

Before the  
Administrative Hearing Commission  
State of Missouri

MISSOURI STATE COMMITTEE	)	
FOR SOCIALWORKERS,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. 14-1241 SW
	)	
JULIE PARTIN,	)	
	)	
Respondent.	)	

**DECISION**

Julie Partin is subject to discipline by the State Committee for Social Workers (“the Committee”) because she used her professional position to attempt to obtain a controlled substance without a prescription.

**Procedure**

The Committee filed a complaint on July 24, 2014, asserting that Partin’s license is subject to discipline. Partin did not file an answer with this Commission, but on or about August 24, 2014, she sent a letter to the Committee in which she referenced the above case number and admitted to the allegations in the Committee’s complaint. The Committee filed that letter with us on December 9, 2014. We deem it to be Partin’s answer.

On December 9, 2014, the Committee filed a motion for decision on the pleadings or for summary decision. We notified Partin that she could respond to the Committee’s motion by December 22, 2014, but she filed no response.

Because the Committee's motion contains matters outside the pleadings, we consider it a motion for summary decision. Pursuant to 1 CSR 15-3.446(6)(A),<sup>1</sup> we may decide a motion for summary decision if a party establishes facts that entitle that party to a favorable decision and no party genuinely disputes such facts. Those facts may be established by stipulation, pleading of the adverse party, or other evidence admissible under the law. 1 CSR 15-3.446(6)(B).

The Committee's motion is accompanied by Partin's answer, a custodian of records affidavit, and certified records of the Committee. Based on these records and Partin's answer to the Committee's complaint, we find the following facts to be undisputed.

### **Findings of Fact**

1. Partin was licensed by the Committee as a clinical social worker on August 3, 2004. Her license was current and active at all times thereafter until it expired on September 30, 2013.

2. In 2012, Partin was employed as a social services director at HCR Manor Care, a long-term care facility.

3. On March 14, 2012, Partin called three different pharmacies, attempting to call in a prescription for phentermine for a fictitious HCR patient under the prescribing authority of a physician affiliated with HCR. Twice she posed as a nurse under a fictitious name and once she posed as another HCR employee. Partin committed this conduct in an effort to obtain phentermine without a valid prescription.

4. Phentermine is a Schedule IV controlled substance. Section 195.017.8(4)(i).<sup>2</sup>

### **Conclusions of Law**

We have authority to decide a complaint filed by the Committee against any person who holds a social worker's license or one who has failed to renew such a license. Sections 337.630.2

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<sup>1</sup> All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

<sup>2</sup> Statutory references are to RSMo Supp. 2013 unless otherwise noted.

and 621.045. The Committee has the burden of proving that Partin engaged in conduct for which the law allows discipline. *See Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App. E.D. 1989).

The Committee asserts cause for discipline exists under the following provisions of § 337.630.2:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any license required by sections 337.600 to 337.689 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

\* \* \*

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a social worker licensed pursuant to this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.600 to 337.689, or of any lawful rule or regulation adopted pursuant to sections 337.600 to 337.689;

\* \* \*

(13) Violation of any professional trust or confidence;

\* \* \*

(15) Being guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.

With respect to rule violations, the Committee asserts that Partin violated the Committee's ethical rules as set out in Regulations 20 CSR 2263-3.010 through 2263-3.140. Regulation 20 CSR 2263-3.010(1) provides:

The ethical standards/disciplinary rules for licensed social workers, provisional licensed clinical social workers, temporary permit holders and registrants, as set forth hereafter by the committee, are mandatory. The failure of a licensed social worker, provisional licensed social worker, temporary permit holder or registrant to

abide by any ethical standard/disciplinary rule in this chapter shall constitute unethical conduct and be grounds for disciplinary proceedings.

Regulation 20 CSR 2263-3.020, which sets forth the obligations of ethical conduct in the profession, provides in relevant part:

(2) No member of the profession shall—

(A) Violate any ethical standard/disciplinary rule;

\* \* \*

(C) Engage in conduct which is dishonest, deceitful or fraudulent[.]

Finally, 20 CSR 2263-3.060(1), prescribing ethical standards for relationships with colleagues, states:

A member of the profession should act with integrity in his/her relationships with colleagues, other organizations, agencies, institutions, referral sources, and other professions so as to facilitate the contribution of colleagues toward achieving optimum benefit for clients.

Because the rules the Committee alleges that Partin violated are those setting forth ethical standards for social workers, and because the Committee promulgated its rules under the authority of § 337.627, if we find that Partin violated any of those rules, we will find cause to discipline her license under § 337.630.2(6) and (15). We note that there is considerable overlap between § 337.630.2(5) and the rules Partin is alleged to have violated. Accordingly, we discuss those causes for discipline together.

#### Misconduct and Violation of Ethical Rules

The Committee argues that Partin's actions constitute misconduct in the performance of her functions and duties as a social worker. Misconduct is "the willful doing of an act with a wrongful intention[.]" *Missouri Bd. for Arch'ts, Prof'l Eng'rs & Land Surv'rs v. Duncan*, 744 S.W.2d 524, 541 (Mo. App., E.D. 1988). It is apparent, by her use of fictitious identities for

herself and the putative residents for whom she called in false prescriptions, that Partin knew her conduct was wrong and that she was willful in her commission of it. We also find that her conduct was committed “in the performance of the functions or duties of a social worker” because she was the social services director at HCR, and she used her affiliation with and knowledge of the staff of HCR to try to fraudulently obtain the phentermine. There is cause for discipline under § 337.630.2(5).

The Committee also argues, and we agree, that the behavior of Partin in trying to obtain phentermine by use of this scheme was dishonest, deceitful, and fraudulent in violation of 20 CSR 2263-3.020(C).<sup>3</sup> These terms are not defined by statute or regulation. Some of them have been defined by case law; for others, we turn to the dictionary to determine their plain meaning. *See E&B Granite, Inc. v. Dir. of Revenue*, 331 S.W.3d 314, 318 (Mo. banc 2011) (absent a statutory definition, the plain meaning of words used in a statute, as found in the dictionary, is typically relied on); *State ex rel. Evans v. Brown Builders Elec. Co., Inc.*, 254 S.W.3d 31, 35 (Mo. banc 2008) (statutes and regulations are interpreted according to the same rules).

Fraud is an intentional perversion of truth to induce another, or to act in reliance upon it. *Hernandez v. State Bd. of Regis'n for the Healing Arts*, 936 S.W.2d 894, 899 n. 2 (Mo. App. W.D., 1997). It necessarily includes dishonesty, which is a lack of integrity or a disposition to defraud or deceive. WEBSTER'S THIRD INTERNATIONAL DICTIONARY 650 (unabr. 1986). Deceit is a synonym for deception, *id.* at 584, which means an act designed to cheat someone by inducing their reliance on misrepresentation. *State ex rel. Nixon v. Telco Directory Publishing*, 836 S.W.2d 596, 600 (Mo. banc 1993).

Partin attempted to have the pharmacies dispense a controlled substance for which there was no prescription, and her intent was to deceive them into doing so by assuming identities

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<sup>3</sup> Although the Committee does not argue the point, we note that dishonesty and fraud are also causes for discipline under § 337.630.2(5).

consistent with residents for whom an authorized person at HRC might call. We agree that she violated 20 CSR 2263-3.020(C).

Finally, 20 CSR 2263-3.060(1) requires social workers to act with integrity with respect to their colleagues and other individuals and institutions. Integrity is “an uncompromising adherence to a code of moral, artistic or other values : utter sincerity, honesty and candor.” WEBSTER’S at 1174. Partin’s conduct in calling in false prescriptions for phentermine to three pharmacies showed a lack of integrity toward those pharmacies and her colleagues at HCR. Her failure to act with integrity in dealing with the pharmacies she called was not intended for the achievement of optimum benefit for clients of HCR.

We find cause to discipline Partin under § 337.630.2(5), (6) and (15) because she committed misconduct and violated rules adopted pursuant to §§ 337.600 to 337.689 governing the professional ethics of social workers.

#### Violation of Professional Trust or Confidence

The phrase “professional trust or confidence” is not defined in Chapter 337. Nor has the phrase been defined in the case law. Therefore, we again turn to the dictionary, which defines “professional” as:

of, relating to, or characteristic of a profession or calling...[;]...  
engaged in one of the learned professions or in an occupation  
requiring a high level of training and proficiency...[;  
and]...characterized or conforming to the technical or ethical  
standards of a profession or occupation....

WEBSTER’S, *id.* at 1811. “Trust” is:

assured reliance on some person or thing [;] a confident  
dependence on the character, ability, strength, or truth of someone  
or something...[.]

*Id.* at 2456. “Confidence” is a synonym for “trust.” *Id.* at 475 and 2456. Trust “implies an assured attitude toward another which may rest on blended evidence of experience and more

subjective grounds such as knowledge, affection, admiration, respect, or reverence[.]” *Id.* at 2456. Confidence “may indicate a feeling of sureness about another that is based on experience and evidence without strong effect of the subjective[.]” *Id.*

Therefore, we define professional trust or confidence to mean reliance on the special knowledge and skills that professional licensure evidences.

Residents and colleagues at a long-term care facility, as well as other professionals, must be able to trust and have confidence in a licensed social worker who provides services there, particularly one on staff. By pretending to be another staff member of HCR when calling the pharmacies and ordering phentermine under the prescribing authority of a physician affiliated with HCR, Partin violated the professional trust of her colleagues. She also violated the professional trust and confidence of pharmacy personnel who would have relied on HCR staff to communicate legal orders for prescription medications for the facility’s residents. Finally, she violated the trust and confidence of the residents of HCR, who depend on the professionals who work there to act with integrity and for their benefit.

Accordingly, we find cause for discipline under § 337.630.2(13).

#### Partin’s License

Although Partin has admitted the allegations in the Committee’s complaint, she also states in her answer that she “will do whatever the Committee requires of me so that I can fully restore my reputation and license as a professional social worker.”

License discipline is a two-step process. This Commission decides only whether there is cause to discipline a license. After our decision has been issued, we will transmit it along with the record in the case to the Committee. The Committee may then take the action it sees fit against Partin’s license. Under § 337.630.4, those actions may include censure, probation, suspension, or revocation. The Committee may also request additional information from Partin,

or hold a separate hearing with her. Therefore, Partin may wish to contact the Committee's representative to inquire about further proceedings.

**Summary**

Partin is subject to discipline under § 337.630.2(5), (6), (13) and (15). We cancel the hearing.

SO ORDERED on January 12, 2015.

*\s\ Karen A. Winn*

KAREN A. WINN  
Commissioner