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BEFORE THE WEST VIRGINIA BOARD OF SOCIAL WORK EXAMINERS

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

Complainant,

v.

Case No. 0607JB-0808

**JAMES BLACKWELL,
Licensed Social Worker
Licensed Number: AP00939593**

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 James Blackwell (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, W. Va. Code R. § 25-1 *et seq.* The Respondent was provided with written notice of the allegations against him 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, James Blackwell, is a licensee of the Board, possessing License No. AP00939593, 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 a licensed social worker at The Maples, an assisted living facility.
5. That in May 2007, the Board received a written complaint along with documentation alleging that the Respondent had signed the Complainant's name without her knowledge on a Pre-Screening Admission (hereinafter "PAS") form. Moreover, the PAS form was sent to the West Virginia Department of Health and Human Resources (hereinafter "WVDHHR") without the Complainant's knowledge or consent.
6. That upon investigation it was determined that the Complainant's mother was residing at The Maples facility, and that the Complainant had a durable power of attorney regarding her mother's medical treatment.
7. That the Respondent was the Complainant's assigned social worker at The Maples. Complainant stated that the Respondent informed her that he was sending in the PAS form to have her mother evaluated for possible nursing home care as opposed to assisted living care. Complainant

stated that she never gave consent for this PAS form to be sent to WVDHHR for evaluation nor for the Respondent to sign her name on the PAS form.

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

9. That during the Board's investigation, the Respondent stated that he obtained verbal consent from the Complainant to sign her name on the PAS form; however, Respondent stated he did make an error by failing to make a notation on the PAS form itself regarding this verbal consent. *See Respondent's Response.* Moreover, Respondent stated to the Board's investigator that he obtained the verbal consent when he asked the Complainant, "[w]ouldn't you want to know if your mother needed more care?" The Complainant replied, "yes," and the Respondent "took that as consent."

10. 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.

11. That the Respondent's actions constitute a violation of the current Code of Ethics adopted by the Board, and the Board's governing practice act. Further 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 W. Va. Code R. § 25-1-4.2.

12. That the Board made a finding of probable cause for a violation of the National Association of Social Workers Code of Ethics at 1.03.

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 W. Va. Code R. § 25-1-4.1 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 W. Va. Code R. § 25-1-4.2.

CONSENT OF LICENSEE

I, James Blackwell, by affixing my signature hereto, acknowledge the following:

1. That I have had the opportunity to consult with counsel, and have obtained counsel for my representation in this case matter before the Board. That I execute this Consent Agreement voluntarily, freely, without compulsion or duress and mindful that it has legal consequences with the advice of my counsel.
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, James Blackwell, by affixing his 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 two (2) weeks effective upon the entry date of this *Order* hereto.

2. Respondent shall complete twelve (12) contact hours of Board approved continuing education in professional and social work ethics within one year of license reinstatement. These twelve (12) 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 reimburse the Board for all of the administrative and legal expenses incurred by the Board in the investigation and disposition of this case within one year of license reinstatement.

4. 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.

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

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

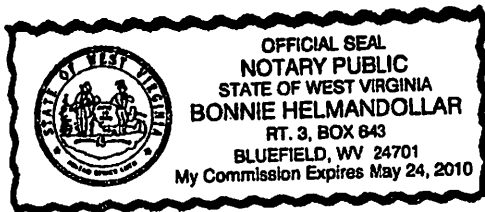
Agreed to by:

James Blackwell
James Blackwell, Respondent

3-6-08
DATE

Sworn and subscribed before me this 6 day of March, 2008.

My Commission expires: May 24 2010



Bonnie Helmandollar
Notary Public

[Signature]

Charles A. Sinsel, Esq.
Counsel for Respondent

3/7/08
DATE

WEST VIRGINIA BOARD OF
SOCIAL WORK EXAMINERS

By:

Rita Brown
Rita Brown, Chairperson

Entered:

03/11/08
DATE