

IN THE MATTER OF * BEFORE THE MARYLAND
 JUDITH ARNOLD-WHALEY, LBSW* STATE BOARD OF
 * SOCIAL WORK EXAMINERS
 *
 RESPONDENT *
 License Number: 04751 * Case Number: 2015-2129

* * * * *

FINAL ORDER

On or about August 9, 2019, the Maryland State Board of Social Work Examiners (the "Board") issued to **JUDITH ARNOLD-WHALEY, LBSW** (Licensed Bachelor Social Worker) (the "Respondent"), License Number 04751, an **AMENDED NOTICE OF INTENT TO REVOKE LICENSE** regarding her LBSW license based on violations of the Maryland Social Workers Act (the "Act"), codified at Md. Code Ann., Health Occ. ("Health Occ.") §§ 19-101 *et seq.* (2014 Repl. Vol.), and the regulations adopted by the Board, at Md. Code Regs. ("COMAR") §§ 10.42.01 *et seq.*

The Board based its action on the following provisions of the Act and COMAR:

Health Occ. 19-101. Definitions

(a) In general. -- In this title the following words have the meanings indicated.

...

(m) Practice social work. --

(1) "Practice social work" means to apply the theories, knowledge, procedures, methods, or ethics derived from a formal educational program in social work to restore or enhance social functioning of individuals, couples, families, groups, organizations, or communities through:

(i) Assessment;

(ii) Planning;

- (iii) Intervention;
- (iv) Evaluation of intervention plans;
- (v) Case management;
- (vi) Information and referral;
- (vii) Counseling that does not include diagnosis or treatment of mental disorders;
- (viii) Advocacy;
- (ix) Consultation;
- (x) Education;
- (xi) Research;
- (xii) Community organization; or
- (xiii) Development, implementation, and administration of policies, programs, and activities.

Health Occ. § 19-311. Denials, reprimands, suspensions, and revocations -- Grounds

Subject to the hearing provisions of § 19-312 of this subtitle, the Board may deny a license to any applicant, fine a licensee, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (4) Commits any act of gross negligence, incompetence, or misconduct in the practice of social work;
- (5) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work;
- (6) Violates any provision of this title or regulations governing the practice of social work adopted and published by the Board;
- (9) Is disciplined by a licensing or disciplinary authority of any state, country, or branch of the armed services, or the Veterans' Administration for an act that would be grounds for disciplinary action under this section;

COMAR 10.42.03.02 Definitions.

- A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

...

- (3) "Dual relationship" means a relationship in which a licensee is involved with a client professionally and in any other capacity.

COMAR 10.42.03.05 Relationships.

- A. The licensee may not enter into a dual relationship with a client or an individual with whom the client has a close personal relationship.

COMAR 10.42.03.06 Standards of Practice.

...

B. A licensee may not:

- (1) Undertake or continue a professional relationship with a client when the competence or objectivity of the licensee is or could reasonably be expected to be impaired due to:
 - (b) The licensee's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative, legal, or other relationship with the client or a person associated with or related to the client; or
- (2) Engage in other relationships that could limit the licensee's objectivity or create a conflict of interest or the appearance of a conflict of interest.

More than thirty (30) days elapsed since the Respondent was notified of the Board's intent to revoke her license, and the Respondent failed to timely request a hearing.

FINDINGS OF FACT

The Board finds the following facts:

Background

1. At all times relevant, the Respondent was and is licensed to practice bachelor social work in the State of Maryland. The Respondent was initially licensed to practice as an LBSW in the State of Maryland on or about July 3, 2001, under license number 04751. The Respondent's license is current through October 31, 2019.

2. At all times relevant, the Respondent acted as the clinical and administrative director for, and provided social work services at an outpatient drug and alcohol counseling center called White Flint Recovery, located at 130 East Main Street, Salisbury Maryland, 21801 (“White Flint”). The Respondent also owns White Flint.

3. On or about June 11, 2015, the Board received a complaint (the “Complaint”) from the Maryland State Board of Professional Counselors and Therapists (the “Counselors Board”), which was investigating the Respondent based on a report that she was engaging in dual relationships with clients at White Flint.

4. Based on the Complaint, the Board began an investigation.

5. At the time the Board received the Complaint, the Respondent held a certificate to practice as a Certified Associate Counselor – Alcohol and Drug (CAC-AD), issued by the Counselors Board.

6. On or about August 14, 2017, following a formal hearing, the Counselors Board issued a Final Order (the “Order”) revoking the Respondent’s CAC-AD certificate based on violations of the Maryland Professional Counselors and Therapists Act.

7. Specifically, the Counselors Board concluded that the Respondent had violated the statutory disciplinary grounds of the Counselors Board when she:

- (a) violated the Counselors Board code of ethics;
- (b) was professionally incompetent;
- (c) violated the Counselors Board’s regulations; and
- (d) committed immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy.¹

¹ The Counselors Board concluded as a matter of law that these acts constituted violations of the Maryland Professional Counselors and Therapists Act, codified at Health Occ. §§ 17-509(8), (11), (13) & (16), respectively.

8. According to the Order, the Respondent had engaged in dual relationships with several clients at White Flint. The Counselors Board found

the Respondent's conduct by engaging in numerous social and business relationships with her patients during and after therapy sessions to be plainly unprofessional conduct in the practice of clinical and nonclinical counseling or therapy and consider[s] the Respondent's conduct with her clients as constituting a dual relationship. ... [The Respondent] clearly failed to recognize how her actions, such as vacationing with clients or former clients in Mexico, allowing clients to drive and maintain her car, attending Ravens games with clients and former clients or taking them to dinner at Chipotle could compromise her objectivity and foster dependent counseling relationships. Her conduct and statements evidence professional incompetence and display an ignorance of the Board's code of ethics. She blatantly failed to avoid dual relationships with clients which, in turn, placed her clients in harm's way and may have resulted in seriously damaging their welfare.

9. In addition, in concluding that the most severe licensure sanction of revocation was appropriate in this case, the Counselors Board cited "the Respondent's demonstrated disregard for professional conduct and patient safety, as well as the Respondent's disregard for the statutes and regulations in place to ensure that safety."

Factual Findings of the Counselors Board

10. The Counselors Board made, *inter alia*, the following findings of fact regarding the Respondent's misconduct.

11. At all times relevant, the Respondent owned and provided drug and alcohol counseling at White Flint.

12. On February 3, 2015, the Counselors Board received a written complaint from a certified alcohol and drug counselor who was previously employed at White Flint (the "Complainant"). The Complainant reported that the Respondent was engaging in inappropriate dual

relationships with a female client (“Client A”) and two male clients (“Clients B” and “C”) of White Flint (together, the “Clients”).²

13. The Complainant described how the Respondent had become “extremely close” to the Clients, attended social events together, texted and communicated via social media, and called Client C “cute.”

14. The Complainant also stated that the Respondent’s actions were causing discomfort among clients at White Flint, leading to complaints of favoritism.

15. On November 19, 2014, the Complainant became aware that the Respondent’s car was parked at the halfway house where Clients B and C resided. At the time, the Respondent was on vacation at her villa in Mexico, and the Complainant was unable to contact the Respondent.

16. While the Respondent was in Mexico, Client C maintained and operated the Respondent’s car, as the Respondent had asked Client C and Client B to have the car repaired in her absence. Maintaining an unapproved vehicle on the grounds of the halfway house violated the halfway house’s policy.

17. On November 28, 2014, after the Respondent returned from Mexico, the Respondent issued a reprimand to the Complainant for interfering in the Respondent’s personal involvement with Clients B and C, stating that the Complainant had demonstrated a lack of professionalism.

18. Shortly afterward, the Complainant resigned from White Flint.

19. The Clients all received treatment at White Flint from August, 2014 until early 2015. The Clients sought treatment for abuse of alcohol and other drugs, primarily opiates, including heroin. Client A and C reported criminal histories that included auto theft, burglary, assault, and DUI.

² For confidentiality purposes, the names of individuals are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals from the Administrative Prosecutor.

20. The Clients' treatment at White Flint consisted primarily of intensive outpatient (IOP) group counseling sessions held on Tuesday, Wednesday, and Thursday evenings.

21. The Respondent's name and signature appear several times among the Clients' treatment records. For example, the Respondent's signature appears on Client B's "Memorandum of Understanding" where it designates "Counselor Signature," and her initials appear in a comment on Client C's attendance sheet.³ Other forms were signed and completed by the Complainant.

22. Shortly after Halloween, 2014, the Respondent began conducting at least one IOP group counseling session each week, typically every Tuesday night. Each of the Clients attended sessions the Respondent conducted.

23. The Respondent had regular contact with the Clients and other former clients outside the therapeutic setting at White Flint. The Respondent communicated with the Clients via text messaging unrelated to treatment, both before and after they were discharged from White Flint. She also communicated with the Clients through social media, specifically Facebook.

24. The social media postings included comments by the Respondent and the Clients on photos and other "status updates" displayed on the site which showed the Respondent and the Clients socializing in various settings.

25. For example, one post by Client A was entitled "Grubbin'", which indicated that the Clients were with the Respondent at Chipotle restaurant in Salisbury on November 11, 2014. In response to the post, the Respondent commented "Absolutely adore you three, [Client A], [Client B], and that other guy [jokingly referring to Client C]..." When Client A responded, "That other guy has a name!", the Respondent replied "...a rose by any other name..."

³ In addition, during her interview with the Board's investigator, the Respondent stated that in response to the Board's subpoena, she failed to send "various signed papers" relating to the Clients.

26. Other posts included photos of the Respondent posing with Clients A and B with comments such as “Bombed” and “Here’s the cool kids.” In one photo, Client C had his arm around the Respondent, which took place on a boat during a vacation in Cancun, Mexico.

27. In addition to regular contact, including text messages and social media postings, the Respondent attended numerous social events with one or more of the Clients (as well as various other former clients). The Respondent described her previous clients as “my world”.

28. These non-counseling social occasions included the following:

- (a) Dressing in a coordinated costume with Client C for Halloween, 2014;
- (b) A museum trip;
- (c) An Orioles baseball game;
- (d) A Ravens football game;
- (e) Dinners out (various);
- (f) Shopping excursions (various); and
- (g) A vacation to Mexico with Client C, during which the Respondent and Client C stayed together at the Respondent’s villa.

29. In addition to engaging in these social activities with the Clients, the Respondent also entered the following financial and other non-counseling-related affiliations with the Clients:

- (a) Acting as the Narcotics Anonymous sponsor for Client A;
- (b) Having Clients B & C either perform or arrange repairs on her car; and
- (c) Renting a house she owned to Clients B & C.

Judicial Review of the Order

30. Following the issuance of the Order by the Counselors Board, the Respondent appealed to the Circuit Court for Wicomico County. On or about June 8, 2018, the court affirmed the judgment of Board, finding “substantial evidence to support the decision by the Board.”

31. Following the issuance of the court's decision, the Respondent requested that the court conduct an *in banc* review of the court's order.⁴ On or about December 7, 2018, a panel of judges sitting in banc for the Circuit Court for Wicomico County issued a decision again affirming the court's June 8, 2018 decision.

32. Following the issuance of the *in banc* decision, the Respondent filed a petition for a writ of *certiorari*, seeking permission to appeal the *in banc* decision. On or about March 29, 2019, the Court of Appeals issued an order signed by Chief Judge Mary Ellen Barbera denying the Respondent's petition, finding, "there has been no showing that review by *certiorari* is desirable and in the public interest."

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's conduct, as described above generally, constitutes violations of the Act and the regulations adopted by the Board as cited above. Specifically:

The Respondent's actions, in entering into inappropriate dual relationships with the Clients, as described above, constitutes: an act of gross negligence, incompetence, or misconduct in the practice of social work, in violation of Health Occ. § 19-311(4); engaging in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work, in violation of Health Occ. § 19-311(5); and violations the provision of the Act and the Board's regulations cited above, in violation of Health Occ. § 19-311(6).

The revocation of the Respondent's certificate to practice as a CAC-AD by the Counselors Board constitutes: being disciplined by a licensing or disciplinary authority of any state for an act

⁴ Marylanders enjoy the right to in banc review of lower court decisions, i.e. the right to have a case heard before a three judge panel of judges rather than a single judge of the court.

that would be grounds for disciplinary action under this section, specifically those cited above, in violation of Health Occ. § 19-311(9).

The Respondent entered into dual relationships with the Clients, as described above, in violation of COMAR 10.42.03.05A.

The Respondent undertook and continued professional relationships with the Clients, as described above, when her objectivity was impaired due to her social, financial, administrative, legal, and/or other non-professional relationships with the Clients, in violation of COMAR 10.42.03.06B(1)(b).

The Respondent engaged in social, financial, administrative, legal, and/or other non-professional relationships with the Clients, as described above, that limited her objectivity and/or created a conflict of interest or the appearance of a conflict of interest, in violation of COMAR 10.42.03.06B(2).

ORDER

Based on the foregoing, it is this 25 day of October, 2019, by the Board hereby:

ORDERED that the Respondent's LBSW license, license number 04751 is hereby **REVOKED**; and it is further

ORDERED that upon service of this Order, the Respondent shall immediately surrender to the Board all indicia of licensure the Board that are in her possession, including but not limited to the original license and/or renewal certificates; and it is further

ORDERED that this document constitutes an Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. Code Ann., General Provisions, §§ 4-101 through 4-601 (Repl. Vol. 2014).

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 19-313(b), the Respondent has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the date of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222; and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files an appeal, the Board is a party and should be served with the court's process at the following address:

Stanley E. Weinstein, PhD, LCSW-C
Executive Director
Maryland State Board of Social Work Examiners
4201 Patterson Avenue
Baltimore, Maryland 21215
Telephone: (410) 764-4788
Facsimile: (410) 358-2469

At that point, the Administrative Prosecutor is no longer a party to this case and need not be served or copied.

October 25, 2019

Date



Sherryl Silberman, LCSW-C, Board Chair
Maryland State Board of Social Work Examiners