

BEFORE THE SOCIAL WORKER, MARRIAGE
AND FAMILY THERAPIST, AND MENTAL
HEALTH COUNSELOR BOARD OF INDIANA
CAUSE NO. 2008 BHSB 0003

IN THE MATTER OF THE LICENSE OF:)

MARK E. SMITH, C.S.W.)

LICENSE NUMBER: 34001845A)



COMPLAINT

The complaint is brought against the clinical social worker license by the State of Indiana, by counsel, Deputy Attorney General, Heather C. Kennedy, on behalf of the Office of the Attorney General ("Petitioner"), and pursuant to Indiana Code § 25-1-7-7, Ind. Code §25-1-5-3, Ind. Code § 25-23.6-2-8 and Ind. Code § 25-23.6-2-11, the Administrative Orders and Procedures Act, Ind. Code § 4-21.5-3 et seq. and Ind. Code § 25-1-9-1 et. seq. and in support alleges and states:

FACTS

1. Respondent's address on file with the Board is 13638 Elgin Drive, Carmel, IN 46032, and he is a duly licensed Clinical Social Worker in the State of Indiana having been issued license number 34001845A.

2. At all time pertinent to this Complaint, Respondent practiced as a clinical social worker at Family Tree Counseling ("Family Tree") in Carmel, Indiana. At the time of the

Exhibit "A"

consumer complaint, Respondent was the President and sole owner of Family Tree and has held that position each year since.

3. While acting as President of Family Tree, Respondent submitted all claims to Magellan Health Services ("Magellan") in his name, while services were actually rendered by other Family Tree employees.

4. On or about May 4, 2004, Respondent was notified by his insurance carrier, Magellan, that all contracts and/or agreements with them were terminated due to: quality of care concerns related to allowing an unlicensed therapist in Respondent's practice to treat a member referred by Magellan, failure to adequately supervise the unlicensed provider, and submission of claims to Magellan under Respondent's name for that treatment, when in fact Respondent's subordinate rendered the services.

5. On or about July 7, 2004, Magellan filed an Adverse Action Report against the Respondent, in order to be maintained within The Healthcare Integrity and Protection Data Bank.

COUNT I

Respondent's conduct described above constitutes a violation of Indiana Code § 25-1-9-4(a)(1)(B) in that the Respondent engaged in material deception in the course of professional services or activities, as evidenced by Respondent submission of claims to Magellan for services he did not render, thus failing to maintain billing practices consistent with the manner in which services were provided, to wit: 839 IAC 1-3-4(b) The competent practice of social work and clinical social work includes, acting within generally accepted ethical principles and guidelines of the profession and maintaining an awareness of personal and professional limitations. These ethical principles include, but are not limited to: NASW Ethics Code 3.05: Social workers should

establish and maintain billing practices that accurately reflect the nature and extent of services provided and that identify who provided the service in the practice setting.

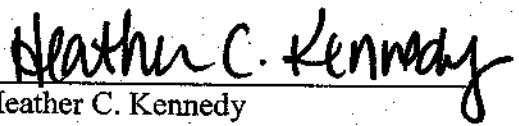
WHEREFORE, Petitioner demands an order against Respondent that:

1. Impose(s) the appropriate disciplinary sanction;
2. Directs Respondent to immediately pay all costs incurred in the prosecution of this case;
3. Provides any other relief the Board deems just and proper.

Respectfully submitted,

STEVE CARTER
Attorney General of Indiana

By:


Heather C. Kennedy
Deputy Attorney General
Attorney No.: 26317-49A

CERTIFICATE OF SERVICE

I certify that a copy of the "Complaint" has been duly served upon the Respondent listed below, by United States mail, first-class, postage prepaid, on this 2nd day of April, 2008.

Schultz & Pogue, LLP
Attn: Peter Pogue
11611 N. Meridian Street, Suite 706
Carmel, IN 46032

Mark E. Smith
13638 Elgin Drive
Carmel, IN 46032

Heather C. Kennedy
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