

**THIS IS A PUBLIC DOCUMENT
BUT IS NOT DISCIPLINARY ACTION**

STATE OF MINNESOTA

BOARD OF SOCIAL WORK

In the Matter of
Jean M. Kenney, LICSW
Date of Birth: July 24, 1967
Date of Licensure: 3/27/2001
License Number: 13622

**AGREEMENT FOR
CORRECTIVE ACTION**

1. This Agreement for Corrective Action (“Agreement”) is entered into by and between Jean M. Kenney, LICSW (“Licensee”) and the Minnesota Board of Social Work (“Board”) Compliance Panel (“Panel”) pursuant to the authority of Minnesota Statutes sections 214.103, subdivision 6(a)(2). For purposes of this settlement, Licensee makes no express admissions and Licensee further alleges that many of the allegations are inaccurate and that these allegations do not fully describe Licensee’s work as a study coordinator for the Comparison of Atypicals for First-Episode Psychosis (“CAFÉ”) study. Licensee alleges that the CAFÉ study was supervised by a national sponsor and approved by the University of Minnesota through its institutional review board, and Licensee alleges that she was acting under that supervision and in accordance with the protocols that had been approved. Licensee acknowledges that the Panel views the allegations and conduct described herein to be a violation of the statutes and rules the Board is empowered to enforce, and justifies the corrective action described in paragraph 4 below.

FACTS

2. For purposes of this Agreement, the corrective action warranted herein is based on the following:

a. Beginning in June 2002, Licensee worked as a study coordinator/psychiatric social worker for the Department of Psychiatry at the University of

Minnesota. Licensee's duties included recruiting patients for the CAFÉ study, a double-blind comparison of three medications used in treating first episode psychosis. Licensee was also responsible for collecting data from the study participants.

b. In December 2003, client #1, a 27-year-old adult male, was discharged from Fairview Hospital following an involuntary commitment.

c. Between December 2003 and May 2004, Licensee provided clinical social work services to client #1 while he participated in the CAFÉ study.

d. Although Licensee had no formal medical training or experience with respect to obtaining medical histories or handling adverse drug events, Licensee regularly completed forms, gathered information, and performed tasks that were beyond Licensee's competence and scope of practice as a clinical social worker. Licensee also made numerous documentation errors in the performance of these tasks. Examples include the following:

1) On November 24, 2003, Licensee completed a medical history form that called for the evaluation of body systems for past or active medical disorders. The form listed 22 categories including: otolaryngological (ear, nose, and throat), cardiovascular, gastrointestinal, renal, endocrine, dermatologic, and hematologic disorders. On the medical history form, Licensee incorrectly listed client #1's diagnosis as hyperthyroidism, rather than hypothyroidism. The incorrect diagnosis was subsequently repeated throughout client #1's medical record.

2) On the medication log, Licensee correctly listed client #1's Synthroid dose as 25mcg (micrograms) for client #1's baseline visit. However, beginning with visit three through visit ten, Licensee incorrectly listed the dose as 25mg (milligrams), a significant quantity error. The medication log also contained the incorrect diagnosis of hyperthyroidism.

3) On nine occasions, beginning on December 5, 2003, Licensee completed the Adverse Event/Medical Diagnosis form, which called for a “clinician rating of severity” for orthostatic faintness, dry mouth, constipation, sialorrhea, gynecomastia, galactorrhea, sex drive, sexual arousal, sexual orgasm, incontinence/nocturia, urinary hesitancy, skin rash, hypersomnia, weight gain, akathisia, and akinesia. On two additional occasions, Licensee delegated the task of completing this form to a social work intern, who Licensee was supervising.

4) Between November 24, 2003 and April 28, 2004, Licensee completed forms assessing the Barnes Rating Scale for drug-induced akathisia, as well as weight, vital signs, and waist/hip/height measurements. Licensee also completed the Simpson-Angus Abbreviated Examination of gait, arm dropping, shoulder shaking, elbow rigidity, wrist rigidity, and tremor.

5) Licensee dispensed legend prescription drugs without authorization and in violation of the University’s policy.

e. Licensee routinely initialed clinical documents with a physician’s initials when the physician neglected to do so.

f. Licensee failed to adequately address family concerns in a timely and effective manner, failed to document critical information regarding interventions and plans, and failed to maintain sufficient inter-agency communications.

g. Licensee’s documentation consistently fell below the minimum standards of practice for a clinical social worker. Examples include the following:

1) Despite the large amount of data gathered as part of the CAFÉ study, the records are devoid of any evidence that the data was critically analyzed or used in the treatment planning process.

2) The records are devoid of any clearly articulated, consistent set of treatment goals or plans that demonstrate measurement of progress or reasonably allow for continuity of care.

3) Relevant notes were not entered into client #1's medical record in a timely manner, even when in response to alarming voicemail messages from family members.

4) There were critical omissions in Licensee's documentation that were relevant to suicide prevention and chemical dependency treatment.

h. On March 17, 2004, Licensee received an e-mail message from the CAFÉ study sponsor, warning of a new risk of hyperglycemia and diabetes for patients taking medications used in the CAFÉ study. This new information effectively invalidated client #1's original informed consent.

i. As client #1's primary contact, it was Licensee's obligation to communicate the new risk information to client #1 and the informed consent form should have been modified and resubmitted to the Institutional Review Board ("IRB"). There is no documentation that Licensee discussed the new informed consent with client #1 or took any other action.

j. On May 8, 2004, client #1 committed suicide.

k. On May 11, 2004, on the Serious Adverse Event Report, completed after client #1's death, Licensee again incorrectly listed the diagnosis of hyperthyroidism and incorrectly listed the Synthroid dose.

l. On or about July 24, 2004, Licensee went through client #1's medical records and made handwritten revisions, changing hyperthyroidism to the correct diagnosis of hypothyroidism. Licensee initialed and dated the revisions.

STATUTES

3. The Board views Licensee's conduct in paragraph 2 as a violation of Minnesota Statutes section 148 and the rules of the Board promulgated pursuant to section 148.

CORRECTIVE ACTION

4. Licensee agrees to address the concerns referred to in paragraphs 2 and 3 by taking the following corrective actions:

a. Continuing Education. Licensee shall complete 18 hours of continuing education with respect to:

- 1) Accurate, complete, and current documentation,
- 2) Professional scope of practice for a licensee of the Minnesota Board of Social Work, and
- 3) Ethical issues, including timely communication, encountered in practice with respect to clients and client family members.

The continuing education shall be completed within nine (9) months from the date this Agreement is executed. Licensee shall obtain pre-approval from the Panel of any courses taken in fulfillment of this requirement.

b. Consultation. Licensee shall engage in consultation with a Minnesota licensed independent clinical social worker (LICSW) for a minimum of three (3) hours. The consultant must be approved by the Panel, for purposes of this Agreement, before the consultation begins. In order for the Panel to consider approving a consultant, Licensee shall submit or cause to be submitted the resume or *curriculum vitae* of the proposed consultant and proposed course outline. Licensee is responsible for arranging and paying for the consultation.

Unless otherwise agreed to by the Panel and Licensee, consultation shall start within one (1) month of the date upon which the consultant is approved by the Panel or within three (3)

months of the date upon which this Agreement is executed, whichever occurs first. Consultation shall be completed within seven (7) months of the date the consultant is approved by the Panel. The consultant's report shall be submitted to the Panel within nine (9) months of the date the consultant is approved by the Panel. The consultant's report shall consider the facts set forth in paragraph 2 of this Agreement, a review of the Board's investigative data to be provided by the Panel to the consultant, the continuing education (or portion thereof) that has been completed by Licensee under paragraph 4.a. of this Agreement, and the consultant's consultation with Licensee. Specifically, the consultant's report shall address the following:

- 1) Verification that the consultant has reviewed a copy of this Agreement and any investigative data deemed relevant and sent to the consultant by the Panel;
- 2) An evaluation of Licensee's understanding of the subjects of the instruction prior to beginning the consultation;
- 3) A description of the content and method of instruction provided during the consultation;
- 4) What Licensee learned from the continuing education taken by Licensee under paragraph 4.a. of this Agreement and the consultation completed under this paragraph.
- 5) How Licensee would have addressed the situations set forth in paragraph 2 of this Agreement differently in view of the continuing education taken under paragraph 4.a. of this Agreement and the consultation completed under this paragraph.
- 6) How Licensee is applying and will apply what she has learned from the continuing education taken under paragraph 4.a. of this

Agreement and the consultation under this paragraph to her current and future social work practice.

- 7) Whether the consultant believes that Licensee's understanding of the Board's standards of practice relating to client communication, documentation, and scope of practice meet the standards required by the Minnesota Board of Social Work Practice Act.

c. Licensee's Report to Panel. Licensee shall prepare a report to the Panel regarding what she learned from the continuing education taken under paragraph 4.a. of this Agreement and the consultation taken by Licensee under paragraph 4.b. Licensee's report shall be reviewed in advance by the consultant and shall be submitted to the Panel within nine (9) months of the date upon which this Agreement was executed by the Panel. Licensee's report shall address the following:

- 1) What Licensee learned from the continuing education taken by Licensee under paragraph 4.a. of this Agreement and the consultation completed under paragraph 4.b.
- 2) How Licensee applied what she learned from the continuing education taken under paragraph 4.a. of this Agreement and the consultation taken under paragraph 4.b. to the facts set forth in paragraph 2.
- 3) How Licensee is applying and will apply what she learned from the continuing education taken under paragraph 4.a. of this Agreement and the consultation taken under paragraph 4.b. to her current and future social work practice, whether or not Licensee

practices in a similar setting in which the conduct in paragraph 2 occurred.

d. Waiver for Communication. Licensee consents to and expressly authorizes the Panel to communicate both orally and in writing with the consultant, including providing the consultant with the Board's investigative data. Licensee authorizes the Panel to communicate with the consultant before, during, and after the course of consultation.

COMPLETION AND NONCOMPLIANCE

5. If Licensee satisfactory completes the corrective action referenced to in paragraph 4, the Panel shall close the investigation resulting in the allegations outlined in paragraph 2. Licensee agrees that the Panel is the sole judge of satisfactory completion. Licensee understands and agrees that if, after the investigation is closed, the Panel receives additional reports similar to the allegations in paragraph 2, the Panel may reopen the closed investigation.

6. If Licensee does not complete the corrective action satisfactorily, or if the Panel receives additional reports similar to the allegations described in paragraph 2, the Panel may reopen the investigation and proceed according to Minnesota Statutes chapters 14 (Administrative Procedures Act), 148E (Social Work Practice Act), and 214 (Health Professions Licensing Act). In any subsequent proceeding, the Panel may use the facts agreed to by Licensee in paragraph 2 of this Agreement as proof of Licensee's actions or conduct.

OTHER INFORMATION

7. The Panel advised Licensee that she may choose to be represented by legal counsel in this matter. Licensee is represented by David D. Alsop, Gislason & Hunter, L.L.P. The Panel is represented by Benjamin R. Garbe, Assistant Attorney General.


8. This Agreement is effective when it is executed by a Panel Member on behalf of the Panel and is in effect until the corrective action is satisfactorily completed and the Panel closes the investigation, or takes action under Minnesota Statutes chapters 14, 148E, or 214 as stated in paragraph 6. If the Panel receives additional information that makes corrective action inappropriate, the Panel may proceed according to Minnesota Statutes chapters 14, 148E, and 214 at its discretion.

9. Licensee understands that this Agreement is not disciplinary action, but that it is classified as public data under the Government Data Practices Act and will be accessible to the public online at the Board's website, available to the public upon request, and will be submitted by the Board to the Association of Social Work Board's Public Protection Database and any other entity consistent with Board policy.

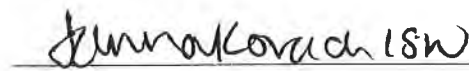
10. Licensee has read and understands this Agreement. She enters into it voluntarily. It contains the entire agreement between the Panel and Licensee. There are no other agreements of any kind that vary the terms of this Agreement.

LICENSEE

COMPLIANCE PANEL MEMBER



Jean M. Kenney, LICSW



Janna Kovach, LSW

Dated: 10/26/12

Dated: 11/8/12