

Diane J. Zieger has completed the terms of the consent agreement as of October 31, 2016



Counselor, Social Worker & Marriage and Family Therapist Board

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ADJUDICATION ORDER in the Matter of:

**Diane J. Zieger
3343 Queen City Avenue
Cincinnati, OH 45238**

IN THE MATTER OF THE ELIGIBILITY OF DIANE J. ZIEGER TO MAINTAIN LICENSURE AS A PROFESSIONAL CLINICAL COUNSELOR IN THE STATE OF OHIO.

THE MATTER OF DIANE J. ZIEGER CAME BEFORE THE OHIO COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD'S COUNSELOR PROFESSIONAL STANDARDS COMMITTEE ON MARCH 19, 2015. MEMBERS PRESENT WERE MARY VENRICK, DR. OTHA GILYARD, DR. CHRISTIN JUNGERS AND MAUREEN COOPER.

This matter came for consideration after an Amended Notice of Opportunity for Hearing was issued to Diane J. Zieger by the Ohio Counselor, Social Worker, and Marriage and Family Therapist Board's Counselor Professional Standards Committee on June 11, 2014. An administrative hearing was held on September 5, 2014, at 9:00 a.m. and on January 26, 2015 in the offices of the Ohio Counselor, Social Worker, and Marriage and Family Therapist Board, 50 West Broad Street, Suite 1075, Columbus, Ohio 43215, pursuant to Chapter 119 and Section 4757 of the Ohio Revised Code. The State was represented by Senior Assistant Attorney General Melissa L. Wilburn, Esq. Diane J. Zieger nor her counsel were present at the September 5, 2014, hearing. Diane Zieger was present and represented by counsel, Eric Plinke, Esq. at the January 26, 2015, hearing. Ronda Shamansky, Esq., was the appointed Hearing Officer.

State's Exhibits

- 1. Amended Notice of Opportunity for Hearing dated June 11, 2014.**
- 2. Request for hearing dated February 27, 2014, from Jay Clark, Esq.**
- 3. Scheduling letters dated July 22, 2014, and July 29, 2014, to Jay Clark, Esq.**
- 4. Consent Agreement between the Board and Diane Zieger dated July 22, 2011**

5. Amended Consent Agreement between the Board and Diane Zieger dated September 19, 2013
6. Summary of Phone Conversation with Dr. Kellie Smith
7. Lab report regarding Diane Zieger reviewed January 14, 2014, with attached statement.
8. Lab report regarding Diane Zieger reviewed January 24, 2014
9. Letter dated January 29, 2014, from the Board to Kellie Smith, MD
10. Letter dated February 12, 2014, to the Board from Kellie Smith, MD

Respondent's Exhibits

- A. Curriculum Vitae of Diane J. Zieger
- B. Letters of recommendation pertaining to Diane Zieger (**Sealed**)
- C. Letter dated September 19, 2014, from Jay Clark to the Board
- D. Psychological Treatment Assessment Report regarding Diane Zieger (**Sealed**)
- E. Psychological Treatment Summary Report regarding Diane Zieger (**Sealed**)
- F. Letter dated March 25, 2013, to Ms. Zieger from the Board.
- G. Patient chart of Diane J. Zieger (**Sealed**)
- H. Lab report dated January 21, 2015 regarding Diane Zieger
- I. Prescription information for Diane Zieger (**Sealed**)
- J. Chart of Major Opioid Metabolites
- K. Information regarding Opioid Metabolism from the May Clinic

DISCUSSION

The Committee reviewed the Hearing Officer Amended Report and Recommendation dated February 26, 2015, and the Objections to this report filed with the Board on March

13, 2015, by Ms. Zieger through her legal counsel. The state's and respondent's exhibits were available for the Committee to review.

FINDINGS, ORDER, AND JOURNAL ENTRY

The Committee accepts the Findings of Fact and Conclusions of Law contained in the Hearing Officer's Amended Report and Recommendations. The Committee also accepts the recommendation contained in the Hearing Officer's Amended report and therefore it is ordered that the Amended Consent Agreement dated September 2013, attached as Exhibit A and incorporated as if fully rewritten herein, except that terms and conditions 1 and 2 found at page 2 of 3 of that Amended Consent Agreement shall be substituted to read:

1. Ms. Zieger must have monthly toxicology screens from a Board approved laboratory or provider until August 31, 2016. A failed toxicology screen is any screen that is positive for any substance not currently prescribed by a licensed medical professional and which is not (cannot be) verified by that licensed medical professional. Any failed toxicology screen or missed toxicology screen shall be considered non-compliance with this Order. It is Ms. Zieger's responsibility to ensure the Board receives the toxicology reports directly from the laboratory or provider each month.

2. Ms. Zieger must receive personal counseling from a Board pre-approved mental health practitioner until August 2016 at the rate of two times a month. The practitioner must be independently licensed and must be certified and/or licensed in addictions counseling. All costs associated with this counseling are at Ms. Zieger's expense. Ms. Zieger must submit the name, contact information, and professional resume or curriculum vitae to the Board's compliance officer, Margaret-Ann Adorjan, no later than May 1, 2015 to obtain pre-approval. Once approved, the practitioner shall provide the Board with reports every other month detailing issues discussed in counseling, including but not limited to issues related to Ms. Zieger's denied addiction, whether Ms. Zieger has addiction issues and whether she requires treatment of any kind whatsoever. At the end of the mandated counseling period, the practitioner shall submit to the Board no later than October 31, 2016, a report encompassing the overall counseling period and that addresses the addiction issues identified above. It is Ms. Zieger's responsibility to ensure the Board receives all reports in a timely manner.

This ORDER was approved by unanimous vote of the Counselor Professional Standards Committee who reviewed and voted on this case.

APPEAL RIGHTS

Ohio Revised Code Section 119.12 may authorize an appeal from this Order. Such an appeal must be commenced by the filing of a Notice of Appeal with the Ohio Counselor, Social Worker, and Marriage and Family Therapist Board and in the court of common pleas of the county in which the place of business of the licensee is located or the county

in which the licensee is a resident. If the party appealing from the order is not a resident of and has no place of business in this state, the party may appeal to the court of common pleas of Franklin County. The Notice of Appeal must set forth the order appealed from and state that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with the law. The Notice of Appeal may, but need not, set forth the specific grounds of the party's appeal beyond the statement that the agency's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. Both Notices of Appeal must be filed with the Board and the applicable court within fifteen (15) days after mailing of this notice of the agency's order, and in accordance with the provisions of Ohio Revised Code Chapter 119.12.

By Order of the State of Ohio Counselor, Social Worker, and Marriage and Family Therapist Board.

A handwritten signature in black ink, appearing to be 'B. Carnahan', written in a cursive style.

Brian P. Carnahan, Executive Director

Date:

Certified Mail Receipt # 7005 1160 0001 0337 8121 – Zieger

Certified Mail Receipt # 7005 1160 0001 0337 8138 – Plinke

Amended Consent Agreement between Diane J. Zieger and the State of Ohio Counseling, Social Worker, Marriage and Family Therapist Board

**AMENDED CONSENT AGREEMENT
BETWEEN
DIANE J. ZIEGER
AND THE
STATE OF OHIO COUNSELOR, SOCIAL WORKER, MARRIAGE AND
FAMILY THERAPIST BOARD**

This AMENDED CONSENT AGREEMENT is entered into by and between DIANE J. ZIEGER, hereinafter, "ZIEGER," and the STATE OF OHIO COUNSELOR, SOCIAL WORKER, MARRIAGE AND FAMILY THERAPIST BOARD, hereinafter "BOARD," the state agency charged with enforcing Chapter 4757 of the Ohio Revised Code and all rules promulgated therein.

ZIEGER hereby acknowledges that she has read and understands this AMENDED CONSENT AGREEMENT and has voluntarily entered into it without threat or promise by the BOARD or any of its members, employees or agents.

ZIEGER is fully aware of her rights, including her right to be advised by counsel and her right to a hearing pursuant to Chapter 119 of the Ohio Revised Code on the issues which are the subject of this AMENDED CONSENT AGREEMENT.

This AMENDED CONSENT AGREEMENT contains the entire agreement between the parties, based on the Board's investigation, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this AMENDED CONSENT AGREEMENT.

This AMENDED CONSENT AGREEMENT is entered into on the basis of the following stipulations, admissions and understandings:

1. ZIEGER is a professional clinical counselor (S-0002229) licensed to practice counseling in the State of Ohio, and is subject to the laws and rules of Ohio regulating the practice of counseling as outlined in Ohio Revised Code Chapter 4757 and Ohio Administrative Code Chapter 4717. ZIEGER received her professional clinical counselor license on January 19, 2007.
2. On July 22, 2011, ZIEGER entered into a Consent Agreement with the Board when she was required, among other provisions, to have one year of random toxicology screens. The July 2011 Consent Agreement is attached to this Amended Consent Agreement for reference. The toxicology screens began in November 2012. In July 2013, the lab report showed that ZIEGER failed the toxicology screen.
3. ZIEGER admits the allegation referenced in paragraph 2 above.

Amended Consent Agreement between Diane J. Zieger and the State of Ohio Counselor, Social Worker, Marriage and Family Therapist Board

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any other formal disciplinary proceedings, ZIEGER knowingly and voluntarily agrees with the BOARD to the following terms and conditions:

1. ZIEGER must have monthly toxicology screens for an additional eight (8) months. The requirement would end August 1, 2014, as long as these additional screens begin in December 2013. Any further failures of the toxicology screens would be considered non-compliance and would result in a two year suspension of ZIEGER'S license.
2. ZIEGER must receive personal counseling from a BOARD pre-approved mental health practitioner for a period of one (1) year, at the rate of two (2) times a month. The practitioner must be independently licensed and must be certified and/or licensed in addictions counseling. All costs associated with this counseling are at ZIEGER'S expense. ZIEGER must submit the name, contact information, and professional resume or vitae to the BOARD'S Compliance Officer, Margaret-Ann Adorjan, no later than September 30, 2013, to obtain pre-approval. Once approved, the practitioner will provide the BOARD with reports every other month detailing issues discussed in counseling, including issues related to ZIEGER'S alleged addiction. At the end of the one year mandated counseling period, the practitioner shall provide the BOARD with a report encompassing the overall counseling period. It is ZIEGER'S responsibility to ensure the Board obtains the reports in a timely manner.

It is hereby agreed by and between both parties that this AMENDED CONSENT AGREEMENT hereby settles all issues concerning this matter.

By her signature on this AMENDED CONSENT AGREEMENT, ZIEGER acknowledges that in the event the BOARD, in its discretion, does not approve this AMENDED CONSENT AGREEMENT, this settlement offer is withdrawn and shall be of no evidentiary value and shall not be relied upon or introduced in any disciplinary action or appeal by either party. ZIEGER agrees that should the BOARD reject this Amended CONSENT AGREEMENT and if this case proceeds to hearing, she will assert no claim that the BOARD was prejudiced by its review and discussion of this AMENDED CONSENT AGREEMENT or of any information relating thereto.

ZIEGER hereby releases the members of the BOARD, its officers and employees, jointly and severally, from any and all liability arising from the matter within.

This AMENDED CONSENT AGREEMENT shall be considered a public record as that term is used in Section 149.43 of the Ohio Revised Code. Pursuant to 42 USC Section 132a-73(b), 5 USC Section 552a, 45 CFR part 61, and Ohio Revised Code Section 3123.41 et seq. the BOARD may be required to provide ZIEGER'S social security number to requesting governmental agencies.

Amended Consent Agreement between Diane J. Zager and the State of Ohio Counselor, Social Worker, Marriage and Family Therapist Board

The BOARD shall incorporate this AMENDED CONSENT AGREEMENT into a formal journal entry at its September 2013, meeting.

This AMENDED CONSENT AGREEMENT shall take effect upon the date of the Board Chair's signature below:

Diane J. Zager, MEd, LPCC
Diane J. Zager, LPCC

Mary J. Verdick
Mary J. Verdick, LSW, LPC
Chair, Counselor, Social Worker, Marriage and Family Therapist Board

9.13.13
Date

9-19-13
Date