

**BEFORE THE STATE OF NEW MEXICO  
BOARD OF SOCIAL WORK EXAMINERS**

**IN THE MATTER OF:**

**DIANE GARCIA,  
LICENSE NO. I-06312**

**Respondent.**

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**CASE NO. SW-08-05-12**

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**DECISION AND ORDER**

**THIS MATTER** came before a quorum of the Board of Social Work Examiners ("Board") during their regularly scheduled meeting on July 16, 2010 for a decision in the above referenced case.

**FINDINGS OF FACT**

The Board, having familiarized themselves with the record of the proceedings, including the Hearing Officer's Report, hereby makes the following findings of fact:

The Hearing Officer's Recommended Findings of Fact, numbered 1-41, are adopted in their entirety by unanimous vote. A copy of the Hearing Officer's Report is attached hereto.

**CONCLUSIONS OF LAW**

Based on the findings of fact, the Hearing Officer's Recommended Conclusions of Law, numbered 1-11, are adopted in their entirety by unanimous vote.

As such, the Board finds that Respondent engaged in dual or multiple relationship with her client in which there was a risk of potential harm to the client.

**ORDER**

Based on the Findings of Fact and Conclusions of Law, the Board unanimously votes in the affirmative and renders this Decision and Order:

**IT IS ORDERED** that Respondent be fined in the amount of \$500.00

Respondent shall pay the fine within 30 (thirty) days of entry of this Order.

FOR THE NEW MEXICO  
BOARD OF SOCIAL WORK EXAMINERS

DATE: 7/29/10

Mabel Marquez  
Board Member

**FILED**

**BEFORE THE STATE OF NEW MEXICO  
BOARD OF SOCIAL WORK EXAMINERS JUL 15 2010**

IN THE MATTER OF: )

DIANE GARCIA, )  
LICENSE NO. I-06312 )

Respondent. )

OFFICE OF THE HEARING OFFICER  
REGULATION & LICENSING DEPARTMENT  
CASE NO. SW-08-05-12

**HEARING OFFICER'S REPORT**

COMES NOW the New Mexico Board of Social Work Examiners' ("Board") duly appointed Hearing Officer, LeeAnn Werbelow, who convened a hearing in this matter on June 22, 2010 in Albuquerque, New Mexico and hereby timely submits this Hearing Officer's Report.

Gloria I. Lucero, Assistant Attorney General represented the Board. Respondent, Diane Garcia appeared in person and was represented by Mary Louise Boelcke, Esq.

The following exhibits were admitted through stipulation:

- 1) Exhibit A – Respondent's Curriculum Vita
- 2) Exhibit 1 – Board's Notice of Contemplated Action with attachments
- 3) Exhibit 2 – Letter on behalf of Respondent and M.D. to Horizon Blue Cross Blue Shield of New Jersey.
- 4) Exhibit 3 – Respondent's Subscriber verification
- 5) Exhibit 4 – Letter from Respondent to Board
- 6) Exhibit 5 – Respondent's Renewal Application
- 7) Exhibit 7 – Letter from M.D. to Board
- 8) Exhibit 8 - M.D.'s Renewal Application

- 9) Exhibit 10 – Respondent’s Bankruptcy Filing
- 10) Exhibit 11 – M.D.’s Bankruptcy Filing
- 11) Exhibit 12 – Corporation’s Information Inquiry

The Board, in its case in chief, presented testimony from Board Administrator, Vadra Baca, Respondent, Dr. Diane Garcia, and M.D.

The Respondent, in her case in chief, testified on her own behalf.

### FINDINGS OF FACT

Based upon either stipulation by the parties or facts entered through testimony at hearing, the Hearing Officer hereby submits the following findings of fact:

1. Respondent is licensed by the Board under License Number I-06312, which authorizes her to practice as a licensed Independent Social Worker ("LISW") in the State of New Mexico
2. Respondent received her New Mexico licensure in 2006.
3. Respondent is currently a Mental Healthy Counselor at the Metropolitan Detention Center in Albuquerque, New Mexico.
4. Respondent has previously been licensed as a Social Worker in the State of New Jersey since 1994.
5. On or about May 2, 2008 the Board received a complaint from Horizon Blue Cross Blue Shield of New Jersey alleging that Respondent was submitting claims for counseling serviced she was providing to M.D., a business partner, friend and roommate.
6. The Board issued and served Respondent with a Notice of Contemplated Action ("NCA").

7. The NCA notified Respondent of the allegations and notified that the Board had sufficient evidence, which if not rebutted or satisfactorily explained at a formal hearing, would justify the Board in taking disciplinary action against Respondent.
8. Pursuant to the NCA, Respondent requested a hearing on this matter.
9. M.D. is also a licensed social worker in New Mexico.
10. M.D. received her New Mexico licensure in 2006.
11. M.D. was previously licensed as a Social Worker in the State of New Jersey since 1996.
12. M.D. is currently a Mental Health Therapist at Presbyterian Medical Services, Rio Rancho Family Health Center in Rio Rancho, New Mexico.
13. Respondent acted as M.D.'s supervisor when M.D. first received her social work license in the State of New Jersey in 1996.
14. Respondent and M.D. shared a home together in New Jersey.
15. Respondent and M.D. are not now nor have they ever been romantically or sexually involved.
16. Respondent and M.D. have been business partners since September 1996.
17. Respondent and M.D. incorporated a counseling and psychotherapy business in New Jersey in November 1998.
18. Respondent and M.D. provided counseling services in New Jersey.
19. In 2006, the corporation was registered in New Mexico.
20. Respondent is the registered president and M.D. is the registered vice-president.

21. Respondent is the Administrator of the practice, and M.D. is responsible for the accounts payable.
22. Respondent and M.D. equally split the profits from the practice.
23. Respondent and M.D. equally split the expenses for the practice.
24. All proceeds and expenses for the practice were handled through a joint checking account.
25. Both Respondent and M.D. had full access to all business and joint personal accounts needed to make payments for their business and home office.
26. Both are signers on all accounts.
27. In the spring of 2005, Respondent relocated to Santa Fe, New Mexico.
28. Respondent and M.D. jointly bought a residence in Santa Fe, New Mexico.
29. Respondent and M.D. jointly purchased a vehicle in New Mexico.
30. Respondent provided counseling and psychotherapy services to M.D. at M.D.'s request from October 2005 to 2007.
31. Respondent was treating M.D. for an anxiety disorder and obsessive compulsive disorder.
32. M.D. testified that she was suffering from anxiety due to the move, and neither she nor Respondent knew anyone at that time in New Mexico who M.D. trusted to treat her anxiety.
33. Respondent and M.D. discussed the proper boundaries that must be set in order for Respondent to treat M.D.
34. Both Respondent and M.D. testified that specific measures were taken by Respondent to eliminate any risk posed by the dual relationship.

35. Respondent only agreed to seeing M.D. during specific appointment times, only addressing M.D.'s anxiety during those specific appointment times, and only treating M.D.'s current anxiety symptoms and not doing any process work with M.D.
36. Respondent and M.D. also testified that they remained aware of the need not to cross any boundaries and not ask questions of M.D. that would cross the boundaries they had agreed to.
37. Respondent billed M.D.'s insurance for the counseling services she provided M.D.
38. Respondent called Horizon Blue Cross/Blue Shield of New Jersey to ask if they could legitimately bill for services rendered by a senior partner treating a junior partner, and they were told that it was okay.
39. M.D. testified that she had been treated by other supervisors during college.
40. Respondent has never been sanctioned by any other licensing board nor has she ever been found in violation of any social work laws, rules or regulations.
41. M.D. has never been sanctioned by any other licensing board nor has she ever been found in violation of any social work laws, rules or regulations.

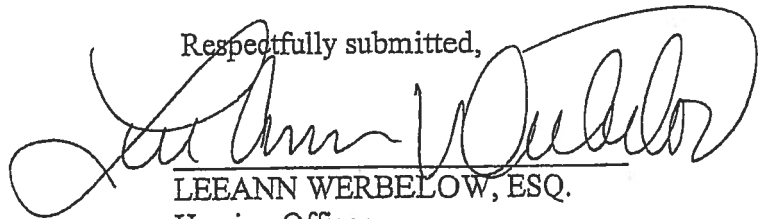
#### CONCLUSIONS OF LAW

Based on the findings of fact, the Hearing Officer hereby reaches the following conclusions of law:

1. Respondent is subject to the jurisdiction of the Board pursuant to the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -33; the Social Work Practice

8. The dual or multiple relationship was unavoidable.
9. Respondent took steps to protect M.D. and set clear, appropriate boundaries.
10. There was no risk of exploitation to M.D.
11. There may have been a risk of potential harm to M.D. by sharing in the profits of her own therapy.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Leeann Werbelow", written over a horizontal line.

LEEANN WERBELOW, ESQ.  
Hearing Officer