

LOUISIANA STATE BOARD OF SOCIAL WORK EXAMINERS
DECISION IN THE MATTER OF
DIANE SWAYZER SMITH, LICENSE NO. 6675
FINDINGS OF FACT, CONCLUSIONS OF LAW AND SANCTIONS

This matter came before the Louisiana State Board of Social Work Examiners (“Board”) on May 4, 2012 for a hearing due to Diane Swayzer Smith’s non-compliance with the Consent Agreement and Order she entered into with the Board on December 16, 2011. The Consent Agreement and Order contained Diane Swayzer Smith’s signed acknowledgment that failure to comply with the terms of the Agreement may result in a suspension or revocation of her license and that the admissions contained in such Agreement would be considered proven and that the only issue would be the failure to comply with the terms of the Agreement. Emalie Boyce, Assistant Attorney General, prosecuted the case on behalf of the state. George Papale, legal counsel for the Board served as the Hearing Officer. Board members, John McBride, LCSW, Michael Hickerson, RSW, Lisa Lipsey, LCSW, Judith Haspel, LCSW, and Carla Moore, LMSW, served on the hearing panel.

NOTICE OF PENDING ACTION

The Administrative Record shows that Respondent was served by certified and regular mail with the Notice of Pending Action to which was attached the Agreement entered into in Complaint #2012-42 on February 14, 2012. In addition, the record shows that Respondent was served by certified and regular mail with the Notice of Hearing on March 1, 2012 which notified Respondent of the date, time and place of the hearing on the Complaint allegations.

The notice of pending action charged that Respondent entered into the December 16, 2011 Agreement with the Board in Complaint #2012-42 in which she agreed to be placed on probation until the terms of the Agreement are met. In addition, Ms. Smith agreed to, among others, pay the investigative and legal costs associated with Complaint #2012-42 in the amount of \$324.00 with the first payment due within 30 days all parties sign the Agreement and subsequent payments due quarterly. The notice of pending action alleges that the Respondent failed to make payment of the investigative and legal costs associated with Complaint #2012-42 within 30 days.

THE HEARING

Emalie Boyce, Assistant Attorney General, introduced into evidence, Consent Agreement and Order #2012-42 between Diane Swayzer Smith and the Board. Emily Efferson, Administrator, was called as a witness to testify regarding Ms. Smith's compliance with the requirement to make a payment within 30 days towards the legal and investigative costs of Complaint #2012-42 and to subsequently make quarterly payments. Ms. Efferson testified that Respondent has made no payments. Diane Swazyer Smith had no questions for the witness. Members of the hearing panel had no questions for the witness.

Diane Swayzer Smith testified that she is not in compliance with her Agreement because she retired in June 2011 and her husband has a serious medical condition; therefore, she is under financial constraints. Members of the hearing panel asked Diane Swayzer Smith questions relative to her plans to maintain her registration as a Registered Social Worker to include completing the required continuing education, what other requirements has she completed in terms of her Agreement in Complaint #2012-42, and if she believed that she can pay the legal and investigative costs in the amount of \$324.00 by June 30, 2012. Ms. Smith was non-

committal with her responses to these questions. She stated that she no longer needs a social work credential because she has a Masters in Education and is a certified guidance counselor. She stated that she completed continuing education in ethics, but also stated that her license is on probation therefore negating the need for continuing education. She responded that she may be able to pay the \$324.00 by June 30, 2012.

SUMMARY OF EVIDENCE AND FACTUAL FINDINGS

The state's evidence presented included the testimony of one fact witnesses, Emily Efferson, as well the introduction of documentary evidence. Among the pieces of documentary evidence were the Notice of Pending Action, Notice of Hearing, and the Agreement in Complaint #2012-42. Page 4 of the Board's Agreement in Complaint #2012-42 contains the Respondent's acknowledgment that her admissions contained in the Agreement will be considered proven and the only issue will be her failure to follow the terms of the Agreement. Based on the unrebutted testimony of Ms. Efferson and the Respondent's own admission, the Board makes the factual finding that the Respondent failed to make a payment towards the investigative and legal costs of Complaint #2012-42 within 30 days of the Agreement, and failed to make subsequent payments on a quarterly basis as required by the Agreement.

Based on these factual findings, the Board further finds that the Respondent's admissions contained in the Agreement are proven as established facts. Accordingly, the Board finds that while Ms. Smith was actively engaged in the practice of social work, she submitted paperwork to verify service and time of visit in one particular case that purportedly were signed by the client's mother, but after investigated for accuracy was determined to not be the mother's signature.

CONCLUSIONS OF LAW

Based on the preceding factual findings, the Board makes the following conclusions of law:

1. By submitting paperwork which had to be required by the mother in a particular case, and such signature did not belong to the mother, Ms. Swayzer Smith has submitted deceptive reports regarding services provided to a client, such conduct which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(10), Rule 111(G)(5) and La. R.S. 37:2717(A)(5).

2. By not making payment within 30 days of the Agreement in Complaint #2012-42 and by not making subsequent quarterly payments, Ms. Smith has failed to adhere to the requirements of a Board order, which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(5).

SANCTIONS

The Board takes notice of the range of sanctions contained in the Agreement in Complaint 2012-42 which Diane Swayzer Smith acknowledged could result from her failure to comply with the terms of the Agreement. Considering Ms. Smith's disregard for the terms and conditions of the Agreement, the Board finds no basis to deviate from the suggested sanctions contained in the Agreement. Accordingly, the Board determines that **revocation** of license is the appropriate sanction.

It is **ORDERED** that Diane Swayzer Smith's social work credential is revoked for three (3) years from the date this Order is signed. Ms. Smith may reapply for a social work credential in three (3) from the date this Order is signed, and meet all requirements for the credential in which she is applying in accordance with the Louisiana Social Work Practice Act. In addition to meeting the requirements of the social work credential for which she is applying, Ms. Swayzer Smith shall:

1. Prior to an application being approved, Ms. Smith shall pay the legal and investigative costs of Complaint #2012-42 in the amount of \$324.00.
2. Prior to an application being approved, Ms. Smith shall pay a fine of \$1,000.00.

3. Prior to an application being approved, Ms. Smith shall pay the costs of adjudicating this matter in the amount of \$692.25.
4. Prior to an application being approved, Ms. Smith shall provide documentation of completing three (3) hours of continuing education, pre-approved by the Board, on the subject of social work ethics.
5. After obtaining a social work credential and returning to the practice of social work, Ms. Smith shall complete one (1) hour of supervision of her social work practice every month for a period of twelve months by a LCSW-BACS pre-approved by the Board. Ms. Swayzer Smith shall submit to the Board the name of the potential supervisor and his/her resume within fifteen (15) days of resuming the practice of social work. The potential supervisor shall submit a letter to the Board stating his/her acceptance of the provision of said supervision and a statement that he/she has not previously, nor is currently professionally or personally affiliated with Ms. Swayzer Smith prior to this request for supervision. The supervisor shall submit quarterly supervision reports to the Board documenting dates met for supervision, topics addressed and progress made in supervision. Ms. Swayzer Smith is responsible for all costs associated with supervision.

July 3, 2012

Date



Lisa L. Lipsey, LCSW

Chairperson