

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

MAR 30 2009

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI STATE COMMITTEE FOR)
SOCIAL WORKERS,)
)
Petitioner,)
)
v.) No. 08-2147 SW
)
MARVA SHINELL,)
)
Respondent.)

**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 (“the AHC”), 1 CSR 15-3.446, and pursuant to the terms of § 536.060, RSMo,¹ as it is made applicable to the AHC by § 621.135, RSMo, Marva Shinell (“Shinell”) and the State Committee for Social Workers (“the Committee”) hereby waive the right to a hearing of the above-styled case before the AHC and, additionally, the right to a disciplinary hearing before the Committee pursuant to § 621.110, RSMo, (Cum. Supp. 2008) and jointly stipulate to the facts and consent to the imposition of disciplinary action against Shinell’s clinical social worker license for violations of statutes and lawful rules and regulations set forth below.

Shinell acknowledges that she 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 AHC.

Shinell acknowledges that she is aware of the various rights and privileges afforded her by law, including the right to appear and be represented by counsel; the right to have a copy of the Complaint served upon her by the AHC prior to the entering of its order; the right to have all charges against Shinell proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Shinell; the right to present evidence on Shinell'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 Shinell; and the right to a ruling on questions of law by a Commissioner. Being aware of these rights provided Shinell by operation of law, Shinell 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 Shinell.

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

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

JOINT PROPOSED FINDINGS OF FACT

1. The Committee is an agency of the State of Missouri created and established pursuant to § 337.622, RSMo (Cum. Supp. 2008), for the purpose of executing and enforcing the provisions of Chapter 337, RSMo, as amended, pertaining to social workers.

2. Shinell is licensed by the Committee as a licensed clinical social worker, license number 001803. Shinell's clinical social worker license is, and was at all relevant times herein, current and active.

3. Shinell was employed as a clinical social worker by the Saint Louis Psychiatric Rehabilitation Center ("SLPRC"), located at 5300 Arsenal Street, Saint Louis, Missouri 63139.

4. While employed by SLPRC, Shinell provided counseling services to SLPRC patients.

5. Shinell established a relationship of professional trust and confidence with SLPRC patients to whom she provided counseling services.

6. Subsequent to leaving her employment at SLPRC, Shinell gave a speech at SLPRC, on or about March 15, 2006. The audience consisted of SLPRC employees and patients.

7. During Shinell's March 15, 2006 speech at SLPRC, Shinell inadvertently disclosed the identity and other information concerning a client to whom she provided services while employed by SLPRC (collectively "confidential patient information").

8. On or about December 31, 2008, the Committee filed a complaint with the AHC in this matter.

9. Shinell's disclosure of confidential patient information demonstrates a lack of disposition to use her ability to protect that information.

10. Shinell's disclosure of confidential patient information constitutes the violation 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.

11. Shinell's disclosure of confidential patient information constitutes the violation of a professional trust or confidence.

12. Shinell's disclosure of confidential patient information constitutes 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

13. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 337.630.2, RSMo (Cum. Supp. 2008).

14. Shinell's disclosure of confidential patient information, as set forth in the Joint Proposed Findings of Fact, violates § 337.630.2(5), RSMo.

15. Shinell's disclosure of confidential patient information, as set forth in the Joint Proposed Findings of Fact, violates Rule 20 CSR 2263-3.020,² which states in pertinent part: "(2) a licensed social worker, provisional licensed social worker, temporary permit holder and registrant shall not - (A) violate any ethical standard/disciplinary rule;"

16. Shinell's disclosure of confidential patient information, as set forth in the Joint

² This rule originally filed as 4 CSR 263-3.020, effective February 14, 1991, and moved to 20 CSR 2263-3.020 effective August 28, 2006.

Proposed Findings of Fact, violates Rule 20 CSR 2263-3.100,³ which states in pertinent part:
“(3) a licensed social worker, provisional licensed social worker, temporary permit holder and registrant shall keep confidential her therapy relationships with clients including information obtained from this relationship with clients”

17. Shinell’s disclosure of confidential patient information, as set forth in the Joint Proposed Findings of Fact, constitutes a violation of any provision 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.

18. Shinell’s disclosure of confidential patient information, as set forth in the Joint Proposed Findings of Fact, constitutes the violation of a professional trust or confidence, in violation of § 337.630.2(13), RSMo.

19. Shinell’s disclosure of confidential patient information, as set forth in the Joint Proposed Findings of Fact, constitutes 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.

20. Cause exists for the Committee to discipline Shinell’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

³ This rule originally filed as 4 CSR 263-3.100, effective February 14, 1991, and moved to 20 CSR 2263-3.100, effective August 28, 2006.

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. Shinell's license as a licensed clinical social worker, license number 001803, is immediately placed on PROBATION for a period of one (1) year ("the Disciplinary

Period"). During Shinell's probation, Shinell shall be entitled to engage in the practice of clinical social work under Chapter 337, RSMo, provided she adheres to all of the terms of this Joint Stipulation.

I. GENERAL REQUIREMENTS

- A. Shinell 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. Shinell shall keep the Committee apprised of her current home and work addresses and telephone numbers. Shinell shall inform the Committee within ten (10) days of any change of home or work address and home or work telephone number.
- C. Shinell 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, Shinell shall timely renew her license and timely pay all fees required for licensing and comply with all other Committee requirements necessary to maintain Shinell's license in a current and active state.
- E. During the Disciplinary Period, Shinell shall accept and comply with unannounced visits from the Committee's representatives to monitor her compliance with the terms and conditions of this Joint Stipulation.

- F. If Shinell 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. Shinell shall notify, within fifteen (15) days of the effective date of this Joint Stipulation, all facilities (if any) where Shinell practices of Shinell's disciplinary status. Notification shall be in writing and Shinell 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 Shinell not specifically mentioned in this document.

II. REQUIREMENTS REGARDING CONTINUING EDUCATION

1. Shinell shall obtain at least six (6) hours of continuing education with emphasis in the area of ethics related to confidentiality. The continuing education hours required herein are in addition to the continuing education hours required for licensure renewal by the Committee. The courses must be provided by Committee-approved sponsors and must be approved by the Committee prior to Shinell beginning the program. The additional hours of continuing education must be obtained within six (6) months of the effective date of this Joint Stipulation. Shinell shall provide the Committee with proof of attendance from the sponsor of the program no later than thirty (30) days after attending the course. Failure to obtain the required additional continuing education hours 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, Shinell'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 Shinell has violated a term or condition of her 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 AHC, 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. Shinell 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 AHC without further action by either party.

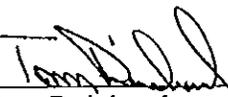
In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Social Workers, and Disciplinary Order and to the termination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

LICENSEE

COMMITTEE



Marva Shinell, LCSW
License Number 001803

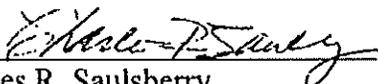


Tom Reichard
Executive Director
State Committee for Social Workers

Date: 2/25/09
Complaint No. 2006-001069

Date: 3-19-09

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