

BEFORE THE
BOARD OF LICENSED PROFESSIONAL COUNSELORS AND THERAPISTS
STATE OF OREGON

In the matter of the use of the Title Licensed)	
Marriage and Family Therapist by)	FINAL ORDER OF
)	CIVIL PENALTY
)	
Jackie Hudson		

On or about September 24, 1999, a Notice stating that the Board of Licensed Professional Counselors and Therapists (Board) intended to levy a civil penalty in the amount of \$750 against Jackie Hudson (Respondent) for violation of ORS 675.825(4) offering the practice of marriage and family therapy using the initials "LMFT" which represent the title "licensed marriage and family therapist" without possessing a license issued under ORS 675.705 to 675.835. The Respondent filed a request for contested case hearing received by the Board October 21, 1999. A hearing was held in Salem, Oregon December 3, 1999. The Respondent appeared and was represented by Michael McClinton and Sarah Troutt, attorneys. The Board was not represented by legal counsel. The Board accepted all offered exhibits: Board Exhibit A and Respondent's Exhibit 1.

NOW THEREFORE, after consideration of the record, the Board enters the following Order.

ISSUES

Board alleges Respondent violated the title act. Respondent is concerned the Board's Order implies intent to deceive or intentional misrepresentation.

FINDINGS OF FACT

(1) Jackie Hudson has not been and is not licensed as a marriage and family therapist in the State of Oregon.

(2) Respondent is a master's level trained and experienced mental health therapist. Respondent holds a 1990 master of arts degree in clinical psychology from California State University at San Bernardino and was licensed as a Marriage, Family and Child Counselor by the State of California.

(3) Respondent moved to Eugene, Oregon in 1996 and began practice in Christian counseling

with a focus on addressing family abuse. Currently, Respondent sees 30-45 clients a week as part of a batterer intervention program; and supervises local graduate students who are gaining experience as part of their marriage and family degree programs.

(4) Respondent was aware that Oregon offers licensure to professional counselors and marriage and family therapists. Prior to moving to Oregon, Respondent applied for a license as a professional counselor in Oregon. She was not approved. Respondent wants to apply for the Oregon marriage and family therapist license in the future.

(5) The State of California changed the Marriage, Family, and Child Counselor license title to Marriage and Family Therapist with corresponding change of initials from MFCC to MFT effective July 1, 1999.

(6) Respondent is currently licensed as a marriage and family therapist (MFT) by the State of California.

(7) Respondent admits to putting the initials LMFT on her billing statements (see Exhibit A, Respondent's letter to Board dated May 10, 1999, response to charges dated October 21, 1999, and testimony). At the bottom of the billings in smaller type, Respondent included "California State License No. MFC31967", her Social Security Number, and Employer ID No.

(8) When talking to clients or potential clients, Respondent does not tell them she is Oregon licensed. When talking to insurance companies or other providers, Respondent tells them that she is California licensed. Respondent calls insurance companies before providing services or invoicing to see if the companies will cover her services based on her California license. She submits billings to insurance companies or programs that have indicated they will recognize her California license.

(9) Sometimes insurance companies who agreed to accept her licensure will reject the claim so Respondent must resubmit billings a second time. Therefore, Respondent added the initials to her letterhead to indicate licensure. She wanted to indicate licensure to expedite receipt of payments by those companies that have indicated they will pay for her services (see Respondent's testimony).

(10) Respondent does not submit bills to programs, like Crime Victims' that require Oregon licensure (see Respondent's testimony and letter from Judy Kilian, volunteer advocate with Lane County District Attorney's Crime Victim Survivor Services Program).

(11) Copies of bills for services displaying the LMFT initials were submitted to the Crime Victim's program by the clients. The clients had been told by Respondent that she was not Oregon licensed and that Crime Victim's would not provide compensation for her services but submitted bills anyway (see Respondent's Exhibit 1 Affidavits of MK and EW).

(12) Respondent, aware that the California license title was undergoing change, saw the initials LMFT and MFT being used. Respondent did not verify which of the new initials were correct, or when they took effect. Respondent did not check with the Oregon licensing Board to see if the initials could be used in Oregon. By trying to facilitate a billing process, Respondent was careless, using initials she was not entitled to use (see Respondent's testimony).

ULTIMATE FINDINGS OF FACT

Respondent used the initials LMFT on billing statements for marriage and family therapy services provided in the State of Oregon without being an Oregon licensed marriage and family therapist.

CONCLUSIONS OF LAW

Jackie Hudson violated ORS 675.835 by using the initials LMFT to indicate licensure as a marriage and family therapist while practicing in the State of Oregon without holding a license issued under ORS 675.705-835.

OPINION

The Board did not allege, or prove, that Respondent's use of the initials was intended to deceive providers in order to collect money; however, the Respondent has admitted they were used to expedite payment. While acknowledging her testimony that the word California and her MFCC number were already listed at the bottom of the page, the Board could not help but question why, if that wasn't working the way it was, she did not add the words "California Licensed Marriage and Family Therapist, No. _____" to the top of her letterhead or even California LMFT in an effort to remind the insurance provider of her California licensure? Since the California license prefix was MFC and it was listed with other numbers of interest, the Board believes it is not reasonable for the Respondent to assume a client or insurance company would automatically make the correlation that the initials LMFT stood for California licensure. It was the opinion of the Board that while she may not have been specifically trying to indicate Oregon licensure, the documents do not support statements that she was clearly trying to indicate California licensure. The Board finds that Respondent was definitely using the initials LMFT to indicate a state licensure in hopes of expediting payment for services. The Board did not prove she used the

initials in hopes closer scrutiny would not be made, but notes that she made little effort to specifically indicate that her only license was a California licensure.

The Board accepts Respondent's proof that she did not submit bills with the LMFT initials to Crime Victim's; however, Respondent's testimony supports that she used the initials on billings to clients and to select insurance companies.

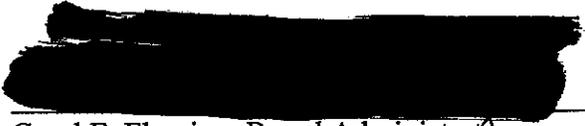
The Board considered Respondent's request that the penalty be lowered. During discussion, the Board acknowledged that the Board's Notice of Proposed Civil Penalty contained two different civil penalty amounts: on page 1 the proposed civil penalty is listed as \$750, on page 2 under Opportunity for Hearing, the penalty is listed as \$500, and on page 3 under waiver it is again listed as \$750. The Board took official notice of its own vote to propose the civil penalty at \$750, which is not the maximum allowed by statute (\$1,000 per violation), in recognition of corrective action taken by Respondent, but also in recognition that a person who had previously applied for licensure she was aware of Oregon's licensing law, administrative rules, and knew how to contact the Board.

ORDER

IT IS SO ORDERED, that Jackie Hudson pay a civil penalty within 10 days of service of this Order to the Board of Licensed Professional Counselors and Therapists in the amount of \$750.

Dated this 30th day of December, 1999.

BOARD OF LICENSED PROFESSIONAL COUNSELORS
AND THERAPISTS, STATE OF OREGON

By: 

Carol F. Fleming, Board Administrator

NOTICE: You are entitled to judicial review of the Order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this Order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.

CERTIFICATE OF SERVICE

I certify that on December 30, 1999, I served the attached Final Order of Civil Penalty by mailing via first class mail in a sealed envelope, with postage prepaid, copies addressed as follows:

Jackie Hudson
921 Country Club Road #222
Eugene, OR 97401

Michael McClinton and Sarah Troutt
Clark, Lindauer, McClinton, Fetherston,
Edmonds & Lippold, Attorneys
PO Box 2206
Salem, OR 97308-2206



Administrative Assistant
Board of Licensed Professional Counselors and Therapists

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