



# STATE OF OHIO COUNSELOR AND SOCIAL WORKER BOARD

ADJUDICATION ORDER  
in the Matter of:

Jean Martin  
103 Emerald Way, SW  
Carrollton, OH 44615

IN THE MATTER OF JEAN MARTIN TO PRACTICE AS A LICENSED SOCIAL WORKER IN THE STATE OF OHIO.

THE MATTER OF JEAN MARTIN CAME BEFORE THE FOLLOWING MEMBERS OF THE SOCIAL WORKER PROFESSIONAL STANDARDS COMMITTEE OF THE OHIO COUNSELOR AND SOCIAL WORKER BOARD: ROCKY BLACK, THERESA CLUSE-TOLAR, GWENDOLYN DACONS-TAYLOR, JANE DAROFF, JOSEPH WILLIAMS AND PENNY WYMAN.

## FINDINGS, ORDER, AND JOURNAL ENTRY

This matter came for consideration after a Notice of Opportunity for Hearing was issued to Jean Martin by the Social Worker Professional Standards Committee on September 21, 2001.

Pursuant to R.C. 119.07 licensees are entitled to a hearing before the Board if such a hearing is requested within thirty days of the mailing of the Notice of Opportunity for Hearing. In this case, Jean Martin failed to make a timely request for such a hearing, therefore pursuant to *Goldman v. State Medical Board* (March 29, 1996) Franklin County Court of Appeals, 95 APE 10-1358 a hearing was held on December 6, 2001, in front of Hearing Examiner Ronda Shamansky, Esq. At this hearing the Board by and through their Assistant Attorney General, Barbara Poole, presented evidence in support of the Notice of Opportunity for Hearing. Jean Martin was not present.

## Summary of Evidence

### State's Exhibits

1. Notice of Opportunity for Hearing to Jean Martin, dated September 21, 2001.
2. Letter dated October 26, 2001, from the Board to Ms. Martin scheduling a hearing on December 6, 2001, pursuant to *Goldman v. State Medical Board* (March 29, 1996) Franklin County Court of Appeals, 95 APE 10-1358.

3. Letter dated November 9, 1998, from the Ohio Department of Alcohol and Drug Addiction Services to Jean Martin.
4. Letter dated January 21, 1999, from the Ohio Department of Alcohol and Drug Addiction Services to Jean Martin.
5. Copy of 42 CFR 2.19 - Disposition of records by discontinued programs.
6. Letter dated December 29, 1998, from the Alcohol, Drug Addiction and Mental Health Board of Tuscarawas and Carroll Counties to the Board of Directors of Self-Help, Inc.
7. Cover letter dated August 27, 2001 from the Board to Police Officer Shawn Nelson showing certification seal.
- 7A. New Philadelphia Police Dept. Constitutional Rights Waiver signed by Ms. Martin.
- 7B. Statement of Jean Martin given to the New Philadelphia Police Dept.
- 7C. Statement of Kristine Carlisle given to the New Philadelphia Police Dept.
- 7D. Statement of Tamara L. Brenneman given to the New Philadelphia Police Dept.
- 7E. Statement of Mickey Menges given to the New Philadelphia Police Dept.
- 7F. Statement of Nancy Pallotto given to the New Philadelphia Police Dept.
- 7G. Statement of Greg DiDonato given to the New Philadelphia Police Dept.
8. Letter from Jean Martin to the Board.
9. Copy of a computer printout generated by the Board showing the status of Ms. Martin's license.
10. Graphs compiled by Officer Shawn Nelson.
11. Testimony of William L. Hegarty, Investigative Supervisor, for the Ohio Counselor and Social Worker Board.
12. Testimony of Paula Warren.
13. Testimony of Marty Briem, ADAMHS Board.
14. Testimony of Police Officer Shawn Nelson.

### **Conclusions of Law**

Ohio Revised Code Section 4757.36(A)(1) provides that the Ohio Counselor and Social Worker Board may take disciplinary action against a licensee who has committed a violation of any provision of the laws and rules governing the practice of counseling and social work in the state of Ohio.

## Discussion

As required in the case of *Goldman v. State Medical Board* (March 29, 1996) Franklin County Court of Appeals 95APE10-1358, all cases where a Board issues a Notice for Opportunity for Hearing and the individual does not request a hearing, the Board still must review evidence presented to it and make specific findings of fact. In this case, Ms. Martin did not request a hearing after receipt of the Notice for Opportunity for Hearing.

The Social Worker Professional Standards Committee has reviewed the Hearing Officer Report and Recommendations prepared in this case following the administrative hearing. The Committee adopts in its entirety the Findings of Facts and Conclusions of Law. A copy of the Hearing Officer Report and Recommendations is attached to this Adjudication Order. The Committee also adopts the Hearing Officer's recommendation to **revoke** Ms. Martin's license to practice social work in the State of Ohio. As Ordered by the Social Worker Professional Standards Committee of the Ohio Counselor and Social Worker Board.

Motion carried by order of the Social Worker Professional Standards Committee of the Ohio Counselor and Social Worker Board.

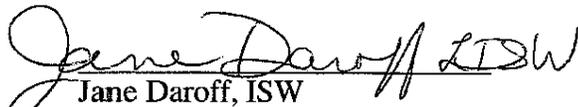
It is hereby certified by this Board that the above language is incorporated into the Board's journal in this matter.

## APPEAL RIGHTS

Pursuant to Section 119.12 of the Ohio Revised Code, you may appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to the court in the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

Such an appeal, setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State of Ohio Counselor and Social Worker Board and the appropriate Court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

By Order of the State of Ohio Counselor and Social Worker Board.

  
Jane Daroff, ISW  
Chair  
January 18, 2002

STATE OF OHIO

COUNSELOR AND SOCIAL WORKER BOARD

IN THE MATTER OF THE  
LICENSURE OF

Jean Martin

AS A SOCIAL WORKER  
IN THE STATE OF OHIO

REPORT AND RECOMMENDATION OF  
HEARING EXAMINER

December 28, 2001

FOR THE LICENSEE:

No appearance

HEARING EXAMINER:

Ronda S. Shamansky  
245 East Gay Street  
Columbus, Ohio 43215-3210  
614/224-9078

FOR THE BOARD:

Barbara Petrella  
Assistant Attorney General  
Health & Human Services Section  
30 E. Broad St., 26th Floor  
Columbus, Ohio 43215  
614/466-8600

**FINDINGS OF FACT:**

1. The hearing on this matter was held on Thursday, December 6, 2001 commencing at 11:00 a.m. in the offices of the Counselor and Social Worker Board, 77 South High Street, Columbus, Ohio. The Board was represented by Barbara Petrella. The licensee, Jean Martin, had not requested a hearing and did not appear. The hearing allowed the opportunity for direct and cross examination of witnesses, the submission of documents, and for arguments to be made.
2. The Board has proposed disciplinary action against Ms. Martin's license to practice social work because it alleges that she engaged in fraudulent billing by instructing her staff to bill for longer periods of time than clients were actually seen, and that she inappropriately destroyed client records. (State's Exhibit 1).
3. According to the documents and testimony, Jean Martin was the Executive Director of Self-Help, Inc., an agency providing intensive outpatient services, case management, and referral to inpatient care for alcohol and chemical dependency clients. Many of Self-Help's clients were court-referred clients who had been ordered to get treatment in lieu of conviction for drug offenses. Services were billed to the Alcohol, Drug Addiction and Mental Health Services Board ("ADAMHS") of Tuscarawas and Carroll Counties, which in turn billed Medicaid, after providing the local matching funds.
4. When Ms. Martin came to Self-Help in approximately June 1992, it was already having financial problems. Martha Briem, the Executive Director of the ADAMHS Board in New Philadelphia, testified that her Board oversees publicly-funded services for drug and alcohol treatment. She testified that Ms. Martin didn't seem to understand how to budget so as to have a financially-stable agency, and that one of Self-Help's employees had told her that they had been instructed to bill 1.5 hours for every hour because the agency needed the extra money. In February 1997, ADAMHS sent Self-Help a "120-day notice" that its funding would be discontinued. Self-Help litigated the matter in the local court, which reversed after finding that ADAMHS had not given a proper 120 day notice. However, the appeals court reversed, and the

funding was discontinued by November 1998. (State's Exhibit 3)

5. After ADAMHS discontinued the funding, Self-Help continued to provide services, billing private insurance companies, until approximately August or September 1998, according to Martha Briem's testimony. In August or September of 1998, the agency went out of business. Ms. Briem testified that her agency, ADAMHS, needed Self-Help's records in case Medicaid wanted records from the ADAMHS Board. She testified that ADAMHS's contract with Self-Help required that agency to follow all state and federal laws pertaining to records retention, and that Medicaid requires the records to be kept at least 6-7 years or until a state or federal audit. Ms. Briem testified that she wanted to get Self-Help's records because most had not been subject to an audit, and also because Self-Help's clients needed them to get continued care and to show the court that they had gotten the treatment that was ordered. Ms. Briem made several calls to Ms. Martin, but the calls were not returned. The ADAMHS Board's attorney also made efforts to contact her, but she did not respond. Ms. Briem contacted Gary Wearsch of the Ohio Department of Alcohol and Drug Addiction Services ("ODADAS") in Columbus and told him that she was afraid that Ms. Martin was going to destroy the agency's records. Mr. Wearsch then sent Ms. Martin a letter dated January 21, 1999, advising her of records retention requirements and asking that she notify the local ADAMHS Board of who will be the records custodian and how to contact that individual. (State's Exhibit 4)
  
6. Ms. Briem testified that she was unable to get any records until she attended the Sheriff's sale of the former Self-Help building on December 29, 1998. At the sale, she found the charts of several hundred clients. She testified that she was concerned about confidentiality because it was a public sale, and it appeared that these charts were about to be sold to a purchaser, along with the other contents of the building. She testified that she spoke with the person conducting the sale for the Sheriff's office, and was permitted to remove the files. Her letter dated December 29, 1998 advised Ms. Martin that she was in possession of the files, and that she could make arrangements to get these files by calling the ADAMHS office. (State's Exhibit 6)

7. Martha Briem testified that sometime after the Sheriff's sale, she received a call from the New Philadelphia police informing her that a large volume of records was found in a disabled cattle-truck and asking if she wanted them. She accepted the records and began trying to inventory the files. She testified that it was difficult because the files had been left outside for a long time, and many were mildewed, bug-eaten, or had bees' nests in them. Some charts were so damaged that they could not be read.
  
8. At the hearing, the State called Officer Shawn Nelson of the New Philadelphia Police Department, who testified that he was the officer involved in the investigation of the cattle truck containing thousands of client files. Officer Nelson testified that the New Philadelphia Police Department had received a complaint that there were client files in a truck parked on rural land near Denison, a town near New Philadelphia. The truck was towed back to the New Philadelphia police department, and the county prosecutor approved turning the files over to the local ADAMHS Board. Officer Nelson testified that the truck was registered to Ray Bland, who told Nelson that he was contacted by Self-Help to remove and destroy the files. He told Officer Nelson that he left them in the truck on his land, and that the files had been there approximately since the time Self-Help stopped doing business. Officer Nelson testified that the investigation of these files expanded into an investigation of Self-Help's billing practices, and he took the statements of Jean Martin and several other Self-Help employees, contained in the record at State's Exhibit 7. He testified that when he spoke with Jean Martin, she admitted to him that she instructed employees to overbill, and that she believed she had to do this to keep the agency solvent when it was in dire financial trouble.
  
9. Martha Briem testified that ADAMHS hired a firm to do an audit of the files found in the truck and that during the course of that audit, she compiled a graph, consisting of approximately sixty pages. (State's Exhibit 10)<sup>1</sup> The graph shows the length of billed sessions over a period of several years. She testified that clients are typically

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<sup>1</sup>Only the original document was admitted as State's Exhibit 10, and copies of that exhibit were not made, due to the fact that the data contained in this exhibit was in the form of pink and yellow dots made with a highlighter pen and would not be visible if copies were made.

seen for one-hour sessions, but that a client might be seen for one and one half hours if the client needed more intense treatment, due to unusual circumstances. The graph at State's Exhibit 10 shows that prior to 1994, nearly all sessions were the standard one hour sessions. From June 1994 until early 1995, however, nearly all of the sessions were billed as one and one half hour sessions. On March 14, 1995, the graph shows a sudden change, where nearly all sessions were one hour sessions again. Ms. Briem testified that these time periods correspond with statements made by Self-Help employees that they were told to bill one and one half hours for sessions that lasted only one hour, but that in 1995, they were told to stop doing this because it was causing suspicion at the ADAMHS office. (State's Exhibit 7)

10. At the hearing, the State called William Hegarty to identify documents concerning the Board's investigation of this case. Mr. Hegarty testified that he spoke with Ms. Martin in August 2001. He testified that Ms. Martin told him that once her agency's funding was discontinued, she had to borrow money to keep the agency in business. Ms. Martin told him that she had called someone who told her that federal law allowed her to burn client records, and she acknowledged burning client records on her property.
  
11. The State also called Paula Warren to testify at the hearing. Ms. Warren testified that she is the Director of Information Services at Community Health Center in Akron, and that she is also a part-time instructor at Stark State College. She testified that she is in charge of medical records in her employment, and that at one time, she worked with Jean Martin at Community Health Center. Ms. Warren testified that in September 1999, her boss referred Jean Martin to her to discuss the records of an agency that Ms. Martin said was no longer in business. Ms. Martin asked what she should do with records that were stored in her home, and Ms. Warren testified that she gave her a copy of the federal law relevant to records retention. (State's Exhibit 5) She testified that she discussed with her the need to keep records for funding/audit reasons, to demonstrate statutes of limitation, and to provide continuity of care for clients. Ms. Warren testified that she understood that these records were the property of the Ohio Department of Alcohol and Drug Addiction Services ("ODADAS") since

the services were paid for by Medicaid. She suggested that Ms. Martin check with her agency's funding source to determine how long the records had to be maintained, and she spoke with Ms. Martin about Medicaid's requirement that records be maintained for accountability reasons even if the agency is disbanded.

12. On her behalf, Jean Martin submitted a letter to the Board which was admitted into evidence as State's Exhibit 8. In her letter, Ms. Martin denies the violations alleged in the Notice of Opportunity for hearing. She explains in her letter that when Self-Help's funding was discontinued by ADAMHS, she had to borrow \$13,000 on her personal credit to keep the agency operating. There was a lawsuit for nonpayment of rent, and the Sheriff's office picked up the file cabinets and records. Ms. Martin writes that she wanted to prevent the records from being "disbursed, copied, and/or falling into the hands of persons who would have damaged these patients." She states in her letter that "Federal law permits me to destroy records if the only way to protect them is destruction. This is the action that I took."
13. In Ms. Martin's statement to the New Philadelphia police on June 29, 1999, she acknowledges that she told her staff in a meeting that they should see clients for longer than an hour and then "round up" to the next half hour by billing for one and one half hours. She indicates that the extra time beyond one hour "could be as little as 5 minutes up to 25 minutes," noting later in the statement that she recognized this was wrong, but that she thought the end justified the means. (State's Exhibit 7)
14. The statements of the Self-Help staff somewhat conflict with Ms. Martin's explanation. Kristine Carlisle says in her statement that 1.5 hours was "the number I was told to bill," and that she questioned the practice because sometimes the counselors were not even with the clients for a full hour. She also states that she recalls billing an hour for sessions that were sometimes 20 minutes or 45 minutes, and that she did this at the instruction of Jean Martin. She notes that a fellow employee, Greg Plitt, commented that Medicaid would discover the overbilling one of these days and that Ms. Martin would be in trouble because of it. (State's Exhibit 7C) Likewise, Tamara Brenneman in-

dicates in her statement that in a 1993 staff meeting, she was told to begin billing anyone seen at a rate of 1.5 units of service. She does not recall whose instruction this was, but she notes that the practice ended around the time Greg Plitt came to the agency. In the statement of Mickey Menges, he states that Jean Martin instructed counselors on two different occasions to bill 1.5 hours for each hour the client was seen, and that sometimes clients were seen for only 15 minutes, and an hour of time was billed. He notes that on one occasion when he was taking the minutes, another employee told Ms. Martin that they could not do this because it was wrong, but Ms. Martin said they should do it anyway. Mr. Menges was instructed not to include that discussion in the minutes. (State's Exhibit 7(E) Likewise, Nancy Pallotto indicates in her statement that sometime around September 1993, Ms. Martin instructed her staff at a meeting to bill for 1.5 hours if a client was seen for one hour. She also recalls that sometime in early 1995, Greg Plitt, the Intensive Outpatient Coordinator, told Ms. Martin that this practice should stop and that it might arouse the suspicion of the ADAMHS Board. (State's Exhibit 7(F). In the statement of Greg DiDonato, he states that he was never told to overbill. (State's Exhibit 7(G) However, his statement indicates that he began working for Self-Help in January 1995, just prior to the time when the other employees recalled being told to stop billing at the 1.5 hour rate for clients seen only one hour.

## DISCUSSION

The overwhelming weight of the evidence persuades me to find that Jean Martin did instruct her staff to falsify the amount of time spent with clients, so as to overbill for professional services. The written statements of several Self-Help employees indicate that Jean Martin told them to do this, and the graph compiled by Martha Briem corroborates the evidence. The graph shows that prior to the time of the notorious staff meeting, nearly all clients were seen for one hour, but that after the meeting, nearly all clients were purportedly seen for 1.5 hour sessions. And, around the time when the employees' statements note that Greg Plitt suggested that this practice should be stopped because ADAMHS Board might get suspicious, the graph shows that sessions immediately reverted back to one hour sessions. I find that this conduct violates Rule 4757-5-01(H)(1), which requires counselors to ensure that fees are fair, reasonable, and commensurate with the services provided.

The evidence also supports a finding that Ms. Martin inappropriately destroyed client records by burning them on her property. She admits destroying records in her statement at State's Exhibit 8, and Mr. Hegarty testified at the hearing that Ms. Martin admitted to him that she burned what she thought were all of the records, on her property. The testimony of the witnesses at the hearing persuades me to find that these records were inappropriately destroyed because most had not yet been subjected to an audit by Medicaid, and/or had not surpassed the 6-7 year old period required for records retention by the agencies funding Self-Help. Several witnesses also testified that this created a great hardship for clients who needed to show treatment records to their employers or to a criminal court, in order to comply with "treatment in lieu of conviction" orders.

There were numerous other instances of inappropriate records handling that came up during the testimony of the witnesses. For example, Ms. Briem in her testimony stated that she found client charts in clear view at a public sheriff's sale. However, the only allegation contained in the State's Notice of Opportunity for Hearing is the inappropriate destruction of records, and not the breach of client confidentiality. Therefore I limit my finding in the records aspect to a finding that Ms. Martin did inappropriately destroy client records, in violation of Rule 4757-5-01(I)(4).

Ohio Revised Code section 4757.36(A)(1) gives the Board authority to suspend, revoke, or otherwise restrict a license if the licensee has committed a violation of any provision of the laws or rules governing counselors and social workers. Based on her violations of the Board's administrative rules, I find that the Board may take whatever action it finds appropriate against her license under this section.

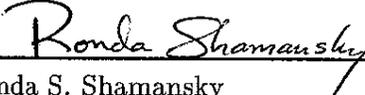
The State is asking revocation, and without any mitigating evidence from Ms. Martin, I am persuaded to find that revocation is the most appropriate sanction. There are numerous statements by witnesses that Ms. Martin was confronted by her own employees who told her that the overbilling was wrong, and that she was instructed that her funding agencies had specific requirements with respect to records retention. Therefore, I am persuaded that she knowingly committed these violations. Since Ms. Martin did not request a hearing, I am presented with the State's evidence, all of which supports the revocation of her license.

**CONCLUSION OF LAW**

I conclude that Jean Martin instructed her employees to engage in fraudulent billing by overstating the amount of time that clients were actually seen, and that she inappropriately destroyed client records, in violation of Rule 4757-5-01(H)(1) and 4757-5-01(I)(4), respectively. Therefore, pursuant to R.C. 4757.36(A)(1), the Board has the authority to take whatever action it deems appropriate against her license.

**RECOMMENDATION**

For the reasons detailed in this report, I recommend that the Board revoke Jean Martin's license to practice social work in the State of Ohio.

  
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Ronda S. Shamansky  
Hearing Examiner