

IN THE MATTER OF * BEFORE THE STATE
DAVID GENE BURDETTE, LCSW-C * BOARD OF SOCIAL WORK
Respondent * EXAMINERS
License Number: 06025 * Case No. 13-1889

* * * * *

CONSENT ORDER

On October 17, 2014, the Maryland Board of Social Work Examiners ("the Board") charged **DAVID GENE BURDETTE, LCSW-C (the "Respondent")**, **License Number 06025** with violating the Maryland Social Work Examiners Act ("the Act") codified at Md. Health Occ. Code Ann. ("H.O.") §§ 19-101 *et seq.* (2009 Repl. Vol. and 2013 Supp.).

The pertinent provisions of the Act are as follows:

**H.O. § 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;

(2) Fraudulently or deceptively uses a license;

(4) Commits any act of gross negligence, incompetence, or misconduct in the practice of social work;

(6) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work;

On December 8, 2014, a Case Resolution Conference was convened in this matter. The Respondent agreed to enter into this Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds the following:

1. At all times relevant, the Respondent was and is a clinical social worker. The Respondent was initially licensed on April 15, 1989. His license is currently active and is scheduled to expire on October 31, 2015.

2. At all times relevant, the Respondent was employed as a social worker at Facility A in Timonium, Maryland.

3. On or about August 13, 2013, the Board received a complaint from the Assistant Administrator at Facility A alleging that the Respondent asked a staff member in the Finance Office to falsify the coding for the Respondent's client sessions in order to meet his volume of service¹ goals.

4. Thereafter, the Board initiated an investigation.

5. On May 1, 2013, the Respondent received a written warning with probation for failing to meet his volume of service requirements.² According to the memorandum, the Respondent was 10% behind his target for the third quarter.

6. According to the Respondent's personnel file, on or about May 8, 2013, the Respondent called Witness A, who handles residential billing for Facility A, and asked Witness A about changing the coding for therapy sessions he provided in March 2013. Specifically, the Respondent asked Witness A about changing the coding from family therapy to individual therapy.

¹ Volume of service indicates the number of psychotherapy sessions recorded for the year. The Respondent earned a credit for each full session completed and a half-credit for each half-session completed.

² The Respondent was required to obtain 1034 credits per year. The Respondent earned a credit for each full session completed and a half-credit for each half-session completed.

7. According to Witness A, who was interviewed by Board staff under oath, she advised the Respondent that the March 2013 sessions had already been billed as originally submitted. Witness A further stated that she told the Respondent that in order to change the coding from family sessions to individual sessions he would have to write new notes to reflect individual sessions.

8. Witness A stated that she asked the Respondent whether the family was present and he answered in the affirmative. Witness A stated that she told the Respondent that to change the billing to reflect services other than what as actually provided "sounded like fraud."

9. Witness A subsequently informed her supervisor of her conversation with the Respondent.

10. On or about May 31, 2013, the Respondent was terminated from Facility A.

11. In furtherance of the Board's investigation, the Board reviewed the Respondent's personnel file at Facility A. The Respondent's personnel file contained the following:

a. Documentation of a verbal warning dated May 27, 2010 stating that the Respondent had not achieved his established Volume of Service for FY 2009-2010;

b. Documentation of a verbal warning dated April 8, 2011 stating that the Respondent had not achieved his established Volume of Service;

c. Documentation of a written warning dated January 20, 2012 stating that the Respondent had continued to fall short of his established Volume of Service goal;

d. Documentation of a written warning dated May 1, 2013 stating that the Respondent had not achieved his established Volume of Service requirements and that his compliance with documentation requirements was questionable.

12. The Respondent signed and dated each of the aforementioned documents.

13. The Respondent's personnel file also contains documentation indicating that the Respondent didn't meet Volume of Service standards in 2007 and 2008.

14. In addition, the Respondent's personnel file indicates that he had a history of clinical documentation issues/deficiencies.

15. On June 23, 2014, Board staff interviewed the Respondent under oath. When asked whether the Respondent had ever received "any form of discipline, verbal warnings, written warnings, suspended with or without pay from Facility A," the Respondent stated that he was "written up once before." The Respondent explained that he was written up for getting behind in his treatment plans.

16. During his interview, the Respondent did not recall the multiple verbal and written warnings that are documented in his personnel file, and stated that he had "always made his volume for the year."

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concluded that, if proven true, the factual allegations would support a finding as a matter of law that the Respondent violated H.O. §§ 19-311(6). The Board drops the charges under H.O. §§ 19-311(2) and (4).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 13th day of February, 2015, by a majority of a quorum of the Board considering this case:

ORDERED that the Respondent shall be immediately placed on Board-supervised probation for a period of at least **SIX (6) MONTHS** and until the following terms and conditions are fully and satisfactorily complied with:

1. The Respondent's status as a licensed clinical social worker will be listed in the Board's computer records and website as being on "Probation";
2. During the probationary period, the Respondent shall enroll in and successfully complete a one-on-one ethics tutorial with a Board-approved instructor. The Respondent shall meet with the Board-approved ethics instructor for a minimum of 12 hours and shall focus on the conduct that gave rise to this Consent Order;
3. The Respondent shall be solely responsible for providing the Board with written documentation from the instructor of his successful completion of the one-on-one ethics tutorial;

4. The Respondent may not use any continuing education credits earned through taking the required ethics tutorial to fulfill any continued education requirements that are mandated for licensure renewal in this State;

ORDERED that no earlier than **SIX (6) MONTHS** from the commencement of the probationary period, the Respondent may submit a written petition to the Board requesting termination of probation. The Board will grant the termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of Probation and this Consent Order, the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board, may impose any sanction which the Board may have imposed in this case, including a probationary term and conditions of probation, reprimand, suspension, revocation and/or a monetary penalty, said allegations of violation of the terms and condition of this Consent Order shall be proven by a preponderance of the evidence; and it is further

ORDERED that the Respondent shall practice according to the Maryland Social Work Examiners Act and in accordance with all applicable laws, statutes and regulations; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of the Consent Order; and it is further

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. § 10-611 *et seq.* (2014 Repl. Vol.)



Mark Lannon, LCSW-C, Board Chair
State Board of Social Work Examiners

CONSENT

I, David Gene Burdette, acknowledge that I consulted with counsel before signing this document. By this Consent, I accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the

language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

1-12-15
Date

David Gene Burdette
David Gene Burdette, Respondent

Read and approved:

[Signature]
D. Andreas Lundstedt, Attorney for Mr. Burdette

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE :

I HEREBY CERTIFY that on this 12 day of JANUARY, 2015, before me, a Notary Public of the foregoing State personally appeared David Gene Burdette and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

[Signature]
Notary Public

My Commission Expires: 9-30-2017