

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

vs.

CASE NO.: 95-03402

JANET MORGENTALER,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, DEPARTMENT OF HEALTH, hereinafter referred to as "Petitioner," files this Administrative Complaint before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling against JANET MORGENTALER, hereinafter referred to as "Respondent," and alleges:

1. Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of Clinical Social Work pursuant to Section 20.43, Florida Statutes, Chapter 455, Florida Statutes; and Chapter 491, Florida Statutes. Pursuant to the authority of Section 20.43 (3)(g), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative, and prosecutorial services required by the Division of Medical Quality

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Assurance, councils, or boards, as appropriate.

2. Respondent is, and has been at all times material hereto, a licensed Clinical Social Worker in the State of Florida, having been issued license number SW 0002674. Respondent's last known address is 450 North Park Road, Suite 610, Hollywood, Florida 33021.

3. During 1993 and 1994, Respondent treated patients S.F. and S.F. #2. S.F. is the wife of S.F.#2.

4. Respondent billed Blue Cross/Blue Shield for forty (41) sessions for patients S.F. and S.F.#2.

5. Patients S.F. and S.F.#2 state that the Respondent had treated them approximately ten (10) to twelve (12) sessions only.

6. Respondent has the duty to safeguard patient's S.F. and S.F.#2 patient records. Respondent lost all of the patients' records except for a period of January 3, 1994, through May 19, 1994.

7. Respondent, who charged approximately \$150.00 per hour, failed to adequately maintain billing records. Respondent used only her calendar with first names on it as her method of bookkeeping for billing Blue Cross/Blue Shield.

8. Section 491.009(2)(s), Florida Statutes, makes the following a violation in the practice of clinical social work: Failing to meet the

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minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

COUNT I

9. Petitioner realleges and incorporates by reference paragraphs one (1) through eight (8) as if fully stated herein.

10. Based on the foregoing, the Respondent has violated Section 491.009(2)(s), Florida Statutes, by failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance by failing to keep a proper bookkeeping system that allows a social worker's business practice to verify the services performed and also the billing for the services performed and by failing to maintain patients' S.F. and S.F.#2's records.

COUNT II

11. Petitioner realleges and incorporates by reference paragraphs one (1) through eight (8) as if fully stated within.

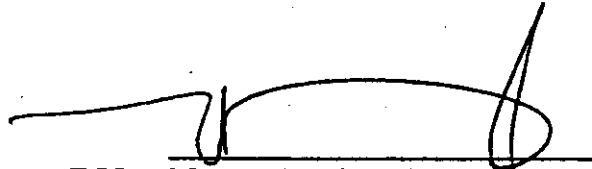
12. Based on the foregoing, the respondent has violated Section 491.009(2)(q), Florida Statutes, through a violation of Section 491.0148, Florida Statutes, and Rule 59P-9.001, Florida Administrative Code, and by failing to maintain patients' S.F. and S.F.#2's records.

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WHEREFORE, Petitioner respectfully requests the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling to enter an order imposing one or more of the following penalties: revocation or suspension of Respondent's license, restriction of Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent's license on probation for a period of time and subject to terms and/or conditions, and/or any relief which the Board deems appropriate.

SIGNED this 26th day of September, 1999.

Robert G. Brooks, M.D.
Secretary, Department of Health



BY: Nancy M. Snurkowski
Chief Attorney
General Counsel's Office
Practitioner Regulation-Legal

COUNSEL FOR PETITIONER
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Senior Attorney
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Agency for Health Care Administration
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JAGD/sgw
8/18/99

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Stephanie O. Dorn*
DATE 10-6-99

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STATE OF FLORIDA
DEPARTMENT OF HEALTH

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DEPARTMENT OF HEALTH,
Petitioner,

vs.

CASE NO.: 95-03402

JANET A. MORGENTALER,
Respondent.

STIPULATION

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Stipulation to the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling as disposition of the Administrative Complaint, attached hereto as Exhibit "A", in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting this Stipulation is issued by the Department and filed. In considering this Stipulation, the Board may review all investigative materials regarding this case. If this Stipulation is rejected, it, and its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

1. For all times pertinent hereto, Respondent was a licensed Clinical Social Worker in the State of Florida, having been issued license number SW 0002674. Respondent's last known address is 450 North Park Road, Suite 610, Hollywood, Florida 33021-6936
2. The Respondent was charged in an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapters 456 and 491, Florida Statutes. A true and correct copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit A.

3. Respondent neither admits nor denies the factual allegations contained in the Administrative Complaint for purposes of settling these proceedings only.

STIPULATED LAW

1. Respondent admits that Respondent is subject to the provisions of Chapters 456 and 491, Florida Statutes, and the jurisdiction of the Board, Department, and the Agency.

2. Respondent admits that the stipulated facts, if proven true, constitute violations of law as alleged in the Administrative Complaint.

3. Respondent admits that the stipulated disposition in this case is fair, appropriate, and acceptable to Respondent.

PROPOSED DISPOSITION

1. The Respondent shall be present when this Stipulation is presented by the Department to the Board and under oath shall answer questions by the Board concerning this case and the disposition thereof.

2. The license of the Respondent shall be reprimanded by the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling.

3. The Board of Clinical Social Work shall impose an Administrative Fine of \$1,500 against the license of the Respondent. The Respondent must also pay the Administrative Costs of \$1,558.82 associated with the investigation of this matter. The fine and costs are to be paid by the Respondent to the Executive Director of the Board of Clinical Social Work within 60 days from the date of the entry of the Final Order accepting and incorporating this Stipulation. The Respondent has the responsibility to document financial hardship prior to the date of the payment. Payment must be by money order. Partial payments shall not be accepted.

4. The Respondent shall within thirty (30) days of entry of the Final Order accepting this stipulation, provide the Board office with an affidavit stating that Respondent has read and understands the laws and rules governing the practice of Clinical Social Work in the State of Florida.

5. Within four (4) months of the Board's acceptance of this Stipulation, the Respondent will take ten (10) hours of continuing education courses in ethics and record keeping. These courses will be in addition to the required continuing education courses for the current biennium.

6. The Respondent shall sign an agreement for indirect supervision of practice with a Board approved supervising monitor. The supervision of the Respondent's practice shall continue for a period of one (1) year. The Respondent agrees to contact the Board of Clinical Social Work office within fifteen (15) days of the filing of a Final Order adopting this stipulation for the purpose of obtaining a qualified supervising monitor. The Respondent agrees to sign an agreement for supervision of practice within thirty (30) days of the filing of the Final Order adopting this stipulation.

a. During the period of supervised practice, the Respondent shall meet with the supervising monitor once per month for at least one session lasting two (2) hours.

b. The supervision of the Respondent's practice shall extend to all areas of the Respondent's practice relating to ethics and record keeping.

c. At the monthly supervision sessions of the Respondent's practice, the Respondent agrees to submit Fifteen (15) patient files to the Board of Clinical Social Work approved supervising monitor once every month for review. The Respondent shall ensure that all identifying descriptors in the patient records are deleted.

d. If the Respondent fails to fulfill the terms of agreement for supervision, the supervisor will so advise the probation monitor designated by the Board, and the monitor will so advise Board staff. The staff will notify the Respondent of the noncompliance and schedule the matter for consideration by the Board at the next scheduled meeting, with notice to the Respondent and the supervisor. It is expressly understood by the Respondent that noncompliance with the Board's Final Order may result in further disciplinary action against the Respondent.

7. Respondent shall not in the future violate Chapters 456 and 491, Florida Statutes, the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or to the ability to practice Clinical Social Work.

8. It is expressly understood that a violation of the terms of this Stipulation shall be considered a violation of a Final Order of the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, for which disciplinary action may be initiated pursuant to Chapter 456 or 491, Florida Statutes.

9. It is expressly understood that this Stipulation is subject to approval of the Department and has no force or effect until a Final Order is entered by the Board approving this Stipulation.

10. This Stipulation is executed by the Respondent for the purpose of avoiding further administrative action by the Board of Clinical Social Work regarding the acts or omissions specifically set forth in the Administrative Complaint, attached as Exhibit A. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Stipulation. Respondent agrees to support this stipulation at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Stipulation not be accepted by the Board, it is agreed that the presentation and consideration of this Stipulation and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

11. The Respondent and the Department fully understand that this Stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Department against the Respondent for acts or omissions which are not the subject of the Administrative Complaint, attached as Exhibit A. This Stipulation relates solely to the current disciplinary proceedings arising from the aforementioned complaint and does not preclude further

action by other divisions, departments, and/or sections of the Department, including but not limited to the Agency's Medicaid Program Integrity Office.

12. The Respondent waives the right to seek attorney's fees and/or costs from the Department in connection with this disciplinary proceeding.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.

SIGNED this 29 day of August, 2000.

Janet A. Morgentaler
Janet A. Morgentaler
CASE NO. SW 1995-03402

Before me, personally appeared JANET A. MORGENTALER whose identity is known to me by _____ (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn to and subscribed by Respondent before me this 29 day of August, 2000.

Karen A. Stevens
Notary Public
My Commission Expires:



KAREN A. STEVENS
COMMISSION # CC750890
EXPIRES JUL 09, 2002
BONDED THROUGH
ADVANTAGE NOTARY OF FLORIDA

APPROVED this 29th day of December, 2000.

Robert G. Brooks, M.D.
Department of Health

[Signature]

By: Nancy M. Snurkowski, Chief Attorney
On Behalf of the Agency for Health
Care Administration

ATTORNEY FOR PETITIONER:

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STATE OF FLORIDA
BOARD OF CLINICAL SOCIAL WORK, MARRIAGE AND
FAMILY THERAPY AND MENTAL HEALTH COUNSELING

DEPARTMENT OF HEALTH,

Petitioner,

vs.

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JANET MORGENTALER,

Respondent.

**FINAL ORDER REJECTING SETTLEMENT STIPULATION
AND APPROVING COUNTER SETTLEMENT STIPULATION**

THIS MATTER came before the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling at a duly-noticed public meeting held on January 18, 2001 in Jacksonville, Florida pursuant to Section 120.57(4), Florida Statutes, for consideration of the Administrative Complaint (attached hereto as Exhibit A), and a proposed Stipulation (attached hereto as Exhibit B) entered into between the parties in the above styled case.

Upon consideration of the Administrative Complaint, the proposed Settlement Stipulation, and being otherwise fully advised in the premises, the Board voted to reject the Settlement Stipulation. The Board, however, offered a Counter Settlement Stipulation containing all the terms of the original Settlement Stipulation minus paragraph six (6) of the proposed disposition section. The Board chose to remove paragraph six (6) due to the fact that the Respondent had undergone voluntary supervision from May 1999 to the present. The Board's Counter Settlement Stipulation was accepted by the Respondent.

Therefore, it is hereby **ORDERED AND ADJUDGED:**


1. All terms of the original Stipulation is hereby approved, adopted, and incorporated herein by reference with the exception of paragraph six (6) of the proposed disposition section.

2. Respondent will adhere to and abide by all of the terms and conditions of this order.

3. This Order shall be placed in and become a part of Respondent's official records and shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 8th day of February, 2001.

**BOARD OF CLINICAL SOCIAL WORK,
MARRIAGE AND FAMILY THERAPY,
AND MENTAL HEALTH COUNSELING**



Susan J. Foster
Executive Director