

Marty M. Snyder, KS S.Ct. #11317
Assistant Attorney General
120 SW 10th Avenue, Second Floor
Topeka, KS 66612-1597

01/14/2011 10:40 AM

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

In the Matter of)
)
NORMA J. CUNNINGHAM,)
LCPC #335)
_____)

Case No. 11-LC-0027

CONSENT AGREEMENT AND ORDER

NOW, on this 3rd day of January, 2011, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board), by and through Assistant Attorney General Marty M. Snyder, by agreement of Norma J. Cunningham (Licensee) and the Board for the purpose of resolving the above case.

Licensee hereby acknowledges the following:

1. Norma J. Cunningham, Licensee, at all times relevant, was a Licensed Clinical Professional Counselor within the meaning of the Professional Counselors Licensure Act, K.S.A. 65-5801 *et seq.*, and amendments thereto.
2. On September 27, 2010, the Board received information concerning Licensee's conduct, alleging Licensee may have violated certain regulations governing her practice as a clinical professional counselor.
3. The Board conducted an investigation concerning Licensee's alleged violation of statutes and regulations. During the investigation, Licensee was informed of the reported information and was given the opportunity to respond to the allegations. Licensee responded by letter dated October 14, 2010.

4. As a result of the investigation, the Board finds probable cause that the following facts have been established by clear and convincing evidence:

a. On September 23, 2010, during a session with a client, Licensee disclosed the whereabouts of another client.

b. Licensee verbally self-reported the breach of confidentiality to her employer's Compliance Officer the same day and provided a written incident report the next day.

c. On September 24, 2010, Licensee's employment was terminated.

5. The Complaint Review Committee of the Board finds that probable cause exists to believe Licensee has violated the following regulation:

A. K.A.R. 102-3-12a. Unprofessional Conduct.

(b) Any of the following acts by a . . . licensed clinical professional counselor . . . shall constitute unprofessional conduct:

(19) revealing information, a confidence, or a secret of any client, or failing to protect the confidences, secrets, or information contained in a client's records.

(52) practicing . . . clinical professional counseling in an incompetent manner.

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 a hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 11-LC-0027.

WHEREFORE, Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act in relation to Case No. 11-LC-0027.

WHEREFORE, the Board and Licensee agree to the following terms and conditions:

(a) Licensee shall attend six (6) hours of continuing education on the importance of client confidentiality within six months of the effective date of this Agreement and shall provide a copy of her certificate(s) of attendance to the Board upon completion. Such continuing education shall be attended in person and not on-line, shall be in addition to licensure requirements, and shall be at Licensee's expense.

(b) Licensee shall prepare a ten-page professional quality paper on the importance of client confidentiality. The paper shall be in APA format, contain at least ten professional references, and be submitted to the Board within three months of the effective date of this Consent Agreement.

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

(d) 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 Kansas Licensed Clinical Professional Counselor license could 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.

(e) 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.

(f) 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 Consent Agreement and Order in writing.

(g) 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.

(h) This Consent Agreement and Order constitutes the entire agreement between Licensee and the 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 by 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.A.R. 102-3-12a as a result of this proceeding.

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.



Jean Hogan
Chair, Complaint Review Committee

APPROVED AND CONSENTED TO:



Norma J. Cunningham
Licensee

12/28/10

Date

CERTIFICATE OF SERVICE

This is to certify that on this 5th day of January, ^{2011 CB} 2010, a true and correct copy of the above Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:



Marty M. Snyder
Assistant Attorney General
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612



For the Board

State of Kansas
Behavioral Sciences Regulatory Board

SAM BROWNBACK
Governor

PHYLLIS GILMORE
Executive Director



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May 4, 2011

Norma Cunningham

Re: Report of Alleged Violation 11-LC-0027

Dear Ms. Cunningham,

This letter is to confirm that you complied with all of the conditions set forth in the Consent Agreement and Order dated January 3, 2011. You completed those conditions and the above mentioned case was closed on May 4, 2011.

You are now unconditionally licensed to practice as a LCPC.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Carol Baldwin".

Carol Baldwin
Special Investigator