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Final Order No. DOH-10-0408-^S-MQA
FILED DATE - 2/22/2010
Department of Health
By: Angela Pastor
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.: 2008-27377
License No.: MH 1654**

MARY ANNE ERNST, L.M.H.C.,

Respondent.

_____ /

FINAL ORDER

THIS MATTER came before the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling (hereinafter "Board") at a duly-noticed public meeting on January 29, 2010, in Jacksonville, Florida. Petitioner filed an Administrative Complaint seeking disciplinary action against Respondent's license to practice as a mental health counselor. A copy of the Administrative Complaint is attached to and incorporated as part of this Final Order. Petitioner was represented by Laura Lopez, Assistant General Counsel. Respondent was neither present nor represented by counsel.

Petitioner and Respondent have stipulated to a disposition of this case. The settlement required Respondent to appear before the Board at the meeting at which the settlement was considered. Respondent requested that the appearance requirement be waived because of her health issues. The Board voted to grant Respondent's request and waived her appearance. After waiving the requirement that Respondent appear, considering the presentation of the parties and reviewing the record of the case, the Board

voted to adopt the Settlement Agreement, with corrections of scrivener's errors contained in paragraph 4 of the Proposed Disposition that refer to the Board of Psychology and Rule Chapter 64B19, Florida Administrative Code. The affidavit required to be submitted by Respondent shall attest that Respondent read and understands the laws and rules relevant to the practice of mental health counseling in the State of Florida, and Respondent shall read Rule Chapter 64B4, Florida Administrative Code.

A copy of the Settlement Agreement is attached to and made a part of this Final Order.

The parties shall be governed accordingly.

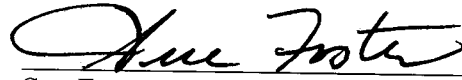
Pursuant to Section 456.072(4), Florida Statutes, the Department is authorized to collect costs for investigation and prosecution. The evidence presented to the Board was that the costs associated with this matter are **one thousand nine hundred fifty dollars and thirty-six cents (\$1,950.36)**. Payment shall be made by cashier's or certified check or money order to the Department of Health, Compliance Management Unit, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling Compliance Officer, P.O. Box 6320, Tallahassee, FL 32324-6320, within **twelve (12) months** of the filing date of the Final Order.

IT IS THEREFORE ORDERED that the Settlement Agreement, as amended, is adopted and incorporated by reference herein and Respondent is hereby ordered to reimburse the Department costs in the amount of **\$1,950.36**.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 19 day of February, 2010.

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


Sue Foster, Executive Director
on behalf of Jamie Buller, LCSW, CHAIR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: **Mary Anne Ernst, LMHC**, 300 Magnolia Avenue, Suite A, Merritt Island, Florida 32952; and by interoffice mail to **Deborah B. Loucks**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Laura Lopez**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265, on February 22, 2010.


Deputy Agency Clerk

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2008-27377

MARY ANNE ERNST, L.M.H.C.,

Respondent.

_____ /

SETTLEMENT AGREEMENT

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Settlement Agreement 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 Settlement Agreement is issued by the Board and filed. In considering this Settlement Agreement, the Board may review all investigative materials regarding this case. If this Settlement Agreement is rejected, its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

1. For all times pertinent herein, Respondent was a licensed mental health counselor in the State of Florida, having been issued license number MH 1654 on April

25, 1987. Respondent's address of record is 300 Magnolia Avenue, Suite A, Merritt Island, Florida 32952.

2. The Respondent was charged by an Administrative Complaint, filed by the Department of Health and properly served upon Respondent with violations of Chapter 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 in the Administrative Complaint but is entering into this Settlement Agreement for the purpose of settlement in these administrative 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 Department of Health and the Board.

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

3. Respondent admits that the Settlement Agreement is a fair, appropriate, and reasonable resolution to this pending matter.

PROPOSED DISPOSITION

1. **APPEARANCE**: The Respondent shall be present when this Settlement Agreement 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. **COSTS**: Pursuant to Section 456.072(4), Florida Statutes, Respondent shall pay actual costs associated with the investigation and prosecution of this matter.

Actual costs will be determined at the time this Settlement Agreement is presented to the Board.

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, Marriage and Family Therapy, and Mental Health Counseling Compliance Officer, P.O. Box 6320, Tallahassee, FL 32314-6320, within twelve months (12) months of the filing of a Final Order accepting and incorporating this Settlement Agreement.

3. **CONTINUING EDUCATION:** Respondent shall successfully complete and report to the Board, with documentation, **within six (6) months** of the filing of the final order adopting and incorporating this Settlement Agreement, the eight (8) hour Laws & Rules course required by the Board for initial licensure. These continuing education hours shall be in addition to any continuing education hours normally required for renewal of Respondent's license. Respondent is permitted to take an online interactive course in lieu of attending a live course. Verification of successful completion and documentation of course content shall be submitted to the Compliance Officer at the address referenced in paragraph 4. Successful completion of the course will satisfy Respondent's deficit in CEU credits for the 2006-2008 biennium.

4. **AFFIDAVIT:** The Respondent shall, within thirty (30) days following the filing of the Final Order adopting and incorporating this Settlement Agreement, provide the Board office with an affidavit stating that Respondent has read and understands the laws and rules governing the practice of psychology in the State of Florida, including Chapters 456 and 491, Florida Statutes, and Chapter 64B19, Florida Administrative

Code, Rules of the Board of Psychology, and understands the importance of adhering to same.

5. SERVICE AS A QUALIFIED SUPERVISOR: The Respondent understands that she shall not serve as a "qualified supervisor" until he has complied with all of the obligations imposed by the Final Order adopting and incorporation this Settlement Agreement. Furthermore, the Respondent, if he is serving as a "qualified supervisor", shall within one (1) day of the filing of the Final Order, provide written notice of the Final Order and terminate all supervisory relationships.

6. It is expressly understood that a violation of the terms of this Settlement Agreement 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 Settlement Agreement 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 Settlement Agreement. 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 Settlement Agreement. Respondent agrees to support this Settlement Agreement 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 Settlement Agreement not be accepted by the Board, it is agreed that the presentation and consideration of this Settlement Agreement 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.

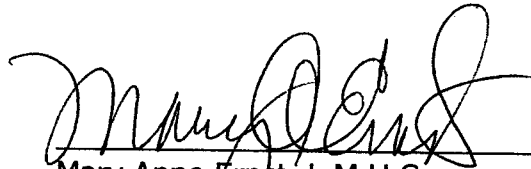
9. The Respondent and the Department of Health fully understand that this Settlement Agreement and subsequent Final Order incorporating same, will in no way preclude additional proceedings by the Board and/or Department of Health against the Respondent for acts or omissions not specifically set forth 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 Settlement Agreement, 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 Settlement Agreement and the Final Order of the Board incorporating said Settlement Agreement.

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

SIGNED this 20TH day of NOVEMBER, 2009.


Mary Anne Ernst, L.M.H.C.
Case number 2008-27377

STATE OF FLORIDA
COUNTY OF BREVARD

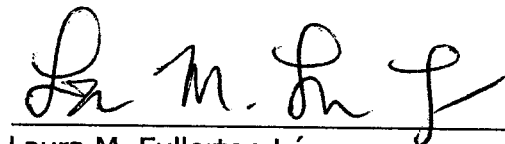
Before me personally appeared MARY ANNE ERNST, whose identity is known to me by personal knowledge or by presentation of DRIVERS LICENSE as identification (type of identification), and who acknowledges that his or her signature appears above. Sworn to or affirmed before me this 20TH day of NOVEMBER, 2009.


Notary Public

11-9-2013
My Commission Expires

APPROVED this 20TH day of NOVEMBER, 2009.

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

By: 

Laura M. Fullerton López
Assistant General Counsel
Florida Bar Number 093981
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399-3265
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FLORIDA DEPARTMENT OF REVENUE
LEGAL

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**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2008-27377

MARY ANNE ERNST, L.M.H.C.,

Respondent,

_____ /

ADMINISTRATIVE COMPLAINT

COMES NOW the 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 (hereinafter Board) against Mary Anne Ernst, L.M.H.C., and alleges:

1. Petitioner is the state department charged with regulating the practice of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling pursuant to section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 491, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed mental health counselor in the State of Florida, having been issued license number MH 1654 on April 25, 1987.

3. Respondent's address of record is 300 Magnolia Avenue, Suite A, Merritt Island, Florida 32952.

4. On or about September 25, 2007, Respondent executed a Settlement Stipulation to resolve an administrative complaint that had been filed against her in case number 2006-00013.

5. By executing the Settlement Stipulation, Respondent agreed to complete within one (1) year of the filing of a final order adopting and incorporating the stipulation, twelve (12) hours of continuing education in the area of record keeping and ethics. The continuing education hours were in addition to the continuing education normally required for renewal of Respondent's license, and home study courses were not acceptable unless authorized by the Board.

6. Final Order DOH-07-2501-S-MQA was filed in case number 2006-00013 on or about November 20, 2007, approving, adopting in toto, and incorporating by reference the terms of the Settlement Stipulation.

7. A true and correct copy of Final Order DOH-07-2501-S-MQA which was filed in case number 2006-00013 on or about November 20, 2007, was furnished by U.S. Mail to Respondent in care of Darlene Stosik, Esq., on or about November 20, 2007.

8. Respondent did not complete the continuing education requirement within one year of the filing of the final order in case number 2006-00013.

9. Section 491.009(1)(t) provides that violating a "lawful order of the department or board previously entered in a disciplinary hearing" is grounds for discipline.

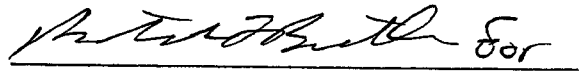
10. Based on the foregoing, Respondent violated section 491.009(1)(t), Florida Statutes (2008), when she violated a lawful order of the board previously entered in a disciplinary hearing by failing to complete twelve (12) hours of continuing education in the area of record keeping and ethics within one year of the filing of Final Order DOH-07-2501-S-MQA, filed in case number 2006-00013, on or about November 20, 2007.

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: permanent revocation or suspension of Respondent's license, denial of future licenses, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, continuing education and/or any other relief that the Board deems appropriate.

SIGNED this 12th day of AUGUST, 2009.

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

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: Angela Barton
DATE 8/13/09



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PCP: August 6, 2009
PCP Members:

Sherrard, White, Adejokun-Ojo