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Final Order No. DOH-05-0351-S -MQA
FILED DATE - 3-4-05
Department of Health

By: Heather Coleman
Deputy Agency Clerk

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

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2001-12558

License No.: SW 6262

B. KERRY BROWN, L.C.S.W.,

Respondent.

_____ /


FINAL ORDER

This matter appeared before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, at a duly-noticed public meeting on January 28, 2005, in Tampa, Florida, for consideration of a Stipulation (attached hereto as Exhibit "A"). On the record, the Stipulation was orally amended to state that the required CE hours can consist of an all day continuing education course, which includes in part record keeping and ethics, and that the course may be taken prior to the entering of this Final Order. Upon consideration of the Stipulation, the documents submitted in support thereof, the arguments of the parties and otherwise being advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the Stipulation be and hereby is approved and adopted in toto and incorporated by reference herein. Accordingly, the parties shall adhere to and abide by all the terms and conditions of the Stipulation.

This Order shall take effect upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 3rd day of March, 2005.


SUSAN J. FOSTER, Board Executive Director
for the Board of Clinical Social Work, Marriage and
Family Therapy, and Mental Health Counseling

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **B. Kerry Brown, L.C.S.W.**, 8080 North 56th Street, Temple Terrace, Florida 33617, **Christopher Schulte, Esq.**, 100 West Kennedy Boulevard, Suite 800, Tampa, Florida 33602; by interoffice mail to **Michael T. Flury**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Kathryn Price**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 this 4th day of March, 2005.



Deputy Agency Clerk

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

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 2001-12558

B. KERRY BROWN, L.C.S.W.

Respondent.

SETTLEMENT 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 (hereinafter "Board") as disposition of the Administrative Complaint, attached hereto as Exhibit "A" and incorporated herein by reference, 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 Board 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 herein, Respondent was a licensed clinical social worker in the State of Florida, having been issued license number SW 6262 on

January 10, 2001. The Respondent's address of record is 8080 North 56th Street, Temple Terrace, Florida 33617-7620.

2. The Respondent was charged by an Administrative Complaint, filed by the Department of Health and properly served upon the 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 admits the factual allegations contained in the Administrative Complaint for the purposes of settlement in these administrative proceedings only.

STIPULATED LAW

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

2. Respondent neither admits nor denies the allegations contained within the Administrative Complaint but admits that the stipulated facts, if proven true, constitute violations of laws as alleged in the Administrative Complaint.

3. Respondent accepts that the Stipulation is a resolution to this pending matter.

PROPOSED DISPOSITION

1. **APPEARANCE:** 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. **FINE:** The Board shall impose an administrative fine of One Thousand Dollars (\$1,000) against the license of the Respondent.

3. **COSTS:** Respondent shall also pay costs associated with the investigation and prosecution of this matter of five thousand dollars (\$5,000).

The fine and costs are to be paid by the Respondent to the Department of Health, HMQAMS/Client Services, ATTN: Board of Clinical Social Work Compliance Officer, P.O. Box 6320, Tallahassee, FL 32314-6320, within (30) thirty-days of the filing of a Final Order accepting and incorporating this Stipulation.

4. **CONTINUING EDUCATION:** Respondent shall, within (1) one year of filing of the final order adopting and incorporating this stipulation, complete 12 hours of continuing education, at least two of which must be in the area of record-keeping. The remaining ten hours shall be in an area to be set by the Board. These continuing education credits shall be in addition to the continuing education credits normally required for renewal of Respondent's license. Home study courses will not be accepted to satisfy this condition unless specifically authorized by the Board. Verification of successful completion and documentation of course content shall be submitted to the Compliance Officer Probation Supervisor within (30) thirty days after completion of the continuing education course.

5. 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.

6. 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, for which disciplinary action may be initiated pursuant to Chapters 456 and 491, Florida Statutes.

7. It is expressly understood that this Stipulation is subject to approval of the Board and Department of Health and has no force or effect until the Board bases an Order upon it.

8. The Respondent, for the purpose of avoiding further administrative action with respect to this particular case, executes this Stipulation. 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 this 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.

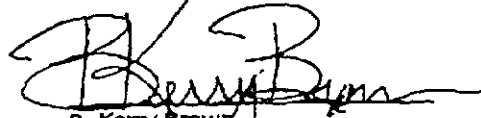
9. The Respondent and the Department of Health fully understand that this Stipulation and subsequent Final Order incorporating same, will in no way preclude additional proceedings by the Board and/or Department of Health against the Respondent for acts or omissions not specifically set forth in the Administrative Complaint, attached hereto as Exhibit "A", issued in this cause.

10. The Respondent waives the right to seek attorneys' fees and/or costs from the Department of Health in connection with this disciplinary proceeding.

11. Upon the Board's adoption of this Stipulation, Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this Stipulation and the Final Order of the Board incorporating said Stipulation.

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

SIGNED this 3rd day of AUGUST, 2004.


B. Kerry Brown
Case # 2001-12558

STATE OF FLORIDA
COUNTY OF Hillsborough

Before me personally appeared B. Kerry Brown, whose identity is known to me by X personal knowledge or by presentation of _____ as Identification (type of Identification), and who acknowledges that his or her signature appears above.

Sworn to or affirmed before me this 3rd day of August, 2004.

Notary Public

My Commission Expires 4/17/2008





APPROVED this 18th day of October 2004.

John O. Agwunobi, MD, MBA
Secretary, Department Of Health

By: Wings S. Benton
Wings S. Benton
Deputy General Counsel
Department of Health

COUNSEL FOR PETITIONER:

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Prosecution Services Unit
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STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

V.

CASE NO. 2001-12558

B. KERRY BROWN, L.C.S.W.,

RESPONDENT.

ADMINISTRATIVE COMPLAINT

~~COMES NOW~~ Petitioner, Department of Health, by and through its undersigned
counsel, and files this Administrative Complaint before the Board of Clinical Social Work,
Marriage and Family Therapy and Mental Health Counseling against Respondent,
B. Kerry Brown, L.C.S.W., and alleges:

1. Petitioner is the state agency charged with regulating the practice of licensed clinical social work pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 491, Florida Statutes.
2. Respondent is a licensed clinical social worker (L.C.S.W.) in the state of Florida, having been issued license number SW 6262 on January 10, 2001.
3. Respondent's address of record is 8080 North 56th Street, Temple Terrace, Florida 33617-7620.
4. On or around February 22, 2001, D.N. presented to Respondent for treatment.
5. D.N. was referred by a licensed psychiatrist to Respondent for treatment for depression.

6. In or around February 2001, D.N. and his wife, M.N., were separated and were in the process of determining custody of their two minor children.

7. Respondent saw D.N. for individual sessions on February 22, 2001, March 1, 2001, and March 8, 2001.

8. Respondent saw M.N. on or around March 22, 2001. M.N. gave Respondent her hand-written notes concerning D.N.

9. On or around June 28, 2001, Respondent was served with a Notice of Production From a Non-Party.

10. The notice advised that M.N.'s attorney would seek a subpoena for release of D.N.'s medical records.

11. On or around August 28, 2001, Subject provided testimony in Case Number 01-DR-7594 in the Circuit Court of the Thirteenth Judicial Circuit, In and For Hillsborough County, Florida. The proceeding was a hearing to determine temporary primary residential custody and temporary support.

12. On or around August 28, 2001, Respondent testified that D.N. suffered from narcissistic personality disorder.

13. Respondent testified that he made the diagnosis of narcissistic personality disorder based on Respondent's observation of D.N. during the individual visits, based on D.N.'s patient history, and based on information provided to Respondent by M.N.

14. Respondent's treatment notes did not reflect that Respondent had made a diagnosis of narcissistic personality disorder for D.N. prior to the time that he testified in the proceeding.

15. Respondent testified that a psychotherapist can make the diagnosis of narcissistic personality disorder by observing a patient and that no diagnostic tests are necessary.

16. Minimum standards of performance of professional activities in diagnosing personality disorders require that the psychotherapist performing the evaluation make a notation in the treatment record as to the diagnosis.

17. The treatment record for D.N. did not include a diagnosis of narcissistic personality disorder for D.N.

18. Section 491.009(2)(s), Florida Statutes (2000), provides that the failure to meet minimum standards of performance in professional activities when measured against generally prevailing peer performance is an act for which disciplinary action may be taken.

19. Respondent, by making a diagnosis for D.N. that was not reflected in or supported by his notes, failed to meet minimum standards of performance in professional activities when measured against generally prevailing peer performance.

20. Based on the foregoing, Respondent violated Section 491.009(2)(s), Florida Statutes (2000), by failing to meet minimum standards of performance of professional activities when measured against generally prevailing peer performance.

WHEREFORE, the Petitioner respectfully requests that the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling enter an order imposing one or more of the following penalties: suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand,

placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 20th day of October, 2003.

John O. Agwunobi, M.D., M.B.A.
Secretary, Department of Health

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK W. L. C. Brown
DATE 10/25/03

By: Kathryn E. Price
Kathryn E. Price
Assistant General Counsel
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4052 Bald Cypress Way, Bin C-65
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Florida Bar # 850860
(850) 414-8126
(850) 488-1855 FAX

Reviewed and approved by: DKK Date 9/25/03

PCP:

October 17, 2003

PCP Members: ~~DKK~~ Adejokun-Ojo, Lobnitz

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NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.