BEFORE THE IDAHO STATE LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE & FAMILY THERAPISTS

ORIGINAL

In the Matter of the License of:	)	
	)	
SUSAN M. HOLASEK,	)	Case No. COU-S3-01-00-001
License No. LCPC-205,	)	
	)	**STIPULATED REPRIMAND**
Respondent.	)	**AND FINAL ORDER**
	)	

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WHEREAS, information having been received by the Idaho State Board of Professional Counselors and Marriage & Family Therapists (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Susan M. Holasek (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of counseling in the State of Idaho in accordance with title 54, chapter 34, Idaho Code.

2. Respondent Susan M. Holasek, is a licensee of the Idaho State Board of Counselors and holds License No. LCPC-205 to practice counseling in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 34, Idaho Code.

3. At all times relevant herein, Respondent was a member of Northwest Behavioral Healthcare, LLC (the "group") which provided mental health services to a large percentage of Medicaid clients. The group included Respondent, a psychologist, an MD, another licensed counselor, and a service extender. The group billed under the psychologist's Medicaid provider number, and Respondent was responsible for the

training of the group and received information from Medicaid regarding new rules, codes, and other information.

4. In or about December 1999, an audit of the group was conducted by the State of Idaho Medicaid Fraud Unit because Medicaid noted a high average Medicaid payment per Medicaid client for the group. The results of that audit for all of the providers of the group revealed:

- Out of the 4,649 claims audited, 4,451 were identified as receiving overpayments due to documentation issues as required by Medicaid guidelines;
- A majority of the client files audited lacked current treatment plans;
- Issues such as no record or documentation that the appointment occurred were identified;
- Providers billed for more units of time than was delivered to the client;
- Progress notes were not signed by the therapist, and notes indicated a pharmacological management appointment occurred and Medicaid was billed for individual therapy; and
- In some cases, Medicaid was billed for multiple family members well over the total amount of time actually spent in the appointment session.

5. In all, the amount overpaid by Medicaid to the group totaled $198,575. The interviews conducted by the Medicaid investigator revealed that everyone, including the bookkeeper, had a misunderstanding of the Medicaid billing system (for example, using "psychologist hours" instead of Medicaid "units") and readily admitted that the documentation in the files was not what it should have been. On July 25, 2000, Medicaid conducted a follow-up review to see if previous documentation problems had been corrected. The Medicaid investigator found significant improvement in the files. The U.S. Attorney declined to prosecute the group criminally for Medicaid fraud and a settlement agreement was reached with Respondent and some other group members on May 7, 2003. In addition, since the December 1999 audit, the group has created a

Compliance Committee to ensure compliance with Medicaid regulations. The group has conducted three major internal audits of charts to ensure compliance since the audit, and each member of the group has a "compliance partner" whose duty it is to regularly audit the charts of the assigned partner and bring the results of those limited audits to Compliance Committee meetings.

6. Respondent's actions concerning Medicaid billings before the audit, if proven, would constitute a violation of the laws and rules governing the practice of counseling, specifically Idaho Code § 54-3407(5), IDAPA 24.15.01.350, and American Counseling Association Code of Ethics Sections B.4.a, C.5.c, and C.5.e. Violations of these laws and rules would further constitute grounds for disciplinary action against Respondent's license to practice counseling in the State of Idaho.

7. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against her license as set forth in Section C below.

B.

I, Susan M. Holasek, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice counseling in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of counseling in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this Stipulated Reprimand and Final Order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent is hereby formally reprimanded by the Board.

2. Respondent shall pay to the Board an administrative fine in the amount of Five Hundred and No/100 Dollars ($500.00) within sixty (60) days of the entry of the Board's Order.

3. Respondent shall reimburse the Board for its investigative costs of $372.00 and attorney fees of $150.00 within thirty (30) days of the entry of the Board's Order.

4. Respondent agrees to abide by the following conditions on her License No. LCPC-205 for a period of two (2) years commencing March 26, 2002.

a. The Board or its designated agent reserves the right to conduct unannounced audits of Respondent's client files. The audits may be in addition to any audits conducted by Medicaid.

b. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of counseling in the State of Idaho.

c. Respondent shall comply with all requirements imposed by Medicaid for participation in the Medicaid program, including those in the corporate integrity agreement entered into between Medicaid, the U.S. Attorney's Office, and Respondent as a resolution of the claims against her.

d. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

e. In the event Respondent should leave Idaho for three (3) continuous months, or to reside or practice outside of the state, Respondent must provide written notification to the Board of the dates of departure, address of intended residence or place

of business, and indicate whether Respondent intends to return. Periods of time spent outside Idaho will not apply to the reduction of this period or excuse compliance with the terms of this Stipulation.

f. Respondent shall fully cooperate with the Board and its agents, and submit any documents or other information within a reasonable time after a request is made for such documents or information.

g. Respondent shall make all files, records, correspondence or other documents available immediately upon the demand of any member of the Board's staff or its agents.

5. At the conclusion of the two-year period, Respondent may request from the Board termination of the conditions placed upon License No. LCPC-205. Any request for termination of the conditions must be accompanied by written proof of compliance with the terms of this Stipulation. The Board shall terminate the conditions provided Respondent has complied with all of the provisions of this Stipulation.

6. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

7. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right

Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Stipulated Reprimand and Final Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulated Reprimand and Final Order shall be considered a violation of Idaho Code § 54-2309. If Respondent violates or fails to comply with this Stipulated Reprimand and Final Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulated Reprimand and Final Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. The Board shall have the right to make full disclosure of this Stipulated Reprimand and Final Order and the underlying facts relating hereto to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, Idaho Code §§ 9-337-50.

8. This Stipulated Reprimand and Final Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 14 day of June, 2004.

Susan Holasek

Susan M. Holasek
Respondent

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I concur in this Stipulated Reprimand and Final Order.

DATED this 14th day of June, 2004.

DODSON & RAEON

By _____
Charles M. Dodson
Of Attorneys for Respondent

I concur in this Stipulated Reprimand and Final Order.

DATED this 22nd day of June, 2004.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By _____
Stephanie N. Guyon
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-3404, the foregoing is adopted as the decision of the Board of Counselors in this matter and shall be effective on the 30TH day of July, 2004. **IT IS SO ORDERED.**

IDAHO STATE BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE & FAMILY THERAPISTS

By _____
Eric F. Jones, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August, 2004, I caused to be served a true and correct copy of the foregoing by the following method to:

Susan M. Holasek 1620 Northwest Boulevard, Suite C-201 Coeur d'Alene, ID 83814	☒ U.S. Mail ☐ Hand Delivery ☒ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: _____ ☐ Statehouse Mail
Charles M. Dodson DODSON & RAEON 1424 Sherman Avenue, Suite 300 Coeur d'Alene, ID 83814	☒ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: _____ ☐ Statehouse Mail
Stephanie N. Guyon Deputy Attorney General P.O. Box 83720 Boise, ID 83720-0010	☐ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: _____ ☒ Statehouse Mail

Rayola Jacobsen

Rayola Jacobsen, Chief
Bureau of Occupational Licenses