

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

SEP 10 2008

FILED

SEP 05 2008

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI STATE COMMITTEE FOR)
SOCIAL WORKERS,)
)
Petitioner,)
)
v.)
)
RICHARD SCHNEIDER,)
)
Respondent.)

No. 08-1326 SW

**JOINT MOTION FOR CONSENT ORDER, JOINT STIPULATION OF FACTS,
WAIVER OF HEARINGS BEFORE THE ADMINISTRATIVE HEARING
COMMISSION AND STATE COMMITTEE FOR SOCIAL WORKERS, AND
DISCIPLINARY ORDER WITH JOINT PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission ("Commission"), 1 CSR 15-3.440(3), and pursuant to the terms of § 536.060, RSMo,¹ as it is made applicable to the Commission by § 621.135, RSMo, Richard Schneider ("Schneider") and the State Committee for Social Workers ("Committee") hereby waive the right to a hearing of the above-styled case before the Commission and, additionally, the right to a disciplinary hearing before the Committee pursuant to § 621.110, RSMo, and jointly stipulate to the facts and consent to the imposition of disciplinary action

¹ Statutory references are to Missouri Revised Statutes 2000, unless otherwise indicated.

against Schneider's clinical social worker license for violations of statutes and lawful rules and regulations set forth below.

Schneider acknowledges that he has received and reviewed a copy of the Complaint filed by the Committee in this case, and the parties submit to the jurisdiction of the Commission.

Schneider acknowledges that he is aware of the various rights and privileges afforded him by law, including the right to appear and be represented by counsel; the right to have a copy of the Complaint served upon him by the Commission prior to the entering of its order; the right to have all charges against Schneider proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Schneider; the right to present evidence on Schneider's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial Commissioner concerning the complaint pending against Schneider; and the right to a ruling on questions of law by a Commissioner. Being aware of these rights provided Schneider by operation of law, Schneider knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Social Workers, and Disciplinary Order with Joint Proposed Findings of Fact and Conclusions of Law ("Joint Stipulation") and agrees to abide by the terms of this document as they pertain to Schneider.

Based upon the foregoing, the Committee and Schneider jointly stipulate to the following and request that the Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. The Committee is an agency of the State of Missouri created and established pursuant to § 337.622, RSMo, for the purpose of executing and enforcing the provisions of §§ 337.600 - 689, RSMo (Cum. Supp. 2007).

2. Schneider is licensed by the Committee as a licensed clinical social worker, license number 000789. Schneider's clinical social worker license is, and was at all relevant times herein, current and active. Schneider also holds an active Missouri professional counselor's license, license number 000937.

3. At all times relevant herein, Schneider was employed as a licensed clinical social worker by Daniel Correctional Psychiatric Services, Inc. ("DCPS"), located at 33 East Broadway, Suite 115, Columbia, Missouri 65203. DCPS contracted with the Missouri Department of Corrections and assigned Schneider to provide services to inmates of the Ozark Correctional Center ("OCC"), located at 929 Honor Camp Lane, Fordland, Missouri 65652.

4. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 337.630.2, RSMo (Cum. Supp. 2007).

5. Schneider provided clinical social work services to R.L., an offender incarcerated at OCC, while R.L. was incarcerated at OCC.

6. Schneider had a relationship of professional trust and confidence with R.L. in that R.L. relied on Schneider as a licensed clinical social worker to comply with the statutes, regulations and standard of care pertaining to the practice of clinical social work.

7. Schneider engaged in inappropriate contact with a client in that, on or about May 18, 2005, he met with R.L., who had recently been released from OCC, for the purpose of giving R.L. a book.

8. The book Schneider gave to R.L. contained Schneider's home address and telephone number, with instructions for R.L. to call Schneider at any time.

9. On at least four occasions within a two-week period, Schneider gave approximately \$1,200.00 to R.L. via wire-transfers.

10. R.L. called Schneider on at least seven occasions, two of which were placed to Schneider while Schneider was at work.

11. On or about June 2, 2005, Schneider admitted the above-described conduct to DCPS.

12. On or about July 25, 2005, DCPS terminated Schneider's employment for misconduct due to Schneider's inappropriate contact with R.L. after R.L.'s release from OCC.

13. On or about August 10, 2005, the Committee received notice of Schneider's

conduct, in the form of a complaint form submitted by DCPS.

14. On or about July 16, 2008, the Committee filed a complaint with the Administrative Hearing Commission in this matter.

15. Schneider's provision of his home address and telephone number to R.L., to whom he provided services prior to R.L.'s release, personal telephone calls with R.L., and loaning or giving money to R.L., constitute entering into a dual or multiple relationship with a client to whom he rendered psychotherapy (clinical social work) or other professional social work services for the treatment or amelioration of mental and emotional conditions.

16. Schneider's provision of his home address and telephone number to R.L., to whom he provided services prior to R.L.'s release, personal telephone calls with R.L., and loaning or giving money to R.L., constitute incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a clinical social worker.

17. Schneider's provision of his home address and telephone number to R.L., to whom he provided services prior to R.L.'s release, personal telephone calls with R.L., and loaning or giving money to R.L., constitute violations of the provisions of §§ 337.600 to 337.639, or of any lawful rule or regulation adopted pursuant to §§ 337.600 to 337.639, RSMo.

18. Schneider's provision of his home address and telephone number to R.L., to whom he provided services prior to R.L.'s release, personal telephone calls with R.L., and loaning or giving money to R.L., constitute violations of a professional trust or confidence.

19. Schneider's provision of his home address and telephone number to R.L., to whom he provided services prior to R.L.'s release, personal telephone calls with R.L., and loaning or giving money to R.L., constitute unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.

JOINT PROPOSED CONCLUSIONS OF LAW

20. Schneider's conduct, as set forth in the Joint Proposed Findings of Fact, violates Rule 4 CSR 263-3.040,² which states in pertinent part:

(1) A licensed social worker . . . shall not enter into or continue a dual or multiple relationship, including social relationship, business relationship or sexual relationship, as defined by the committee, with a current client or with a person to whom the licensed social worker . . . has at anytime rendered psychotherapy (clinical social work) or other professional social work services for the treatment or amelioration of mental and emotional conditions

21. Schneider's conduct as set forth in the Joint Proposed Findings of Fact pertaining to R.L. constituted incompetency, misconduct, fraud, misrepresentation or

² This rule originally filed as 4 CSR 263-3.040, effective September 30, 2004, and moved to 20 CSR 2263-3.040, effective August 28, 2006. All references herein are to 4 CSR 263-3.040 unless otherwise noted.

dishonesty in the performance of the functions or duties of a clinical social worker, in violation of § 337.630.2(5), RSMo.

22. Schneider's conduct as set forth in the Joint Proposed Findings of Fact pertaining to R.L. constituted violations of the provisions of §§ 337.600 to 337.639, or of any lawful rule or regulation adopted pursuant to §§ 337.600 to 337.639, in violation of § 337.630.2(6), RSMo.

23. Schneider's conduct as set forth in the Joint Proposed Findings of Fact pertaining to R.L. constituted violations of a professional trust or confidence, in violation of § 337.630.2(13), RSMo.

24. Schneider's conduct as set forth in the Joint Proposed Findings of Fact pertaining to R.L. constituted unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state, in violation of § 337.630.2(15), RSMo.

25. Cause exists for the Committee to discipline Schneider's clinical social worker license pursuant to Section 337.630, RSMo, which states, in pertinent part:

2. The Committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.600 to 337.639 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

...

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a clinical social worker;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.600 to 337.639, or of any lawful rule or regulation adopted pursuant to sections 337.600 to 337.639;

...

(13) Violation of any professional trust or confidence;

...

(15) Being guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.

....

JOINT AGREED DISCIPLINARY ORDER

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Committee in this matter under the authority of § 621.110, RSMo:

1. Schneider's license as a licensed clinical social worker, license number 000789, is immediately placed on PROBATION for a period of two (2) years ("the disciplinary period"). During Schneider's probation, Schneider shall be entitled to engage in

the practice of clinical social work under Chapter 337, RSMo, provided he adheres to all of the terms of this Joint Stipulation.

I. GENERAL REQUIREMENTS

- A. Schneider shall meet with the Committee or its representative at such times and places as required by the Committee after notification of a required meeting.
- B. Schneider shall keep the Committee apprised of his current home and work addresses and telephone numbers. Schneider shall inform the Committee within ten (10) days of any change of home or work address and home or work telephone number.
- C. Schneider shall comply with all provisions of Chapter 337, RSMo, as they pertain to the practice of social work; all applicable federal and state drug laws, rules and regulations; and all federal and state criminal laws. "State" here includes the State of Missouri and all other states and territories of the United States.
- D. During the disciplinary period, Schneider shall timely renew his license and timely pay all fees required for licensing and comply with all other Committee requirements necessary to maintain Schneider's license in a current and active state.

- E. During the disciplinary period, Schneider shall accept and comply with unannounced visits from the Committee's representatives to monitor his compliance with the terms and conditions of this Joint Stipulation.
- F. If Schneider fails to comply with the terms of this Joint Stipulation, in any respect, the Committee may impose such additional or other discipline that it deems appropriate.
- G. Schneider shall notify, within fifteen (15) days of the effective date of this Joint Stipulation, all facilities where Schneider practices of Schneider's disciplinary status. Notification shall be in writing and Schneider shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Committee for verification by the Committee or its designated representative.
- H. For purposes of this Joint Stipulation, unless otherwise specified in this Joint Stipulation, all reports, documentation, evaluations, notices, or other materials required to be submitted to the Committee in this Joint Stipulation shall be forwarded to: State Committee for Social Workers, 3605 Missouri Boulevard, Post Office Box 1335, Jefferson City, Missouri 65102.
- I. This Joint Stipulation does not bind the Committee or restrict the remedies available to it concerning any other violation of Chapter 337, RSMo, by Schneider not specifically mentioned in this document.

II. REQUIREMENTS REGARDING SUPERVISED PRACTICE

- A. Schneider's practice as a clinical social worker during the period of probation shall be supervised by a clinical social worker approved by the Committee. If Schneider fails to secure a supervisor within twenty (20) business days from the start of probation, Schneider shall cease practicing clinical social work until a supervisor is secured. Schneider shall be responsible for any payment associated with the supervision.
- B. In the event the approved supervisor becomes unable or decides not to continue serving in his/her capacity as a supervisor or otherwise ceases to serve as a supervisor during the period of probation, then Schneider shall:
- (1) within three (3) business days of being notified of the supervisor's inability or decision not to continue serving as the supervisor, or otherwise learning of the need to secure a supervisor, advise the Committee in writing that Schneider needs to secure a supervisor and the reasons for such change; and
 - (2) within twenty (20) business days of being notified of the supervisor's inability or decision not to continue serving as the supervisor, or otherwise learning of the need to secure a supervisor, secure a supervisor pursuant to and in accordance with the terms and conditions

set forth in this Joint Stipulation. After twenty (20) business days, Schneider shall not practice if he has not secured a supervisor.

- C. The supervisor shall act on behalf of the Committee in overseeing the clinical social work practice of Schneider. The supervisor shall be responsible to the Committee, and will not be responsible to either Schneider or his clients. Schneider shall permit the supervisor complete access to his practice, including patient and financial records. As the Committee's agent, the Committee's exemption from HIPAA as a health care oversight agency will extend to the supervisor. The supervisor will have the Committee's full professional trust and confidence, and any failure on the part of the supervisor to maintain confidential information will be considered a violation of § 620.010.14(7) RSMo (Cum. Supp. 2007), which could subject the supervisor to professional discipline. Schneider shall disclose to his clients that his work is subject to supervision, and shall encourage his clients to cooperate with the supervisor. If cooperation with the supervisor is contrary to a particular patient's specific needs, Schneider shall promptly arrange for the transfer of that patient to another health care provider. Full professional responsibility for the care and treatment of his patients will remain with Schneider.
- D. Schneider's supervisor shall report to the Committee in writing on a quarterly basis with the reports due by December 1, March 1, June 1, and September 1

each year during the disciplinary period. It is Schneider's responsibility to ensure that these reports are provided in a timely manner.

III. REQUIREMENTS REGARDING CONTINUING EDUCATION

Schneider shall attend a Committee-approved course with emphasis in the area of dual relationships/boundary issues. Schneider shall be responsible for any cost associated with completing the course. The course cannot be offered via the internet, online, video or audio tape or by correspondence course. The course required herein is in addition to the continuing education hours required for licensure renewal by the Committee. The course must be obtained within one (1) year of the effective date of this Joint Stipulation. Schneider shall provide the Committee with proof of attendance from the sponsor of the program no later than thirty (30) days after attending the course. In the event Schneider requires additional time to complete the course, Schneider shall advise the Committee in writing and request an extension of time. Failure to complete the required course in dual relationships/boundary issues and/or submit the required documentation to the Committee will result in a violation of the terms of discipline.

2. Upon the expiration of the disciplinary period, Schneider's license as a clinical social worker in Missouri shall be fully restored, provided all provisions of this Joint Stipulation and all other requirements of law have been satisfied.

3. If the Committee determines that Schneider has violated a term or condition of his discipline, or has otherwise failed to comply with the provisions of Chapter 337, RSMo, which violation would be actionable in a proceeding before the Committee, the Commission, or a Circuit Court, the Committee may elect to pursue any lawful remedies or procedures afforded to it, and is not bound by this Joint Stipulation and its selection of remedies concerning such violation.

4. The parties to this Joint Stipulation understand that the Committee will maintain this agreement as an open record of the Committee as provided in Chapters 337, 610, and 620, RSMo, as amended.

5. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and its settlement.

6. The terms of this Joint Stipulation are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Joint Stipulation nor any of its provisions may be changed, waived, discharged, or terminated except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

7. Schneider hereby waives and releases the Committee, its members and any of its employees, agents, or attorneys, including any former Committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorneys fees

and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this Paragraph is severable from the remaining portions of this Joint Stipulation in that it survives in perpetuity even in the event that any court of law deems this Joint Stipulation or any portion thereof void or unenforceable.

8. This disciplinary order will be effective immediately upon the issuance of the Consent Order of the Commission without further action by either party.

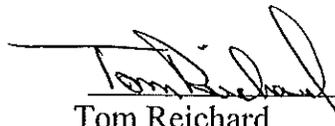
In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Social Workers, and Disciplinary Order and to the termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by Petitioner in the above-styled action.

LICENSEE



Richard Schneider, LCSW
License Number 000789

COMMITTEE



Tom Reichard
Executive Director
State Committee for Social Workers

Date: 8-25-08

Date: 8-18-2008

Complaint No. 2005-004420

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