

RECEIVED OCT 02 2001

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS

IN THE MATTER OF:

BRIAN JOSEPH NICHOLAS

CONSENT AGREEMENT

To: Brian Joseph Nicholas
Post Office Box 583
Cowen, West Virginia 26206

Now comes the West Virginia Board of Social Work Examiners (hereinafter "the Board"), and Brian Joseph Nicholas for the purpose of agreeing to disciplinary action which shall be taken against Mr. Nicholas by the Board pursuant to W. Va. Code § 30-30-7(a)(3). As reflected in this document, the parties have reached an agreement concerning the proper disposition of this matter, and the Board approving such agreement, does hereby find and **ORDER** as follows:

FINDINGS OF FACT

1. 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 pursuant to W. Va. Code § 30-30-7.
2. That Brian Nicholas was issued a license as a Social Worker, No. AP00940490, by the Board.
3. That Brian Nicholas, acting in his capacity as a social worker, engaged in unprofessional conduct in that he was convicted of the theft of patient funds in the Circuit Court of Webster County, West Virginia. This information was supplied to the Board in July, 2000 by the Office of Inspector General of the United States Department of Health and Human Services. On July 10, 2000, this Complaint was forwarded to Brian Nicholas who was advised that a detailed response

was due within fifteen (15) business days following receipt of this notice. The Board has never received any response from Mr. Nicholas.

4. That the conviction in the Circuit Court of Webster County constitutes grounds for disciplinary proceedings under W. Va. Code § 30-30-7.

CONCLUSIONS OF LAW

1. W. Va. Code § 30-30-7(a)(3) states that "[t]he board may refuse to issue or renew a license, or may suspend or revoke an existing license. . . . [if a social worker] [h]as been grossly negligent or exhibited unprofessional or unethical conduct in the practice of social work.

2. That the Board has probable cause to believe that there is a violation of W. Va. Code § 30-30-7 in that Mr. Nicholas has engaged in unprofessional and unethical conduct.

CONSENT

That Brian Nicholas, by affixing his signature hereon, agrees to the following:

1. That he acknowledges that he is aware of his option to pursue this matter through appropriate administrative and/or court channels, but intelligently, knowingly and voluntarily waives his right to do so. He further understands that he has the right to consult with legal counsel before deciding whether to sign this Agreement.

2. That he waives a disciplinary hearing on possible charges by accepting and signing this Agreement and consents to the entry of the following Order affecting his license to practice social work in the State of West Virginia. It is agreed that his license will be suspended for nine (9) months effective on the date the Agreement is signed by him. The social worker license must be surrendered contemporaneously with the return to the Board of the signed Agreement.

3. That Mr. Nicholas license will be reinstated as a licensed social worker contingent upon proof that he has satisfied the required fifty (50) hours of continuing education required to be earned since April 13, 1999 and that he will be required to pay a fee to the Board for the full two (2) year license.

4. That, upon reinstatement and issuance of a license, Mr. Nicholas must earn an additional nine (9) hours in continuing education in social work ethics as well as the required fifty (50) hours previously set forth.

5. That Mr. Nicholas pay any administrative or investigative costs for this complaint.

6. That the Consent will become effective upon the signing of this Proposed Consent Agreement which must take place on or before August 30, 2001. That any action will be reported to the National Disciplinary Reporting Systems.

ORDER


On the basis of the foregoing, the Board hereby **ORDERS** that:

1. The license of Mr. Nicholas will be suspended for nine (9) months effective on the date the Agreement is signed. His social worker's license must be surrendered with the signed Agreement.

2. That the license of Mr. Nicholas will be reinstated contingent upon proof that he has satisfied the required fifty (50) hours of continuing education required to be earned since April 13, 1999 and he will be required to pay a fee for a full two (2) year license. Upon reinstatement and issuance of a license, Nicholas must earn an additional nine (9) hours of continuing education in social work ethics in addition ^{to the} fifty (50) hours previously set forth during the twelve (12) month period after reinstatement.

3. That Mr. Nicholas will reimburse the Board for administrative and investigative costs incurred as a result of this Complaint which sum shall be paid within thirty (30) days after a bill is received by him.

4. That the actions set out in this Consent Agreement shall be reported to the National Disciplinary Action Reporting System.


BRIAN NICHOLAS

Oct 1, 01
DATE


RITA M. BROWN, CHAIR

Oct 20, 2001
DATE