

(G) failed, during the next two years, to confirm with the Board that he had an approved waiver.

(H) filed his applications for renewal on March 31, 2000, the last day possible to do so without needing to file a late fee, and did not include any notation to indicate his belief that he had a continuing education waiver allowing all distance learning hours.

(I) as the result of his illness and treatment, did not monitor his mail or seek assistance in dealing with his mail; therefore, did not see correspondence from the Board dated April 7, 2000, (i) telling him his continuing education report did not show compliance, (ii) offering him an opportunity to complete the process; (iii) notifying him that because he had not documented compliance by April 1, a late fee was necessary to complete renewal; and (iv) warning him that he must document compliance by May 1 or renewal would no longer be possible.

Licensee further acknowledges that

(J) Licensee must take responsibility for knowing the rules and regulations for licensure and for seeking guidance from the Board if there is there is good cause or justification for inability to comply with the requirements before assuming justification after-the-fact will be accepted.

(K) the Board did not grant him a continuing education waiver of any kind.

(L) without a continuing education waiver allowing all 40 hours by distance learning, his application for renewal did not show compliance with the administrative rule that requires at least 10 of the 40 hours of continuing education be attended training and no more than 10 hours of continuing education claimed for distance learning.

(M) by failing to qualify for renewal by April 1, renewal could not take place without payment of the \$50 late fee and proof of compliance with continuing education requirements.

(N) if a licensee has not qualified for renewal by May 1, the law prohibits the Board from renewing the license.

(O) the Board made a reasonable, timely effort to notify him that corrective action was needed.

(P) the law and rules provide a relatively effortless means to regain licensure by paying \$180, listing continuing education, and passing an open book law and rules examination available to be taken at home and this process was offered and explained by the Board's Administrator.

Licensee contends that there is clear and overwhelming evidence that he attempted to obtain a waiver; that his disability and treatment make it almost impossible for him to respond to the Board in a timely fashion, review past correspondence, afford re-licensure, and had the waiver he believed existed been in place, his application for renewal would have shown compliance before April 1.

2.

Licensee admits and stipulates he has been advised of his right to a hearing in this matter pursuant to ORS 183.415(2)(a) and to be represented by counsel at that hearing pursuant to ORS 183.415(3).

3.

Licensee waives his right to such a hearing and waives the right to be represented by an attorney at such hearing.

4.

Licensee waives any and all civil claims or actions against the Board and its employees relating to this issue.

5.

The Board and Licensee stipulate to the following: That the Board has jurisdiction, and the right to refuse to renew a license if the Board were to prove that the licensee failed to meet all the conditions for renewal within the timeframe allowed.

6.

The Board and Licensee agree that the following matter may be concluded by the entry of this Stipulation on the following **terms**:

(A) Licensee agrees to submit within 60 days of the effective date of this order, written confirmation from a licensed physician that his physical illness does not prevent him from being able to perform the practice of professional counseling or marriage and family therapy, include a statement that he is capable of competent service delivery; or, if he cannot provide such statement, formal notice he will not practice until such confirmation can be submitted and is accepted by the Board.

(B) Licensee agrees to refrain from practice until such time as he receives written approval from the Board that he may resume practice, following acceptance of confirmation from a physician that he is competent and able to practice.

(C) Licensee agrees to follow the regulations for licensure and renewal, read instructions and correspondence carefully, and seek clarification on anything he does not understand.

(D) Licensee agrees he does not have a continuing education waiver in place and this order does not grant such waiver.

(E) Licensee understands that to obtain a waiver of any of the requirements for continuing education, he must make formal application on a form provided by the Board and obtain written approval from the Board.

(F) The Board warns that it will not accept similar argument from Licensee in the future.

(G) The Board, though it acknowledges Licensee's extremely fragile physical condition and related problems, believes (i) it provides sufficient time in February and March to resolve any renewal issues before the late fee is required; (ii) if a licensee cannot monitor mail or correspondence, he must arrange for assistance from others, not just for his own sake, but for that of clients or former clients who need access to their records; and (iii) it has no responsibility to accept Licensee assumptions that are contrary to published standards.

(H) The Board, upon receipt of the signed Stipulation, recognizes this as a unique situation whereby (i) Licensee was clearly eligible for a continuing education medical waiver; (ii) Licensee made an effort to obtain appropriate continuing education instead of seeking to be excused from all requirements; (iii) Licensee can demonstrate actions that could reasonably be interpreted as seeking a continuing education waiver; and (iv) Licensee, as the result his rapidly deteriorating health and stress of continuing education audit; did not understand what was happening in 1998 and that, combined with the change in continuing education reporting in 1999, prevented him from comprehending his situation or even his need to clarify his situation; therefore, withdraws its proposed order, and authorizes renewal of his professional counselor and marriage and family therapist licenses.

7.

If the Board finds, after a contested case hearing, that the Licensee has materially violated any of the terms of this stipulation (submitting the medical report and refraining from practice), the violation shall constitute ground for revocation of both licenses.

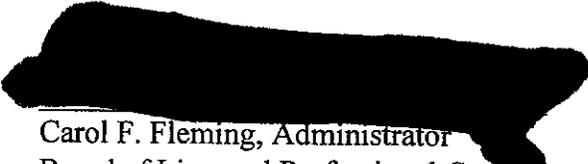
IT IS SO STIPULATED



Jack F. Bowsky, LPC C0642, LMFT 10262

August 24, 2000
Date

**Board of Licensed Professional Counselors
and Therapists**

by 

Carol F. Fleming, Administrator
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3218 Pringle Rd SE Ste160
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August 24, 2000
Date