

Marty M. Snyder, S. Ct. #11317
Assistant Attorney General
120 SW 10th Avenue, 2nd Floor
Topeka, KS 66612
(785) 296-2215

09-001-24-94-0081

BEFORE THE KANSAS BEHAVIORAL SCIENCES REGULATORY BOARD

In the Matter of

KERIN L. SCHELL, Ph.D., LP #594

Case No. 09 LP 0081

CONSENT AGREEMENT AND ORDER

NOW, on this 12 day of October, 2009, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board) by agreement of Kerin L. Schell, Ph.D. (Licensee) and the Kansas Behavioral Sciences Regulatory Board for the purpose of resolving the above-captioned case. Petitioner appears through counsel Marty M. Snyder, Assistant Attorney General. Respondent/Licensee appears through counsel Kimberly A. Green, Depew Gillen Rathbun & McInteer, LC.

Licensee hereby acknowledges the following:

1. Kerin L. Schell, Ph.D. is currently, and at all times relevant has been, a Licensed Psychologist within the meaning of the Licensure of Psychologists Act, K.S.A. 74-5301 *et seq.*, and amendments thereto.
2. On or about January 13, 2009, the Board received a report of information concerning Licensee's conduct, alleging Licensee may have violated certain statutes and regulations governing the practice of psychology and making child custody recommendations.

3. The Board conducted an investigation concerning Licensee's alleged violation of statutes and regulations. During the investigation, Licensee was informed of the reported information and was given the opportunity to respond to the allegations. Licensee, through his attorney Kimberly A. Green, did respond in a letter dated February 24, 2009.
4. As a result of the investigation, the Board finds probable cause that the following facts have been established by clear and convincing evidence:
 - a. Licensee was asked by a party to a pending divorce to provide a child custody recommendation.
 - b. On October 24, 2008, Licensee provided a three-page letter to the party's attorney that contained findings, conclusions and recommendations on residential custody prior to ever meeting the child and in the absence of any information from the other parent. All background information was furnished by one party to the divorce proceedings.
 - c. Licensee met with the five-year-old child for the first time for 10-15 minutes on October 29, 2008. He never met professionally with the other party to the divorce but continued to provide the same conclusions and recommendations in subsequent written reports beginning November 5, 2008.
5. The Board finds that reasonable grounds exist to believe Licensee has violated K.A.R. 102-1-10a, "Unprofessional conduct," as follows:
 - (o) engaging in improprieties with respect to forensic practice, which shall include the following acts:

- (3) failing to conduct forensic examinations in conformance with established scientific and professional standards.

HOWEVER, Licensee and the Board mutually desire to enter a Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations.

WHEREFORE, Licensee waives all rights to an adjudication of facts and law that could be determined pursuant to a hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 09-LP-0081.

WHEREFORE, Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Judicial Review Act in relation to Case No. 09-LP-0081.

WHEREFORE, Licensee consents to continuation of his license without restriction under the following conditions:

- A. Licensee will attend 15 hours of continuing education in the area of child custody evaluations. Licensee shall provide a copy of his certificate(s) of attendance to the Board within six months of the effective date of this Agreement. Such training shall be in addition to licensure requirements and shall be at Licensee's expense.
- B. Licensee shall submit to the Board a 15-page professional quality paper, APA format, on appropriate information-gathering and conduct of child custody evaluations. The paper shall contain at least 15 professional reference resources and is due within sixty (60) days from the effective date of this Agreement.
- C. If Licensee accepts custody/forensic referrals, Licensee shall have one hour of supervision by a Board-approved supervisor for every five billable hours of forensics or child custody work. Such supervision shall continue for a period of 18 months. The Board recommends Licensee contact Bruce Nystrom as a potential supervisor.

- D. Licensee shall be responsible for any costs incurred in satisfying the terms of this Order.
- E. Evidence of Licensee's breach, violation or failure to comply with any of the conditions will result in an order to appear and show cause why Licensee's license should not be suspended temporarily pending full compliance with this Consent Agreement and Order. At such show cause hearing, the issues will be limited to whether this Consent Agreement and Order has been violated and the appropriate sanction for such violation.
- F. Licensee acknowledges that proof submitted to the Board by affidavit or other form of competent evidence that Licensee has breached, violated or failed to meet the conditions of this Consent Agreement and Order shall be good and sufficient evidence to support an alleged violation of breach, violation or non-compliance.
- G. Licensee understands that a notification of this Consent Agreement and Order shall be provided to any other state licensing board if Licensee is also licensed, registered or certified in another state.
- H. Licensee acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional status which would inhibit compliance with any condition of this Consent Agreement and Order. In such event, a designee of the Board is authorized to modify or amend this Order in writing.
- I. If the Board does not approve this Consent Agreement and Order, Licensee waives any right he may have to object to the composition of any subsequent hearing panel due to hearing panel members having knowledge of matters contained within this Consent Agreement and Order.

J. This Consent Agreement and Order constitutes the entire agreement between the Licensee and the Board and may be modified or amended only by written agreement signed by Licensee and the Board or a designee of the Board.

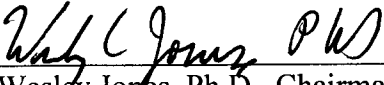
WHEREFORE, Licensee consents to the submission of this Consent Agreement and Order to the Board's Complaint Review Committee and understands that, upon approval of the Complaint Review Committee, this Consent Agreement becomes a final order of the Board. The Board has authorized the Complaint Review Committee to approve this Consent Agreement and Order.

WHEREFORE, the Board agrees that, so long as Licensee complies with the above conditions, the Board will not initiate further disciplinary action against Licensee in relation to the violations of K.A.R. 102-1-10a listed above.

WHEREFORE, the Board further agrees that, upon determination of Licensee's compliance with the conditions stated herein, Licensee shall be unconditionally licensed as a Licensed Psychologist.

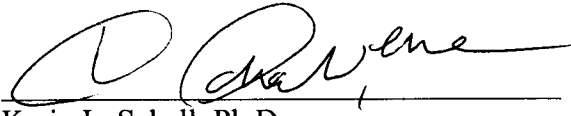
WHEREFORE, the provisions above are consented to and are hereby made the final order of the Kansas Behavioral Sciences Regulatory Board and become effective on the date indicated in the below Certificate of Service.

IT IS SO ORDERED.



Wesley Jones, Ph.D., Chairman
Complaint Review Committee

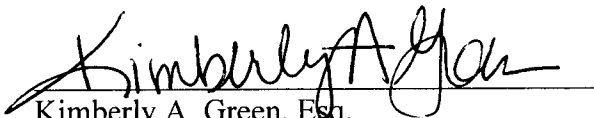
APPROVED AND CONSENTED TO:



Kerin L. Schell, Ph.D.
Respondent/Licensee

9-28-09
Date

REVIEWED AND APPROVED BY:



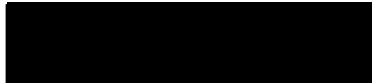
Kimberly A. Green, Esq.
Counsel for Licensee

9-29-09
Date

CERTIFICATE OF SERVICE

This is to certify that on the 14th day of October, 2009, a true and correct copy of the above and foregoing Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Kerin L. Schell, Ph.D.



Kimberly A. Green
Depew Gillen Rathbun & McInteer LC
8301 East 21st Street North
Wichita, KS 67206-2936


For the Behavioral Sciences Regulatory Board