



Counselor, Social Worker & Marriage and Family Therapist Board

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ADJUDICATION ORDER

In the Matter of:

Gregory J. Cox
811 North D Street
Hamilton, OH 45013

IN THE MATTER OF THE ELIGIBILITY OF GREGORY J. COX TO MAINTAIN
LICENSURE AS A SOCIAL WORKER IN THE STATE OF OHIO.

THE MATTER OF GREGORY J. COX CAME BEFORE THE FOLLOWING
MEMBERS OF THE SOCIAL WORK PROFESSIONAL STANDARDS COMMITTEE
OF THE OHIO COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY
THERAPIST BOARD ON MARCH 16, 2007: JENNIFER RIESBECK-LEE, MOLLY
TUCKER, AND KAREN HUEY.

FINDINGS, ORDER, AND JOURNAL ENTRY

This matter came for consideration after a Notice of Opportunity for Hearing was issued to Gregory J. Cox by the Ohio Counselor, Social Worker, and Marriage and Family Therapist Board on July 22, 2006. An administrative hearing was held on December 20, 2006, beginning at 9:30 a.m. in the offices of the Ohio Counselor, Social Worker, and Marriage and Family Therapist Board, 50 West Broad Street, Columbus, Ohio 43215, pursuant to Chapter 119 and Section 4757 of the Ohio Revised Code. Assistant Attorney General Peter R. Casey, IV, represented the State. Mr. Cox was present and was not represented by counsel. Rhonda Shamansky, Esq. presided as the Hearing Examiner.

State's Exhibits

1. Letter dated April 3, 2006, from the Board to Mr. Cox

2. Letter from Mr. Cox with attachments to the Board that was received on April 13, 2006.
3. Letter dated April 13, 2006, from the Board to Mr. Cox requesting additional information.
4. Notice of Opportunity for Hearing to Mr. Cox, dated July 22, 2006.
5. Letter dated August 15, 2006, from Mr. Cox requesting a hearing.
6. Letter dated August 22, 2006, from the Board to Mr. Cox denying him a hearing.
7. Information letter received by the Board on September 7, 2006, from Mr. Cox.
8. Letter dated September 13, 2006, from the Board to Mr. Cox scheduling an administrative hearing for September 20, 2006, and then continuing that hearing.
9. Letter to Mr. Cox from the Board scheduling an administrative hearing for December 20, 2006.
- 10a. Memo to Andy Hertel from Amy Keller dated February 15, 2006.
- 10b. Memo to Andy Hertel from Amy Keller dated February 20, 2006.
11. Daily Billing Sheet for February 16, 2006, from Community Behavioral Health, Inc.
- 12a-12e. Progress Notes from Horizon Services.

Respondent's Exhibits

Mr. Cox did not present any exhibits

FINDINGS, ORDER AND JOURNAL ENTRY

The Social Worker Professional Standards Committee reviewed the Report and Recommendations of the hearing examiner filed in this case. The Committee accepts in their entirety the Hearing Examiner's Findings of Fact. The Committee finds that Mr. Cox did violate ORC 4757.36(A)(1) and OAC 4757-5-01(I)(1). The Committee modifies the Hearing Officer's recommendation and orders that Mr. Cox's license to practice social work be officially reprimanded. This modification was deemed more appropriate to the nature of the charges and the underlying facts.

This ORDER was approved by unanimous vote of the Members of the Committee who reviewed this case.

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

APPEAL RIGHTS

Under the provisions of Ohio Revised Code Section 119.12, any party adversely affected by an order of an agency issued pursuant to an adjudication denying an applicant admission to an examination, or denying the issuance or renewal of a license or registration of a license, or revoking or suspending a license, may appeal from the order of the agency to 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 any such party is not a resident of and has no place of business in Ohio, the party may appeal to the court of common pleas of Franklin County

This *Order* may be appealed in accordance with Section 119.12 of the Ohio Revised Code by filing the original Notice of Appeal with the Ohio Counselor, Social Worker, and Marriage and Family Therapy Board, 50 West Broad Street, Suite 1075, Columbus, Ohio 43215, and also a copy of that Notice of Appeal with the Court of Common Pleas in the county of the party's place of business, or in the county in which the party is a resident. The Notice of Appeal shall set forth the Order appealed from and the grounds of the Party's appeal. **Appeal filings must be received within fifteen (15) days of the mailing of this Adjudication Order.**

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



James Rough
Executive Director

3-17-07

Date

Certification of Service

I hereby certify that a true copy of the foregoing ADJUDICATION ORDER was sent via U. S. Certified Mail, Return Receipt Requested, Article #7003 0500 0002 4350 6919, to Gregory J. Cox, 811 North D Street, Hamilton, OH 45013 on this 17th day of March 2007.



William L. Hegarty, Deputy Director

Ohio Counselor, Social Worker, and Marriage and Family Therapist Board

STATE OF OHIO
COUNSELOR, SOCIAL WORKER AND
MARRIAGE AND FAMILY THERAPIST BOARD

COMMENTS

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IN THE MATTER OF THE
LICENSURE OF

Gregory J. Cox

REPORT AND RECOMMENDATION OF
HEARING EXAMINER

AS A SOCIAL WORKER
IN THE STATE OF OHIO

January 5, 2007

FOR THE APPLICANT:

Gregory J. Cox, LSW
811 North D Street
Hamilton, OH 45013

HEARING EXAMINER:

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

FOR THE BOARD:

P. R. Casey
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 Wednesday, December 20, 2006 commencing at 9:30 a.m. in a conference room at the offices of the Ohio Counselor, Social Worker, and Marriage and Family Therapist Board, 50 West Broad Street, Columbus, Ohio. The Board was represented by P.R. Casey, Assistant Attorney General. The licensee, Gregory J. Cox, represented himself. The hearing allowed the opportunity for direct and cross examination of witnesses, the submission of documents, and for arguments to be made by both parties.
2. The Board has proposed disciplinary action against Mr. Cox's license to practice social work (LSW) on the basis of R.C. 4757.36(A)(1) which allows the Board to suspend, revoke, or restrict a license if the social worker has committed any violation of the laws or administrative rules governing the profession. Specifically, the Board alleges that on February 16, 2006, Mr. Cox was facilitating a group counseling session that was to end at 8:30 p.m. The Board alleges that Mr. Cox ended the session early, but still billed as though it had continued until 8:30. The Board alleges that Mr. Cox violated Rule 4757-5-01(I)(1) which requires the social worker to "take reasonable steps to ensure that documentation in records is accurate and reflects the services provided." The Board cites R.C. 4757.36(A)(1) as its authority to take action against his license to practice social work because of his alleged violation of that administrative rule. (State's Exhibit 4)
3. The Board notified Mr. Cox of its intention to take action against his license through its Notice of Opportunity for Hearing dated July 22, 2006. (State's Exhibit 4) Mr. Cox requested a hearing through his letter dated August 15, 2006. (State's Exhibit 5) The letter was received on a Saturday, which was a timely request. However, there was no one in the Board's office on that Saturday, and it was not date stamped as having been received by the Board until Tuesday, August 22, 2006. Based on the date-stamp, the Board initially denied Mr. Cox's request for a hearing because it was not made within the thirty day time period allowed for such a request. (State's Exhibit 6) Thereafter, Mr. Cox provided the Board with tracking information from the post office showing that the letter was in fact received on August 19, 2006, making his request timely. (State's Exhibit 7) The Board then

notified Mr. Cox of a scheduled hearing date, a continuance of that date, and of the hearing ultimately scheduled for December 20, 2006. (State's Exhibits 8, 9)

4. At the hearing, the State called witnesses in support of its case. Although there was no request for separation of witnesses, the State brought its witnesses in separately so that the witnesses were not present for each other's testimony. The State's first witness was William Hegarty, who testified that he is the Board's Deputy Director and chief investigator. He testified that he handled the investigation of this case. Mr. Hegarty stated that he contacted Mr. Cox to ask for an explanation after the Board received a complaint from his former employer, Horizon, the drug and alcohol treatment arm of Community Behavioral Health, Inc. The complaint alleged that Mr. Cox was conducting Intensive Outpatient Programming sessions that were scheduled to end at 8:30 p.m., but that on February 16, 2006, he allowed clients to leave between 7:30 and 8:00 p.m., and billed as though the sessions had ended at 8:30 p.m. (State's Exhibit 1)
5. Mr. Hegarty identified State's Exhibit 2 as the letter he received from Mr. Cox in response. In that letter, Mr. Cox does not dispute that he dismissed a small group of clients a half hour early on February 16, 2006. His explanation is that an early dismissal was routine at his agency with groups of that size. He also indicates in the letter that he had once inquired of Horizon's Clinical Director, Andy Hertel, how to bill for a 2 1/2 hour group, and was instructed to bill it as "IOP" (Intensive Outpatient Program). Mr. Cox states in the letter that at the meeting when he was terminated, he explained that Mr. Hertel had told him to bill such sessions as IOP's, but that Mr. Hertel claimed he did not remember that. He indicates in the letter that he was employed by this agency for 6 1/2 years and his evaluations consistently showed that he met or exceeded expectations. Mr. Cox attached those evaluations to his letter to the Board, and they are included within State's Exhibit 2. Finally, Mr. Cox states in his letter that he can provide the names of two other employees who could corroborate his claim that employees were instructed to "round up" on billable services. (State's Exhibit 2)

6. Mr. Hegarty identified State's Exhibit 3 as his letter to Mr. Cox requesting the names of the two employees who could corroborate his claim that he was told to round up his billable services. He testified that Mr. Cox telephoned him and provided him with the names and telephone numbers of those employees, Mary Klein and John Andrews, and that he called and spoke with both of them. Mr. Hegarty testified that he spoke with Mary Andrews on April 28, and that she confirmed that she was allowed to "round up to the half hour." However, she told him that she had not been instructed that she could round to 8:30 if a group session ended at 8:00. He also testified that Ms. Klein told him Mr. Cox was a very good chemical dependency counselor. In response to later questions, Mr. Hegarty clarified that Ms. Klein told him that her understanding was that if a group ended at 8:10 or 8:15, she could round up so as to bill the session until 8:30, but she explained that she was present at the agency writing case notes for those additional minutes after the group ended. He reiterated that Ms. Klein told him she had not been instructed to bill until 8:30 if a group let out at 8:00.
7. Mr. Hegarty also testified that he spoke with the other co-worker, John Andrews, on May 1, 2005. He stated that Mr. Andrews told him that he was permitted to round up 10 minutes, and as an example, if a group ended at 5:50, he was permitted to bill until 6:00. However, Mr. Hegarty testified that Mr. Andrews also stated that he had never been instructed to bill a session until 8:30 if it ended at 8:00.
8. Mr. Hegarty identified State's Exhibit 4 as the State's Notice of Opportunity for Hearing. He identified State's Exhibit 5 as Mr. Cox's request for a hearing, which includes a copy of a letter from the Chemical Dependency Professionals Board dated August 8, 2006. That letter indicates that the Chemical Dependency Professionals Board undertook an investigation into this matter and dismissed it, finding that the corrective action taken by Mr. Cox's employer (termination) was "sufficient punishment" concerning the incident. Mr. Hegarty ended his testimony by identifying the documents scheduling the hearing, and he explained the situation involving the State's initial denial of the hearing based on timeliness. (State's Exhibits 6, 7, 8, and 9)
9. The State's next witness was Gregory Cox, called as on cross-examination.

Mr. Cox testified that he has a bachelor's degree in social work and that he is licensed as a social worker (LSW) and as a certified chemical dependency counselor (CDC). He testified that he is now employed as a primary counselor at Southwestern Ohio Serenity Hall. He indicated that on February 16, 2006 (the date of the allegations against him), he was employed by Horizon, which is the drug and alcohol treatment facility for Community Behavioral Health. Mr. Cox said that he worked in Horizon's intensive outpatient center as a primary counselor, and that his duties included doing assessments, formulating treatment plans, doing individual and group counseling, and completing progress notes. He was employed by Horizon from 1999 until February 2006. His supervisor during that time was Andy Hertel, until December 2005, when Amy Keller became employed by Horizon, and she then became his supervisor for the last two or three months of Mr. Cox's employment there.

10. Mr. Cox was asked if he had ever been reprimanded for improper recordkeeping prior to the allegations on February 16, 2006, and he responded "not that I recall." He was asked if he was ever asked to go to ethics training because he had a patient sign a blank treatment plan. He responded that he was asked to go to ethics training, but that he didn't know if the blank treatment plan was the reason.
11. Mr. Cox testified at some length about the events of February 16, 2006, the date of the alleged violation. He testified that on that date he facilitated an intensive outpatient session that was scheduled to take place from 5:30 p.m. until 8:30 p.m. He explained that the session was "part educational/part process group" for people recovering from drug and alcohol dependency, and that this kind of session usually involves clients sharing their treatment assignments with the group. Mr. Cox testified that although an "IOP" group usually consists of 8-12 clients, on that particular evening, there were only 4 or 5 clients present. He acknowledged that he dismissed the group early, "a few minutes before 8:00," and he explained that with a group so small, it's hard to keep their attention for three hours and it is not therapeutic because the clients get worn out.
12. Mr. Cox identified State's Exhibit 11 as the daily billing sheet for

February 16, 2006, and he admits that the total time billed for the group session in question was 3 hours. He testified that Andy Hertel had once instructed him to bill a session as a 3-hour IOP, even though it ended early. Cox explained that he asked Mr. Hertel a short time prior to this incident, when he had a session that he didn't know how to bill. Mr. Cox stated that Mr. Hertel went to check with "Judy," and then came back and instructed him to bill it as an IOP, which can be billed only in three hour blocks, and nothing less. Mr. Cox also identified State's Exhibits 12(a), 12(b), 12(c), 12(d), and 12(e) as the progress notes of the five individual clients who attended the session on February 16, 2006. He acknowledged that he indicated on each one that the client had attended a three hour IOP session and that he signed those progress notes. Mr. Cox indicated that the corrections made on Exhibits 12(b), 12(c), 12(d), and 12(e) appeared to have been made by Andy Hertel.

13. Mr. Cox testified that Amy Keller confronted him about ending the session early. She told him that the corporate officials wanted to see him, and a meeting was scheduled for the following week. Mr. Cox identified those present at the meeting as Andy Hertel, Chris Connolly, corporate Vice President Steve Best, Amy Keller, and a secretary whose name he could not recall. Mr. Cox indicated that Andy Hertel was Amy Keller's supervisor, and Chris Connolly was Andy Hertel's supervisor. Mr. Cox testified that at the meeting, Mr. Best asked him why he billed for three hours if he ended the session early. He stated that he told Mr. Best he had only 4 or 5 clients that night, and that Andy Hertel had told him to do it that way. Mr. Cox testified that he was fired at the end of that meeting.
14. The State's next witness was Amy Keller, who testified that she has a high school education and "1200 plus" hours of chemical dependency training. She testified that she is a licensed chemical dependency counselor, and that she is employed as the clinical director for Horizon at both the Hamilton and the Middletown locations. She testified that she has worked there for about a year, supervising the counseling staff and doing program development, and that she was Mr. Cox's immediate supervisor at the time of the alleged infraction.

15. Ms. Keller testified that there was only one prior incident when Mr. Cox was reprimanded for a recordkeeping problem. She indicated that on December 15, 2005, she conducted a routine audit of client charts, and she found one instance where a client had signed a blank treatment plan. She explained that the treatment plan is a contract between the agency and the client telling what services are to be provided. She stated that it should be completed and signed by the counselor and the client, after talking about the client's goals and what the treatment will be to accomplish those goals. Ms. Keller testified that she discussed the blank treatment plan with her supervisor, Andy Hertel, and then met with Mr. Cox about it. She testified that Mr. Cox explained that he was hurrying into a group meeting when the client signed it, and that he intended to fill out the plan later. Ms. Keller said that Mr. Cox was given a written warning about the incident and required to go to an ethics and documentation training session.
16. Ms. Keller testified that the incident that gave rise to the current charges against Mr. Cox began as a client complaint that the IOP session was getting out early. She checked recent client billing records and found that they indicated that the group was ending at 8:30. Ms. Keller stated that she spoke to her supervisor, Mr. Hertel, and told him that she would go to the next IOP session between 7:30 and 8:00 to see if it was ending early. She identified State's Exhibit 10(a) as her memo to her supervisor concerning the complaint. Ms. Keller testified that on February 16, 2006, she went to the agency's location at 112 South Second Street in Hamilton, where the meeting was scheduled from 5:30 to 8:30 p.m. She arrived "a couple minutes before 8:00" and found that both buildings were locked and dark, and that there was no one outside, such as clients' rides waiting for them. She testified that she called Mr. Hertel from the agency and told him she was there but no one else was. Ms. Keller stated that she checked the client records the following Monday and found that those records indicated that the session ended at 8:30. She identified State's Exhibit 10(b) as her memo to Andy Hertel describing her findings at the office that evening, and she identified State's Exhibit 11 as the billing sheet showing that Mr. Cox had billed for three hours on that evening.
17. Ms. Keller was asked about Horizon's billing policies, and she testi-

fied that if a counselor needed to end a group early, the counselor was required to call his or her supervisor to get permission. If permission was given, then the billing was to be done correctly. She said that adding on any time to the billing would be considered fraudulent. Ms. Keller described a previous situation not involving Mr. Cox, where Andy Hertel told her to bill for group counseling instead of IOP if the session lasted less than three hours, and to bill the exact time of the session.

18. Ms. Keller testified that a meeting was held with Mr. Cox on February 21, and that she attended the meeting along with Andy Hertel, Steve Best, Chris Connolly, and Human Resources representative Cheryl Parsley. She said that Mr. Cox admitted to billing for the extra time, but claimed that Andy Hertel told him he could "round up" anything over 2 1/2 hours. Ms. Keller testified that Andy denied this at the meeting. Ms. Keller testified that late in the meeting, Steve Best asked Mr. Cox if anyone at the agency had told him it was acceptable to bill this way, and Mr. Cox said no.
19. On cross-examination, Mr. Cox asked Ms. Keller if his name appeared anywhere on the blank treatment plan of the one client she spoke about, and she said it did not. In follow up questions, she explained that Mr. Cox did not deny having the client sign it blank. He merely said he was going to fill it in later and didn't seem to realize he had done anything wrong. Mr. Cox also asked her if it was true that the client who filed the complaint against him had been discharged from the program just prior to the time she made her complaint, for continuing to use during treatment. Ms. Keller indicated that the client had indeed been discharged, but that she was not sure if the reason was that she was continuing to use alcohol or drugs. She said that sometime after the complaint, the client was permitted to re-enter the program. Mr. Cox asked her if it was true that the client who made the complaint was a family member of a staff employee, and Ms. Keller responded "not to my recollection."
20. Also on cross-examination, Mr. Cox submitted that another group was scheduled to use the building during the same hours on February 16, and that it also ended early, but Ms. Keller testified she had no

knowledge of whether or not that was the case. She confirmed that no one else under her supervision was reprimanded for anything on that evening. In follow-up questions from the Assistant Attorney General, Ms. Keller clarified that there was a way to bill for sessions of less than three hours: to bill as "group counseling" instead of IOP. She explained that group counseling can be billed in increments as small as 15 minutes, but that IOP sessions can be billed only in three-hour blocks. She also testified that she did not believe it would be difficult to occupy a group of five people for three hours. However, she did testify that Mr. Cox was a "skilled and accomplished counselor" with his clients.

21. The State's next witness was Andrew Hertel. Mr. Hertel testified that he has a high school education, some college, and "hundreds of hours" of chemical dependency training. He stated that he is a licensed chemical dependency counselor and that he has been the director of outpatient services at Horizon since March 1987, with an office at the Hamilton location. He testified that he was Mr. Cox's supervisor from the late 90's when Mr. Cox started working at Horizon, until December of 2005, when Amy Keller became his supervisor. He testified about Mr. Cox's one prior incident of discipline for recordkeeping—the incident involving the blank client treatment plan, and reiterated Ms. Keller's testimony that it was improper for a client to be asked to sign a blank treatment plan. He also testified about the incident on February 16, 2006, stating that Amy Keller called him at 5 or 10 minutes after 8:00 p.m. on that date, saying that the agency was shut down, lights were off, and no one was in the offices.
22. Mr. Hertel testified that the revisions made to the client progress notes at State's Exhibits 12(b), 12(c), 12(d), and 12(e) were his notes, and that he did this on February 22, 2006. He testified that he did this after Mr. Cox confirmed that the session ended at 8:00 instead of 8:30, and that the "GC" under the date shows that it was billed as group counseling instead of IOP. He stated that he did not know why the client record at State's Exhibit 12(a) was not corrected.
23. Mr. Hertel stated that Mr. Cox did not come to him to ask how to bill a 2.5 hour IOP session, and that it is Horizon's policy to bill only for the time rendered, with no "rounding up." He testified about his

recollection of the administrative meeting in which Mr. Cox was fired. When Mr. Hertel was asked what explanation Mr. Cox gave at the meeting, he testified "I don't think he identified that," explaining that Mr. Cox just said it was hard to occupy a small group of clients for that long. Mr. Hertel testified that he does not believe it would be difficult to occupy 5 clients for that period of time.

24. On cross-examination, Mr. Cox related details of a conversation he claims to have had with Mr. Hertel, in which he purportedly asked Mr. Hertel how to bill for 2.5 hours of IOP. Mr. Cox claimed that Mr. Hertel went to check with a secretary, Judy, and that he came back and told him to "just bill it as IOP." When Mr. Cox asked Mr. Hertel about that conversation, Mr. Hertel responded that he did not ever recall having that conversation, and that he would not have had such a conversation. Mr. Cox also cross-examined Mr. Hertel about another program that was taking place in the building that same night, which he claims had also ended early. Mr. Hertel testified that there was a Drug Court program scheduled in the building that night until 8:00, but no programs were scheduled to go until 8:30.
25. In response to my questions, Mr. Hertel testified that in the six years that Mr. Cox was employed by Horizon, he was subject to random reviews of his recordkeeping. He acknowledged that in all that time, there were no incidents of improper recordkeeping found, until the blank treatment plan incident in December 2005, and then the issue (involved in this hearing) in February 2006. I asked if he was aware of any personal issues or family issues that might have been demanding more of Mr. Cox's time in those last couple months of his employment. He stated that he did become aware of that, and he suggested that Mr. Cox try the employee assistance program.
26. Also in response to my questions, Mr. Hertel testified that Mr. Cox was a skilled counselor, that he involved himself in staff meetings, and that his clients seemed to get well. Concerning the staff meeting that resulted in Mr. Cox's termination, I asked Mr. Hertel specifically whether Mr. Cox did or did not say that he (Hertel) had instructed him to bill the 2.5 hour session as IOP. Mr. Hertel responded that he believes Mr. Cox said that.

27. In the presentation of his case, Mr. Cox admitted that he billed the session in question as a 3-hour IOP session, even though he had dismissed clients early that evening. He testified that the client who made the complaint was a disgruntled family member of someone on the Horizon staff. Mr. Cox testified that she was disgruntled because he had discharged her from the program after he required her to take a urine screen, and it came back "dirty." After the client's discharge, she was sent back to a residential treatment program, and Mr. Cox believes that the client's anger about her situation caused her to make the complaint against him.
28. Mr. Cox pointed out that in William Hegarty's testimony, he acknowledged speaking with former Horizon employee Mary Klein, who told him that rounding up was permitted at Horizon. He noted that in both Mr. Hertel's and Ms. Keller's testimony, they both claimed that there was never any rounding up allowed.
29. Mr. Cox made an emotional statement that he is committed to social work and to his clients, and that his clients got better, adding "That's why I'm in this." I asked if there were any external issues requiring more of his time and attention during those couple months when the two recordkeeping problems were found. He replied that there were, but he did not want to discuss that, and stated that in any event, it would not change the fact that he did let his clients out of the session early on the night in question.
30. The State was permitted to recall Mr. Hegarty as a rebuttal witness, to clarify the details surrounding his conversation with Mary Klein, a former Horizon employee. Mr. Hegarty testified that Mary Klein told him that it was her understanding that if a session let out at 8:10 or 8:15, she could round it up and bill as though it ended at 8:30. However, if it let out at 8:00, she could not bill it as though it ended at 8:30. Hegarty stated that Ms. Klein also explained that in those instances when she rounded up, she was on site doing client case notes.

31. In closing statements, the State asked for a 2-year period of supervision of Mr. Cox's practice, by a professional chosen by the Board. Mr. Cox closed with a statement that he is honored to be a social worker, and that he had always tried to work for his clients' best interests.

DISCUSSION

Mr. Cox admits, and has never denied, that on February 16, 2006, he dismissed a group of clients just before 8:00, and billed the session as though it had continued until 8:30. There is no question that he billed incorrectly, and that this constitutes a violation of Rule 4757-5-01(I)(1).

Despite this violation, I was favorably impressed by Mr. Cox's integrity and the fact that he has never tried to cover up or deny letting his clients out early that night. Moreover, the Board's Notice alleges a single instance of overbilling by about 30 minutes more time than Cox actually spent with his clients. This appears to me, as a layperson, to be an extremely minor violation.

Mr. Cox claims that his supervisor, Andy Hertel, once told him he could bill a session lasting 2.5 hours as a 3-hour IOP, and there is still a question in my mind about whether that may have been the case. Mr. Hertel's testimony included a few too many "I do not recall" for me to be convinced that he had never done this. If I were in his position and one of my employees had falsely accused me of telling them to bill improperly, that is something I would be able to recall. In addition, I note that Mr. Hertel's supervisor, Christopher Connolly, was present at this public hearing.

I was not convinced that Horizon never permitted any rounding. Although both Amy Keller and Andy Hertel testified that no rounding was permitted and recited that "Horizon's policy is to bill only for time rendered," the Board's investigator testified about his conversations with two former employees who confirmed Mr. Cox's claim that some rounding was permitted, albeit not to the extent of a half hour. According to William Hegarty's testimony, both Mary Klein and John Andrews told him that they were permitted to round their times within 10 or 15 minutes. This contradicts the testimony of current Horizon employees Amy Keller and Andy Hertel that no rounding at all was permitted. One possible explanation for at least Ms. Keller's testimony is the fact that she had been working

at Horizon only about 2 months when Mr. Cox was fired, so it is possible that Mr. Cox was told some rounding was acceptable before Ms. Keller began her employment there.

Finally, in reviewing Mr. Cox's employee evaluations attached to State's Exhibit 2, I found that they are all positive. Interestingly, some of his highest effectiveness ratings are in categories labeled "Respect," "Integrity," and "Documentation."

Whether or not Mr. Cox had ever been told to bill a 2.5 hour session as a 3-hour IOP, the fact remains that he is the professional, and he is the one personally responsible for billing accurately as his licensure law requires. I note that both his supervisor and his *supervisor's* supervisor at Horizon had only high school educations and no licenses with this Board. If he had been told to bill incorrectly, then he, as the professional, should have refused to do it.

CONCLUSION OF LAW

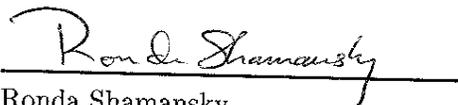
I conclude that Mr. Cox violated recordkeeping provisions of Rule 4757-5-01(I)(1) by billing for a 3-hour IOP session, when in fact, his time with clients on February 16, 2006 was only about 2.5 hours. Because of this violation of an administrative rule, R.C. 4757.36(A)(1) gives the Board the authority to impose restrictions upon his license.

RECOMMENDATION

Although I conclude that Mr. Cox did commit a violation of the Board's recordkeeping rules, I find that it is a very minor violation, and I urge the Board to be lenient in this case. The Board's Notice of Opportunity alleges a single instance of overbilling by approximately 30 minutes, and Mr. Cox has been forthright in acknowledging his mistake.

The State asks that a two-year period of supervision be imposed upon Mr. Cox's practice. Although I find that some kind of short-termed periodic monitoring is appropriate, I recommend something less than a fully-supervised practice. Mr. Cox is currently employed as a social worker, and most likely is already subject to periodic records reviews by his employer. I recommend that during the next two years, the Board or its appointee conduct an inquiry every six months with Mr. Cox's employer requesting the results of periodic records reviews. If no problems are found, then after two years, the matter will be closed. If any recordkeeping problems are found during that time, then the Board may impose whatever additional limitations on his license it finds appropriate, such as a more intense form of supervision or a suspension of his license.

The Board members, as professionals in the field of social work, are in the best position to recommend the most appropriate form of supervision, and I defer to their discretion as to the best form of minimal monitoring of Mr. Cox's practice.


Ronda Shamansky
Hearing Examiner