BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

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COPY

STATE COMMITTEE FOR PROFESSIONAL COUNSELORS 3605 Missouri Boulevard P.O. Box 1335 Jefferson City, MO 65102, Petitioner;	)	
v.	)	Case No. 02-1000 PC
PATRICIA GREENBERG 482 Staines Court St. Louis, MO 63141, Respondent.	)	

JOINT STIPULATION OF FACTS, WAIVER OF HEARING BEFORE THE ADMINISTRATIVE HEARING COMMISSION AND STATE COMMITTEE FOR PROFESSIONAL COUNSELORS AND CONSENT ORDER WITH JOINT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-2.450(1)) and pursuant to the terms of Section 536.060, RSMo 2000, as it is made applicable to the Administrative Hearing Commission by Section 621.135, RSMo 2000, the parties waive the right to a hearing of the above-styled case by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the State Committee for Professional Counselors under Section 621.110, RSMo 2000, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the professional counselor license of Respondent for violations

of statutes set forth below.

Respondent acknowledges that she has received and reviewed a copy of the Complaint filed by the State Committee for Professional Counselors in this case and the parties submit to the jurisdiction of the Administrative Hearing Commission.

The Respondent 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 Administrative Hearing Commission prior to the entering of its order; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided the Respondent by operation of law, the Respondent, Patricia Greenberg, knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee for Professional Counselors and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

I

Based upon the foregoing, the Petitioner and the Respondent jointly stipulate to the following, for the purposes of this case, and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. The State Committee for Professional Counselors ("Committee") is an agency of the State of Missouri created and established pursuant to Section 337.535, RSMo 2000, for the purpose of executing and enforcing provisions of §§337.500 to 337.540, RSMo.

2. The Respondent ("Licensee"), is licensed by the Committee as a professional counselor, license number 001484. Licensee's Missouri license was at all times relevant herein current (and is now) current and active.

3. At all times relevant herein, Licensee was an owner of Creative Tutorial Services, LLC ("Tutorial") in St. Louis, Missouri. Tutorial provides counseling for its clients in St. Louis County, Missouri.

4. At all times relevant herein, Medicaid was a "health care benefit program" as defined in 18 USC §24(b).

5. In approximately October 1997, Tutorial reached an agreement with Epworth School ("Epworth") that Licensee would provide social skills training to students at Epworth.

Epworth provides a residential and day school program for children with severe behavioral problems. Tutorial was to provide services to students in the day school and to bill Missouri Medicaid.

6. Respondent, on behalf of Tutorial, billed Medicaid for individual counseling when she had actually provided group counseling. Medicaid pays $29 per child for individual counseling and only $10 per child for group counseling at Epworth.

7. By March 1999, Respondent realized that Medicaid should have been billed for group counseling rather than individual counseling. However, Respondent, on behalf of Tutorial, continued to bill for individual counseling at Epworth while only providing group counseling at Epworth.

8. On or about June 11, 1999, Respondent submitted a claim to Medicaid, on behalf of Tutorial, for one hour of individual counseling to Tracy B on June 3, 1999, when Respondent only provided group counseling at Epworth.

9. On or about June 11, 1999, Respondent submitted a claim to Medicaid, on behalf of Tutorial, for one hour of individual counseling to Richard L on June 1, 1999, when Respondent only provided group counseling at Epworth.

10. On or about June 11, 1999, Respondent submitted a claim to Medicaid, on behalf of Tutorial, for one hour of individual counseling to Christina P on June 2, 1999, when Respondent only provided group counseling at Epworth.

JOINT PROPOSED CONCLUSIONS OF LAW

Cause exists for Petitioner to take disciplinary action against Respondent's license under Section 337.525.2(4) and (5), RSMo 2000, which state:

> 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 337.500 to 337.540 or any person who has failed to renew or has surrendered his license for any one or any combination of the following causes:
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> . . . .
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> (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;
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> (5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a professional counselor;
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> . . . .

II

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 Section 621.110, RSMo 2000. This disciplinary order will be effective immediately upon the issuance of the Consent Order of the Administrative Hearing Commission without further action by either party:

1. Licensee's license No. 001484 is placed on probation for a period of two (2) years. This probation shall be tolled during any period that the Licensee chooses not to

practice professional counseling. The following terms and conditions shall apply to the probationary period:

A. During the probationary period, Licensee's practice as a licensed professional counselor shall be supervised by a licensed professional counselor, licensed psychologist, or psychiatrist approved by the Committee. If Licensee has failed to secure a supervisor within twenty (20) business days from the start of probation the Licensee shall cease practicing until a supervisor is secured. Licensee shall be responsible for any payment associated with the supervision. The Licensee must provide a list of three licensees and the Committee will either select one of these individuals to provide supervision or reject the list.

B. Licensee's supervisor must report every three (3) months on Licensee's compliance with this Agreement. The reports shall address the Licensee's compliance with proper time-keeping policies, proper third party reimbursement, and proper billing practices.

C. Licensee shall meet with her supervisor a minimum of two sessions each month. Each session shall be at least one hour in length.

D. During her meetings with her supervisor, Licensee shall discuss proper time-keeping policies, proper third party reimbursement, and proper billing practices.

E. Licensee shall keep the Committee apprised of her current home and work

addresses and telephone numbers.

F. Licensee shall pay all required fees for licensing to the Committee and shall renew her license prior to October 31 of each licensing year.

G. Licensee shall comply with all provisions of §§337.500 to 337.540, and all applicable federal and state laws, rules and regulations and with all federal and state criminal laws. "State" here includes the State of Missouri and all other states and territories of the United States.

H. Licensee shall make herself available for personal interviews to be conducted by a member of the Committee's staff. Said meetings will be at the Committee's discretion and may occur periodically during the disciplinary period. Licensee will be notified and given sufficient time to arrange these meetings.

I. If, after disciplinary sanctions have been imposed, the licensee ceases to keep her Missouri license current, or fails to keep the Committee advised of her current place of employment and residence, such periods shall not be deemed or taken as any part of the time of discipline so imposed.

J. Licensee shall inform all employer(s), whether present or future, of discipline taken against her license, and shall provide employer(s) a copy of this settlement agreement within five (5) days of the effective date of this settlement agreement or within five (5) days of beginning employment.

K. Licensee shall report to the Committee in writing once every three (3) months, beginning three (3) months after this settlement agreement becomes effective, stating truthfully whether or not she has complied with all terms and conditions of this settlement agreement.

L. Licensee's failure to comply with any condition of discipline set forth herein constitutes a violation of this settlement agreement.

2. Upon the determination of the Committee that the Respondent has failed to comply with the terms of this Joint Stipulation, the Committee may revoke Respondent's license or may take such other or additional disciplinary action against Respondent or Respondent's license as the Committee deems appropriate. No order shall be entered by the Committee for Professional Counselors pursuant to this paragraph of this consent order without notice and an opportunity for hearing before the Committee for Professional Counselors in accordance with the provisions of Chapter 536, RSMo.

3. Upon the expiration and successful completion of the period of probation Respondent's license as a professional counselor in Missouri shall be fully restored if all other requirements of law have been satisfied.

4. If the Committee for Professional Counselors determines that the Respondent has violated a term or condition of this Joint Stipulation, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the Circuit Court, the Committee for Professional Counselors may elect to pursue any lawful remedies

or procedures afforded it and is not bound by this stipulation in its determination of appropriate legal actions concerning that violation.

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

6. Respondent, together with his/her heirs and assigns, and their attorneys, do hereby waive, release, acquit and forever discharge the Missouri State Committee for Professional Counselors and its attorney of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, a claim for attorneys fees whatsoever which Respondent and their attorneys now have or which they may hereafter have, which is based upon or arises out of the above styled case.

RESPONDENT

Patricia Greenberg

PETITIONER

By: 10/15/02
Loree Kessler
Executive Director

JEREMIAH W. (JAY) NIXON
Attorney General

SREENIVASA RAO DANDAMUDI
Assistant Attorney General
Attorneys for Petitioner