

BEFORE THE WEST VIRGINIA BOARD OF SOCIAL WORK EXAMINERS

**WEST VIRGINIA BOARD OF SOCIAL
WORK EXAMINERS,
Complainant,**

v.

**MARGARET GAIS,
Licensed Independent Clinical Social Worker
Licensed Number: DP00940669
Respondent.**

CONSENT AGREEMENT AND ORDER

After due investigation of a written complaint, the West Virginia Board of Social Work Examiners (hereinafter "Board") determined that there was probable cause to believe that Margaret Gais (hereinafter "Respondent") has exhibited unprofessional and unethical conduct in the practice of social work, in violation of the provisions of W. Va. Code § 30-30-1 *et seq.* and the Rules of the Board, 25 C.S.R. § 1 *et seq.* The Respondent was provided with written notice of the allegations against her pursuant to the rules of the Board and the laws of this State.

Now, in lieu of hearing, the parties have reached an agreement for the resolution of this case matter and the parties agree to entry of the following Order in disposition of this matter.

FINDINGS OF FACT

The Board adopts the following findings in this matter:

1. That the Board is a State entity created by W. Va. Code § 30-30-1 *et seq.* and is empowered to regulate the practice of social work.

2. That the Respondent, Margaret Gais, is a licensee of the Board, possessing License No. DP00940669, and is therefore subject to the license requirements of said Board.

3. That the Board is empowered to investigate allegations of unprofessional or unethical conduct and to suspend, restrict, revoke or refuse to issue a license to practice social work under the authority granted to it by W. Va. Code § 30-30-1 *et seq.*

4. That Respondent was, at all times material hereto, employed as an Independent Clinical Social Worker with the Wedgewood Family Practice in Morgantown, West Virginia.

5. That in March of 2007 the Board received a Complaint against the Respondent for improperly releasing confidential information without consent during a custody proceeding, for not having the best interests of the client at mind, and for having a conflict of interest by counseling opposing parties in a custody dispute at the same time.

6. That the Complainants' granddaughter, who was three and half at the time of the complaint, was in their care. The Complainants had taken care of their granddaughter since her birth, and now an action was pending in court to determine custody of their granddaughter.

7. That a formal visitation schedule was ordered during the pendency of these court proceedings, and in order to smooth a transition, the Complainants had sought counsel from the Respondent upon the recommendation of a friend and the fact that the Respondent was on a list of court-approved counselors.

8. That upon the first session on November 28, 2005, the Complainants explained that their goal was to provide for a smooth transition of their granddaughter to their daughter who had over the course of three and half years little contact with her, but believing would be awarded custody of her.

9. That the Respondent continued with these counseling sessions for a total of nine sessions with the Complainants through May 11, 2006.

MADISON Attended 41
Sessions : 12/12/05; 2/9/06;
5/22/06; 8/9/06

10. That during these nine sessions the granddaughter only attended two of the sessions. One such session occurred on December 12, 2005; however, the Respondent's notes do not indicate any counseling of the granddaughter herself. The other session with the granddaughter was on February 9, 2006, and the Respondent's notes indicate that she spent a total of twenty minutes with the granddaughter.

11. That the Complainants' health insurance was billed for all nine of these counseling sessions.

12. That the intake notes for the session on November 28, 2005, are entitled "Outpatient Intake Evaluation Outline," and identified the patient name as "Cindy & Stan" who are the Complainants.

13. That eventually the Respondent began to counsel the granddaughter's mother at the same time as counseling the Complainants. The granddaughter and granddaughter's mother began counseling sessions on May 3, 2006.

14. That the intake notes from this initial session for the granddaughter and granddaughter's mother are entitled "Outpatient Intake Evaluation Child/Adolescent Outline," and identified the granddaughter as the patient.

15. That the granddaughter's mother's health insurance was billed for these counseling sessions which continued through August 3, 2006.

16. That confidential information gained from the Complainants' counseling sessions was being shared with the daughter's counsel without the Complainants' consent as shown by written correspondence dated May 24, 2006, and August 7, 2006.

17. That the Respondent testified against the Complainants' interests at the final hearing on the custody matter on August 9, 2006, and released confidential information obtained from previous counseling session without any consent from the Complainants.

18. That the Respondent testified that she had no responsibility towards the Complainants to speak with them prior to her testimony.

19. That there is no documentation nor evidence to reveal that the Complainants were counseled about the potential conflict between counseling the Complainants and the Complainants' daughter who they were in custody dispute with at the time.

20. That there is no documentation nor evidence that there was ever any type of release executed by the Respondent in order to release the Complainants' confidential information obtained during counseling sessions.

21. That the Complainants were the clients of the Respondent and not the minor granddaughter as evidenced by the Respondent's intake session notes, health insurance billing and as well as a letter dated December 13, 2005, written to the Complainants' counsel in the custody proceeding from the Respondent which states in the first sentence that "I am writing this letter at the request of my clients Cindy and Stan Prudnick."

22. That there is no evidence nor documentation to show that the Respondent was under any type of court order to provide service to the granddaughter.

23. That the Board conducted an investigation, during which time the Complainants, the Respondent and other relevant parties were interviewed and various documents relevant to the complaint were obtained and reviewed.

24. That the Board's assigned complaint investigator did review all the information obtained during the investigation and based upon that review, did make a recommendation to the Board for a finding of probable cause.

25. That the Respondent's actions constitute a violation of the current Code of Ethics adopted by the Board, the Board's governing practice act, and that this violation of the Code of Ethics may be grounds for disciplinary action by the Board pursuant to W. Va. Code § 30-30-7 and 25 C.S.R. § 1-4.2.

26. That the Board at its April 1, 2008, Board meeting made a finding of probable cause for a violation of the National Association of Social Workers Code of Ethics at 1.01, 1.06(a) and (d), and 1.07(b), (c), and (d).

CONCLUSIONS OF LAW

1. That the Board has jurisdiction to take disciplinary action against Respondent.
2. That based upon the allegations of unprofessional or unethical conduct set out above in the *Findings of Fact* section, the Board is authorized to suspend, revoke or otherwise restrict the license of the Respondent to practice social work, pursuant to W. Va. Code § 30-30-7.
3. That the Board has adopted the National Association of Social Workers Code of Ethics as its Code of Ethics pursuant to 25 C.S.R. § 1-4.1 and has defined professional negligence to include a licensed social worker's failure to comply with the Code of Ethics. Violations of this Code may be grounds for disciplinary action by the Board pursuant to 25 C.S.R. § 1-4.2.

CONSENT OF LICENSEE

I, Margaret Gais, by affixing my signature hereto, acknowledge the following:

1. That I have had the opportunity to consult with counsel and execute this Consent Agreement voluntarily, freely, without compulsion or duress and mindful that it has legal consequences.
2. That no person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth herein.
3. That I acknowledge that I am aware that I may pursue this matter through appropriate administrative and/or court proceedings, and I am aware of my legal rights regarding this matter, but intelligently, knowingly and voluntarily waive such rights.
4. That I waive any defenses including, but not limited to, laches, statute of limitations, and estoppel, that I may have otherwise claimed as a condition of this agreement.
5. That I admit that my actions were unprofessional and unethical and a violation of the statute and rules of the Board.

The Respondent, Margaret Gais, by affixing her signature hereon, agrees to the following:

ORDER

On the basis of the foregoing, the Board does hereby ORDER and DECREE that:

1. Respondent's license is hereby suspended for a period of one (1) month effective May 16, 2009.
2. Respondent shall complete ten (10) contact hours of West Virginia Board of Social Work Examiners approved continuing education in the area of commitment to clients and conflicts of interest within one year of license reinstatement. These ten (10) contact hours are in addition to

the standard requirement of fifty (50) contact hours that a licensee must complete for license renewal, and shall not be obtained via any online courses.

3. Respondent shall implement the use of release and consent forms within her practice of social work when counseling multiple members of a family in order to achieve full disclosure. When counseling clients regarding these release and consent forms and/or potential areas for conflict of interest, the Respondent shall document these discussions by written notation with date and signatures along with the any appropriate executed release and/or consent forms.

4. Respondent shall reimburse the Board for seven hundred and fifty dollars towards the administrative and legal expenses incurred by the Board in the investigation and disposition of this case matter, and to be paid upon execution of this *Consent Agreement and Order*.

5. Respondent shall notify the Board of practice intentions at the end of the suspension period.

6. The Board is bound by agreement and by law to report the results of all disciplinary actions, including the instant matter, for posting in the Health Integrity Practitioners Data Bank through the Association of Social Work Boards.

7. That this document is a public record as defined in W. Va. Code § 29B-1-2(4).

8. This *Consent Agreement and Order* constitutes the entire agreement between the parties.

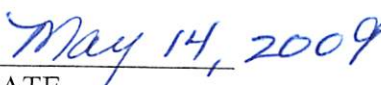
WEST VIRGINIA BOARD OF
SOCIAL WORK EXAMINERS

By:



Rita Brown, Chairperson

Entered:



DATE

Dr. B. B. B.

11 2009

Agreed to by:

Margaret Gais LICSW
Margaret Gais, Respondent

5-8-09
DATE

Sworn and subscribed before me this 8th day of May, 2009.
My Commission expires: March 27, 2012

Stephanie E. Siler
Notary Public

Natalie J. Sal
Natalie J. Sal
Counsel for Respondent

