

BEFORE THE WEST VIRGINIA BOARD OF SOCIAL WORK EXAMINERS

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

Complainant,

v.

**AMY FINTRILIS ELKINS,
Licensed Graduate Social Worker
Licensed Number: BP00941422**

Respondent.

CONSENT AGREEMENT AND ORDER

After due investigation of written complaints, the West Virginia Board of Social Work Examiners (hereinafter "Board") determined that there was probable cause to believe that Amy Fintrilis Elkins (hereinafter referenced as the "Respondent") had exhibited unprofessional and unethical conduct in the practice of social work, in violation of the provisions of *West Virginia Code* §§ 30-30-1 *et seq.* and the Rules of the Board, 25 CSR 1, §§ 25-1-1 *et seq.* The Respondent was provided with written notice of the allegations against her and this matter was scheduled for hearing, 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 the issues pending between them and the parties agree to entry of the following Order in disposition of this matter.

FINDINGS OF FACT

The West Virginia Board of Social Work Examiners makes the following findings:

1. The Board is created for the purpose of regulating the social work profession in the State of West Virginia. *W. Va. Code* § 30-30-1.
2. The Respondent, Amy Fintrilis, is a licensee of the Board, having been issued License No. BP00941422, and is therefore subject to the license requirements of said Board. The Respondent was previously licensed under the name of Amy Elkins, but she now goes by Amy Fintrilis as her legal name and this is the name by which she will be referenced in this Order.
3. The Board is empowered to suspend, revoke or otherwise discipline an individual's social work license under the authority granted to it by *W. Va. Code* § 30-30-7 and §30-30-8.
4. The Board has adopted the National Association of Social Workers' Code of Ethics, effective January 1, 1997, as its Code of Ethics and has defined professional misconduct to include a social worker's failure to comply with the Code of Ethics of the National Association of Social Workers. Code of State Rules §§ 25-1-4 and 25-1-10.1.8.
5. In the year 2003, while employed as an addiction therapist for the United Summit Center in Clarksburg, WV, the Respondent, Amy Fintrilis, began work with a client

who was seeking counseling for drug and alcohol dependency. For protection of the confidentiality of the client, this person will be identified herein as "M.S.T."

6. In the course of his counseling and treatment, the client and the Respondent developed a personal relationship, socializing after meetings and at other times outside of the regular client contacts. By July of 2003, this became a physical and sexual relationship. Throughout this period, M.S.T. continued as a client of the Respondent.

7. The Respondent's supervisor became aware of this relationship and advised Amy Fintrilis to terminate the professional and personal relationship with M.S.T. This supervisor then reported the Respondent's conduct to the Board for investigation.

8. In written communications to the Board, the Respondent admitted that she was not able to stop seeing this client when she was originally advised to do so by her supervisor and that she terminated the professional relationship with the client M.S.T. in order to pursue a romantic relationship with him.

9. Sexual contact or a sexual relationship with a current client and the continuation of a sexual relationship after terminating the client relationship constitute violations of sections 1.09(a) and (c) of the Ethical Standards of the *Code of Ethics* of the National Association of Social Workers.

10. The termination of services to a client in order to pursue a social and sexual relationship with him is a violation of section 1.16(d) of the Ethical Standards of the *Code of Ethics* of the National Association of Social Workers.

11. On November 3, 2003, the Respondent appeared in the Circuit Court of Harrison County, West Virginia, in the matter of a criminal proceeding against M.S.T. for an offense involving the operation of a motor vehicle while he was under the influence of alcohol. The Respondent testified under oath on behalf of the Respondent, represented herself as the defendant's counselor, and recommended that the Court be lenient in imposition of sentence upon the defendant for his successful rehabilitation.

12. While testifying under oath, the Respondent did not disclose her personal, romantic relationship with the defendant and stated that she was employed by United Summit Center when, in fact, her employment had been terminated the previous month.

13. Failure to make necessary and clear distinctions between statements made, and actions engaged in, as a private individual and as a representative of the social work profession is a violation of section 4.06(a) of the Ethical Standards of the *Code of Ethics* of the National Association of Social Workers.

14. The Court later learned of the false statements and misrepresentations of the Respondent and recalled the case to impose a much more severe penalty on the defendant, M.S.T. The Respondent was also subsequently charged with the criminal offense of false swearing.

15. Dishonesty and deception to a court of law is a violation of section 4.04 of the Ethical Standards of the *Code of Ethics* of the National Association of Social Workers.

16. Permitting one's private conduct to interfere with the performance of one's professional responsibilities is a violation of section 4.03 of the Ethical Standards of the *Code of Ethics* of the National Association of Social Workers.

CONCLUSIONS OF LAW

1. A violation of the National Association of Social Workers' Code of Ethics constitutes a violation of the current code of ethics adopted by the Board and, pursuant to West Virginia Code §30-30-7(a)(6), such violation grounds for the suspension, revocation, or denial of a license.

2. By entering into a sexual relationship with client, terminating services to a client in order to pursue a sexual relationship with the client, failing to make clear distinctions between statements made as a private individual and as a representative of the social work profession, and by participating in dishonesty toward a court of law, Amy Fintrilis has breached the National Association of Social Workers' Code of Ethics

3. The acts of the Respondent, described above, constitute acts of unprofessional and unethical conduct as defined by the Rules promulgated by the Board and the Respondent is guilty of unprofessional and unethical conduct in the practice of social work. These acts are grounds for the suspension or revocation of the Respondent's license under *W. Va. Code* §§ 30-30-7(a)(3) and (6).

CONSENT OF LICENSEE

I, Amy Fintrilis, have read this document and, by signing my name to it, I acknowledge the following:

1. I have retained legal counsel and have considered the advice of my counsel before signing this document.

2. I have received proper and sufficient notice of the charges against me in this proceeding.

3. I am fully aware that, before any disciplinary action can be taken against my license, I have a right to a formal hearing and, that if I assert my right to a hearing, I would have the following rights and protections:

- a. The Board would have the burden to prove the allegations stated in the Complaint by a preponderance of evidence;
- b. I would have the right to be represented by my own counsel throughout the proceeding;
- c. I would have the right to cross-examine any witnesses who may testify against me;
- d. Though I am not obligated to present evidence or prove any facts, I would have the right to present evidence in my defense. I would be able to compel the production of documents and to subpoena witnesses. I could also testify in my own behalf, if I so chose; and
- e. If, after a hearing, the Board would rule against me, I would have the right to have this decision reviewed by a Circuit Court.

4. I am aware that, by waiving my right to a hearing and consenting to the entry of this order, I am giving up all of the rights listed above.

5. I voluntarily waive my right to a hearing on the allegations contained in the Complaint against me.

6. I admit that I have exhibited unprofessional and unethical conduct in the practice of social work and I have violated the Rules of the Board.

7. I consent to the entry of this order and I agree to the terms set out below.

TERMS OF ORDER

1. The West Virginia Board of Social Work Examiners hereby SUSPENDS the license, previously granted to Amy Fintrilis, to practice social work in the State of West Virginia. Amy Fintrilis is hereby ORDERED to surrender her license certificate to the Board forthwith. The Board will not reinstate this license or grant a new license to Amy Fintrilis for a period of three (3) years from the date that her license certificate is received at the Board's office.

2. At the conclusion of the period mentioned above, Amy Fintrilis may be considered for reinstatement of her license and return to the practice of social work if, in addition to the regular requirements for the issuance of a license, she satisfies the following conditions:

a. During her period of suspension she will participate in a program of personal counseling and therapy, at her own expense, with a licensed counselor, psychologist or psychiatrist. The duration of this program and the frequency of the appointments or sessions would be determined at the discretion counselor or therapist.

b. If the Respondent participates in such program, the Respondent would identify this counselor or therapist to the Board and she would authorize the submission of regular reports from the counselor or therapist to the Board, describing the status and progress of such counseling or therapy and the Respondent's accomplishments in addressing the

issues that gave rise to the breaches of her ethical and professional responsibilities. These requirements would also apply in equal respect with regard to any new counselor or therapist if the Respondent pursues counseling or therapy with a different licensed professional.

c. The Board may provide the Respondent's counselor or therapist with additional materials relating to the practice of social work that, in the opinion of the Board, may be useful to the therapist in understanding and addressing the problems identified in or arising out of the acts described in the complaints against the Respondent.

d. The Respondent will reimburse the Board in the total amount of \$626.50 for the administrative and legal expenses incurred in the course of investigating and bringing this case to resolution before the Board. The Respondent may make payments of portions of the total amount as she is financially able to do so, provided that she shall, at a minimum, pay off at least one third of the total amount due during each year of the three years of her suspension.

4. The Board hereby acknowledges and confirms that its action herein is a suspension of an existing license. If the Respondent meets all the other terms and qualifications for application as indicated by this Order, she may apply for reinstatement of this license without the need to satisfy the college training or testing requirements established for first-time licensees.

3. Technical compliance with, or mere completion of, the conditions listed above shall not entitle the Respondent to an automatic reinstatement of her license. The grant or denial of a license to the Respondent will be entirely within the discretion of the Board, after

consideration of evidence of the Respondent's character, personal initiative, and correction of the problems that gave rise to the breaches of her ethical and professional duties.

5. If the Board approves reinstatement of the license of Amy Fintrilis, she would be subject to reasonable terms and conditions of probation for a period of up to two (2) additional years. The Board reserves the right and authority to determine the complete terms of such probation at the time of issuance of the license and these terms or conditions may include additional counseling or therapy and additional education or contact hours of training in professional ethics.

So ORDERED this 30th day of November, 2004.

WEST VIRGINIA BOARD OF SOCIAL WORK EXAMINERS

by: Rita M Brown
Chairperson, RITA BROWN

RESPONDENT'S ACKNOWLEDGMENT

I have read the terms of this Consent Order and Agreement, and I consent to the entry of this Order and its terms.

Signed: Amy D. Fintrilis
Date: 11-20-04

COUNSEL'S REVIEW

Reviewed and inspected by:

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