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Department of Health
By: Racene Brooks
Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH

IN RE: The Emergency Suspension of the License of
Miriam S. Acosta, L.C.S.W.
License Number: LSW 3323
Case Number: 2007-37828

ORDER OF EMERGENCY SUSPENSION OF LICENSE

Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, ORDERS the suspension of the license of Miriam S. Acosta ("Ms. Acosta"), to practice as a licensed clinical social worker. Ms. Acosta holds license number LSW 3323, and her address of record is 780 NE 69th Street, Apt. #404, Miami, Florida 33138. The following Findings of Fact and Conclusions of Law support the emergency suspension of Ms. Acosta's license to practice as a licensed clinical social worker.

FINDINGS OF FACT

1. The Department of Health ("Department") is the state agency charged with regulating the practice of licensed clinical social work pursuant to Chapters 20, 456, and 491, Florida Statutes. Section 456.073, Florida Statutes, authorizes the State Surgeon General to summarily suspend Ms. Acosta's license to practice as a licensed clinical social worker in the State of Florida in accordance with Section 120.60(6), Florida Statutes.
2. At all times material hereto, Ms. Acosta was licensed to practice licensed clinical social work in the State of Florida pursuant to Chapter 491, Florida Statutes.
3. Professionals Resource Network ("PRN") is the impaired practitioners program for the Board of Licensed Clinical Social Work, Marriage & Family Therapy, and

Mental Health Counseling, pursuant to Section 456.076, Florida Statutes. PRN is an independent program that monitors the evaluation, care, and treatment of impaired healthcare professionals. PRN oversees random drug screens and provides for the exchange of information between treatment providers and the Department for the protection of the public. Raymond M. Pomm, M.D. ("Dr. Pomm"), a Board-certified psychiatrist and addictionologist, is the Medical Director of PRN and is charged with responsibility for the oversight of the program and documentation of compliance and noncompliance with PRN monitoring contracts.

4. In or about January 2005, Stephen Kahn, M.D., the Medical Director of Holistic Addiction Treatment, Inc., which is located in Miami, Florida, contacted PRN. Dr. Kahn stated to PRN that he had known Ms. Acosta for 15 years and that she had an Axis II diagnosis of Mixed Personality Disorder. Dr. Kahn recommended to PRN that Ms. Acosta enter into treatment.

5. Ms. Acosta entered into a residential treatment program.

6. On or about February 2, 2005, PRN was notified that Ms. Acosta was out of residential treatment at Holistic Addiction Treatment, Inc. and was now in an intensive outpatient treatment program.

7. On or about April 5, 2005, Ms. Acosta's group facilitator contacted PRN and stated that Ms. Acosta had completed treatment and her attendance and her recovery were "average."

8. On or about March 23, 2005, Ms. Acosta entered into a PRN contract, which was a Chronic Pain/Concurrent Illness contract.

9. In or about April 2005, Ms. Acosta informed PRN that she was having two surgical procedures done in May 2005: hyperhidrosis treatment and breast augmentation.

10. In or about May 2005, Ms. Acosta told PRN that she was in a lot of pain and PRN recommended that Ms. Acosta have a pain management evaluation.

11. On or about July 28, 2005, Ms. Acosta's group facilitator reported to PRN that Ms. Acosta was working with an appropriate pain management regime.

12. In or about July 2005, Ms. Acosta changed her psychiatrist from the one on the contract with PRN to another psychiatrist.

13. In or about May 2006, during a check-up with PRN, Ms. Acosta stated that she was no longer being treated by a pain management physician and she was not on any pain medication.

14. On or about April 19, 2007, Ms. Acosta submitted a urine drug screen that showed a low specific gravity and a low creatinine. Having a low specific gravity and a low creatinine are indicators that Ms. Acosta could have diluted her urine to cover up a drug in her system.

15. PRN's review of Ms. Acosta's drugs screens from January 2007-June 2007 showed that Ms. Acosta had a very low creatinine on most tests. This led PRN to conclude that Ms. Acosta was drinking a large amount of fluid in order to minimize any drugs showing up in her urine.

16. On or about July 23, 2007, Ms. Acosta admitted that she had been taking opiates for back pain.

17. On or about July 27, 2007, Ms. Acosta saw Bernd Wollschlaeger, M.D., a Department-approved Addictionist and a physician that practiced pain management.

18. When Dr. Wollschlaeger evaluated Ms. Acosta, he listed the medication she was taking at that time as Lorcet 10, 60 tablets, four tabs daily; Actiq, 200mcg for breakthrough pain; Klonopin, 1 mg, one tablet at night; Depakote, 1500 mg daily; and Rozerem, 8 mg at night.

19. Lorcet 10 contains hydrocodone, which is a Schedule II substance under Chapter 893, Florida Statutes; however, when produced in a mixture containing less than 15 milligrams of hydrocodone per dosage unit, it is a Schedule III controlled substance under Chapter 893, Florida Statutes. Lorcet 10 is a mixture of 100 milligrams hydrocodone and acetaminophen, an over-the-counter analgesic. As such, it is a Schedule III controlled substance under Chapter 893, Florida Statutes. Such a substance is indicated for the relief of moderate to moderately severe pain. The abuse of Lorcet 10 can lead to physical and psychological dependence.

20. Actiq contains fentanyl. Fentanyl is a narcotic analgesic used to relieve pain. Fentanyl is a Schedule II controlled substance under Chapter 893, Florida Statutes, and has a high potential for abuse and is currently accepted by severely restricted medical use in treatment in the United States. Abuse of fentanyl may lead to severe physical and psychological dependence.

21. Klonopin, contains clonazepam, a Schedule IV controlled substance as listed under Chapter 893, Florida Statutes. Clonazepam is used to treat seizures and panic attacks. A substance in Schedule IV has a low potential for abuse relative to

substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of Clonazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

22. Depakote is a legend drug used to treat seizure disorders, certain psychiatric conditions such as bipolar disorder, and to prevent migraine headaches.

23. Rozerem is a sedative/hypnotic used to treat insomnia.

24. PRN had no knowledge that Ms. Acosta was taking Lorcet or Klonopin, since neither her treating therapist nor her psychiatrist reported to PRN that Ms. Acosta was taking Lorcet or Klonopin.

25. Dr. Wollschlaeger diagnosed Ms. Acosta with: Axis I - History of Polysubstance Abuse, Chronic Pain, Bipolar Disease; Axis II - Cluster B Traits per history; Axis III - Chronic Osteoarthritis; Axis IV - Financial Stressors, Professional Stress (License and Job insecurity), Strained Relationship to PRN; Axis V – GAF (current) =70.

26. GAF is short for Global Assessment Functioning score. A person with a GAF of 77 means if symptoms are present, they are transient and expectable reactions to social stressors. There is no more than a slight impairment in occupational, social, or school functioning.

27. Dr. Wollschlaeger further stated that Ms. Acosta had a distrustful attitude toward PRN and she chose to seek medical care from a non-PRN approved pain management specialist physician who prescribed controlled substances to Ms. Acosta.

28. Dr. Wollschlaeger recommended that Ms. Acosta adhere to all terms in

her PRN contact and he referred her to a PRN-approved pain management specialist.

29. On or about October 10, 2007, PRN approved Dr. Raymond Failer as Ms. Acosta's pain management physician. Dr. Failer prescribed Lorcet to Ms. Acosta.

30. On or about October 17, 2007, Ms. Acosta reported to PRN that she saw a neurosurgeon and that she had four discs in her neck that needed to be operated on.

31. On or about October 22, 2007, Dr. Failer contacted PRN and stated that Ms. Acosta was in his office and wanted to be detoxed off the Lorcet that he had prescribed and to be prescribed Klonopin.

32. Dr. Failer stated that he was going out of town that week, but would start to detox Ms. Acosta the following week, and he prescribed her Suboxone.

33. Suboxone contains buprenorphine, a Schedule V controlled substance under Chapter 893, Florida Statutes, and naloxone, a legend drug. Buprenorphine is similar to drugs such as morphine, codeine, and heroin; however, it produces less euphoric ("high") effects and, therefore, may be easier to stop taking. Naloxone blocks the effects of drugs such as morphine, codeine, and heroin. If Suboxone is injected, naloxone will block the effects of buprenorphine and lead to withdrawal symptoms in a person with an addiction to those types of drugs. When administered under the tongue, naloxone will not affect the actions of buprenorphine. Suboxone is used to treat drug dependence.

34. On or about October 23, 2007, Ms. Acosta tested positive for Tramadone. Ms. Acosta did not have a prescription for Tramadone.

35. Tramadol is the active ingredient in Ultram. Ultram is an analgesic which

is not currently a schedule defined drug under Chapter 893, Florida Statutes. Ultram users experience withdrawal symptoms when use is discontinued, and treatment with Ultram is not recommended for users of narcotic pain relievers.

36. On or about October 31, 2007, PRN had Ms. Acosta evaluated by Joan Carrillo, Ph.D.

37. Dr. Carrillo diagnosed Ms. Acosta with Axis I – Opiate Dependence, Alcohol Dependence in Remission, Bipolar Disorder II by History, Bulimia Nervosa in Remission; Axis II – Personality Disorder N.O.S., with Borderline Traits; Axis III – Chronic pain in knees, hands, neck, and back; Axis IV – Serious economic, marital, family of origin, occupational issues; and Axis V – Present GAF 44; highest in last year 55.

38. A GAF of 44 meant that Ms. Acosta had serious symptoms or serious impairment in social, occupational, or school symptoms.

39. Dr. Carrillo recommended,

Present data suggest that Ms. Acosta's inner world is tumultuous and intrudes into her cognitive efficiency...with respect to her licensure, given her intelligence and years of experience, it is recommended that Ms Acosta be supervised in her work by a licensed clinician skilled in a wide range of mental health issues, vs. withdrawing from practice...medication management should be under the direction of one pain specialist...with respect to the recommended supervisory experience, a two-part process is suggested. For two randomly selected and varying days per month, the LCSW should shadow Ms. Acosta as she works, so he or she sees the patient at the same time Ms. Acosta does.

40. On or about October 31, 2007, PRN told Ms. Acosta that she could not

continue working because she had a GAF of 44.

41. Ms. Acosta began detox on November 1, 2007. PRN contacted Dr. Failer on November 2, 2007, and Dr. Failer confirmed that Ms. Acosta had begun detox and she was rude, obnoxious, and acting out.

42. On or about November 6, 2007, Ms. Acosta called PRN and stated that she had given a urine drug screen and that her knees were in a great deal of pain. PRN scheduled Ms. Acosta for a muscle conduction test on November 6, 2007.

43. On or about November 9, 2007, PRN was told that Ms. Acosta had completed detox.

44. On or about November 16, 2007, Ms. Acosta contacted PRN and stated that Dr. Failer had dismissed her as a patient because she was "non-workable." Ms. Acosta stated that she had agreed that Dr. Failer would be the only physician who could write controlled substances prescriptions for her.

45. Ms. Acosta told PRN on or about November 16, 2007, that earlier in the week her knee had become infected and she was in pain so she went to the emergency room. Ms. Acosta stated that she went to the emergency room, because she could not get in touch with Dr. Failer. The emergency room physician had prescribed antibiotics and 20 Vicodin tablets to Ms. Acosta. Ms. Acosta stated that Dr. Failer was quite upset that she had violated her agreement about only getting controlled substances from him and terminated her as a patient. Dr. Failer confirmed this story with PRN and further stated that he was in the office during the time Ms. Acosta stated that she attempted to contact him regarding her knee.

46. Vicodin contains hydrocodone bitartrate and acetaminophen, which, when mixed together, is a Schedule III controlled substance, Vicodin is indicated for the relief of moderate to moderately severe pain. Vicodin has a potential for abuse, and the abuse of Vicodin can lead to moderate or low physical dependence of high psychological dependence.

47. On or about November 19, 2007, a PRN clinical team staffed Ms. Acosta's case and determined that it was impossible to monitor Ms. Acosta, because she had broken her contract with Dr. Failer, had taken old prescriptions in the past without notifying PRN, and she had a current GAF of 44. PRN opined that Ms. Acosta could not practice as a licensed clinical social worker with reasonable skill and safety and it was impossible to monitor Ms. Acosta because she would not follow her treatment provider's recommendations.

48. PRN terminated Ms. Acosta's contract.

GENERAL ALLEGATIONS

49. Section 456.072(1)(hh), Florida Statutes (2007), subjects a licensee to discipline, including suspension, for being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to comply, without good cause, with the terms of the monitoring contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

50. PRN has terminated Ms. Acosta's PRN contract entered into on or about March 23, 2005, because she had broken her contract with Dr. Failer without good

cause, by taking old prescriptions in the past without notifying PRN, having a current GAF of 44; and not following her treatment provider's recommendations. Based on these actions, PRN determined it was impossible to monitor Ms. Acosta.

51 Section 120.60(6), Florida Statutes (2007), authorizes the Department to suspend a licensed clinical social worker's license if the Department finds that the licensed clinical social worker presents an immediate serious danger to the public health, safety, or welfare.

52. Ms. Acosta's contract with PRN was terminated. Dr. Pomm opined that Ms. Acosta is not safe to practice licensed social work with reasonable skill and safety. Based on these circumstances, Ms. Acosta cannot be trusted to exercise sound judgment in the practice of licensed clinical social work. Her practice of licensed clinical social worker constitutes an immediate serious threat to the public health, safety, or welfare. Nothing short of suspending Ms. Acosta's license will adequately protect the public.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes that:

1. The Department of Health has jurisdiction over this matter pursuant to Section 456.073(8), Florida Statutes, and Section 20.43, Florida Statutes.
2. Ms. Acosta has violated Section 456.072(1)(hh), Florida Statutes (2007), by being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in s. 456.076, for failure to

comply, without good cause, with the terms of the monitoring contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.


3. Ms. Acosta's continued practice as a licensed social worker constitutes an immediate serious danger to the health, safety, and welfare of the public and that this summary procedure is fair under the circumstances to adequately protect the public.

In accordance with Section 120.60(6), Florida Statutes, it is ordered that:

1. The license of Miriam S. Acosta, L.C.S.W., license number LSW 3323, is immediately suspended.

2. A proceeding seeking appropriate discipline, including, but not limited to, the suspension or revocation of the license of Miriam S. Acosta, L.C.S.W., to practice as a licensed clinical social worker shall be promptly instituted and acted upon in compliance with Section 120.60(6), and 120.569, Florida Statutes.

DONE and ORDERED this 10 day of February, 2008.


Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General

PREPARED BY:

Cynthia Jakeman F/B/N 0714690
Assistant General Counsel
DOH, Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, Florida 32399-3265
(850) 245-4640, ext. 8114 - Telephone
(850) 245-4682 – Telefax

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Sections 120.60(6) and 120.68, Florida Statutes, the Department's findings of immediate serious danger, necessity, and procedural fairness shall be judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the Department of Health and a second copy of the petition accompanied by a filing fee prescribed by law with the District Court of Appeal within 30 days of the date this Order is filed.