring his LSCSW or LCMFT license, he shall have his practice supervised by a board-approved supervisor who is not in a subordinate or familial relationship with the Licensee. The supervisor shall be licensed at the clinical practice level. The focus of the supervision shall be on therapist ethics, dual relationships and confidentiality. There shall be at least one one-hour supervision session for every ten working hours so long as Licensee is employed in a position that requires his license.

(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 Consent Agreement and Order and shall make every effort to ensure that all conditions of the Agreement are met. Licensee shall

cooperate with his practice supervisor to enable the supervisor to discharge his or her duties in a responsible manner.

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

(d) Within thirty (30) days of the effective date of this Agreement, Licensee shall pay a \$1,000 fine to the Behavioral Sciences Regulatory Board office.

(e) Within ninety (90) days of the effective date of this Agreement, Licensee shall complete ten hours of ethics continuing education and provide proof of attendance to the Board office. Such hours shall not count toward Licensee's biennial requirement.

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

(g) 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 his 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.

(h) 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.

(i) 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.

(j) Licensee acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional employment 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.

(k) If the Board does not approve this Consent Agreement and Order, Licensee waives any right he 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.

(l) 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 and K.S.A. 65-6408 as a result of this

proceeding, including preparation of a false document in response to the disciplinary investigation.

WHEREFORE, the Board further agrees that, at the conclusion of the twelve-month suspension and twelve-month supervised practice periods, upon determination of Licensee's compliance with the conditions stated herein and upon Board receipt of an acceptable reference from Licensee's supervisor in a Board-approved form, Licensee shall be unconditionally licensed as a Licensed Specialist Clinical Social Worker and Licensed Clinical Marriage and Family Therapist.

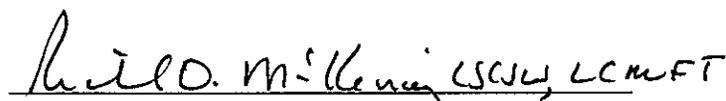
WHEREFORE, the foregoing provisions are consented to, are hereby made the final Order of the Kansas Behavioral Sciences Regulatory Board and become effective on the date indicated in the Certificate of Service below.

IT IS SO ORDERED.



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

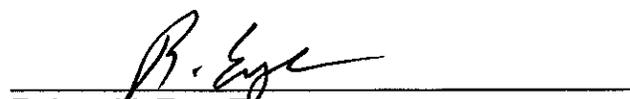
APPROVED AND CONSENTED TO:



Richard O. McKinney, LSCSW, LCMFT
Respondent Licensee

9-20-07
Date

APPROVED BY:



Robert V. Eye, Esq.
Counsel for Respondent

9.20.07
Date

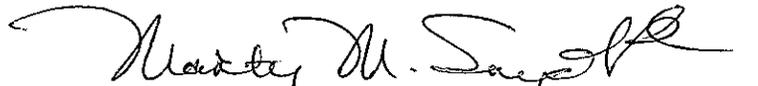
Certificate of Service

This is to certify that on this 12th day of October, 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:

Richard O. McKinney



Robert V. Eye, Esq.
Irigonegaray & Associates
135 SW 29th St.
Topeka, KS 66611-6115



For the Behavioral Sciences Regulatory Board