

Received
OCT 14 2021
Board of Social Work Examiners

MARYLAND STATE BOARD OF
SOCIAL WORK EXAMINERS

* BEFORE RICHARD O'CONNOR
* ADMINISTRATIVE LAW JUDGE,
* THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
*
* OAH No.: MDH-BSW1-87-21-05903

v.

KENYONA N. DAVIS,

RESPONDENT

License No.: 24076

* * * * *

PROPOSED DECISION

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STATEMENT OF THE CASE

On August 14, 2020, the Maryland State Board of Social Work Examiners (Board) issued a Notice of Intent to Revoke Licensure against Kenyona N. Davis (Respondent) for fraudulently or deceptively using a license; gross negligence, incompetence, or misconduct in the practice of social work; practicing social work in a manner inconsistent with generally accepted professional standards; violating certain regulations governing the practice of social work; filing or making a false report; and keeping inadequate records, in violation of the Maryland Social Workers Act (Act). Md. Code Ann., Health Occ. §§ 19-101 through 19-407 (2021).¹ Specifically, the Board alleges that the Respondent violated sections 19-311(2), (4), (5), (6), (11), and (20) of the Act, as

¹ All references to the Health Occupations Article cite the 2021 Replacement Volume of the Maryland Annotated Code.

well as Code of Maryland Regulations (COMAR) 10.42.02.03B, 10.42.03.03A and B, and 10.42.03.06A(7).

I held a hearing by videoconference on June 16 and July 12, 2021. Health Occ. § 19-312. The Respondent participated without representation. Katherine Vehar-Kenyon, Assistant Attorney General and Administrative Prosecutor, represented the State.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act, the Rules of Procedure for Board Hearings, and the Rules of Procedure of the Office of Administrative Hearings. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021), COMAR 10.42.04; COMAR 28.02.01.

ISSUES

1. Did the Respondent violate the statutory provisions of the Act and COMAR regulations as alleged?
2. If so, what sanctions are appropriate?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits into evidence on behalf of the State:

1. Complaint Form, June 18, 2019.
2. License Verification, June 19, 2019.
3. Letter from the Board to the Respondent with attached redacted Complaint Form and brochure explaining the disciplinary process, September 20, 2019.
4. Email from the Respondent to the Board's investigator, Earnest Ford, September 23, 2019; email from Mr. Ford to the Respondent, October 16, 2019.
5. Subpoena Duces Tecum, October 16, 2019; two Subpoenas Duces Tecum, October 11, 2019; Subpoena Duces Tecum, March 2, 2020; Subpoena Duces Tecum, July 13, 2020; Mr. Ford's report of his investigation, March 2, 2020.

6. Subpoena ad Testifica,² October 10, 2019; Witness Oath of Oral Testimony, October 14, 2019; transcript of an interview of Samantha Sailsman, October 14, 2019.
7. Transcript of an interview of the Respondent, October 16, 2019; Oath of Rights for Administrative Investigation, October 16, 2019.
8. Subpoena ad Testifica, October 16, 2019; Witness Oath of Oral Testimony, October 16, 2019; transcript of an interview of Chervon Walker, October 16, 2019.
9. Subpoena Duces Tecum, October 21, 2019; the Respondent's accident report and medical history, February 19, 2019; magnetic resonance imaging (MRI) report, March 21, 2019; medical records and bills, February 19 to April 23, 2019.
10. Letter of termination from National Pike Health to the Respondent, June 20, 2019.
11. Job Description, signed November 29, 2018; Employee Welcome Letter, November 19, 2018; Receipt of Policy or Training, signed November 26, 2018; Orientation Training report, November 26, 2018; Disclosure Statement, signed November 29, 2018; Contract for Supervision for LCSW and LCSW-C Licensure, December 17, 2018; emails between the Respondent and Icia Ragsdale, February 5, 2019; Change of Employment and Payment Status, February 11, 2019.
12. Emails between the Respondent and Malerie Bracey, February 18, 2019; Disability Forms, February 19, March 12, and March 20, 2019; emails and text messages between the Respondent and National Pike Health, February 19 to March 25, 2019.
13. Change of Employment and Payment Status, March 27, 2019; emails between the Respondent and Feyi Popoola, March 29, 2019.
14. National Pike Health Center, Inc. reports of patient therapy sessions, December 10, 2018 to February 5, 2019; email string about the Respondent's caseload, March 21, 2019; email string about the Respondent's caseload, March 27, 2019; email from Icia Ragsdale to the Respondent, March 28, 2019; email string about the Respondent's caseload, April 2 and 3, 2019; email string about the Respondent's caseload, April 11, 2019; email from Chervon Walker to the Respondent, April 15, 2019; email string about the Respondent's caseload, April 24, 2019; email string about the Respondent's caseload, May 3, 2019; string of text messages about the Respondent's availability, May 1 to June 9, 2019.
15. Supervisor Invoices, December 2018 to February 2019; supervision records, December 17, 2018 to March 29, 2019; email string about the Respondent's availability for supervision, January 30 to May 5, 2019.
16. Annotated list of the Respondent's clients, undated; Quality of Care Follow Up Surveys, most dated May 31, 2019; email string about the Respondent's patients, May 31, 2019.

² Sic. The correct legal Latin is "ad testificandum."

17. Seventeen NPHC³ Referral Forms, undated.
18. Email string between the Respondent and Vernetta Peels of Jessup Correctional Institution (JCI), January 24, 2019; letter from the Respondent to JCI, January 24, 2019; entry memorandum from JCI for January 29, 2019; the Respondent's assessment of Michael Smith, February 1, 2019; email from the Respondent to Michael Smith, February 21, 2019; Treatment Plan, undated; notification of employment from Empowering Girls 4 Success, Inc., regarding Michael Smith, January 25, 2019.
19. Notice of Intent to Revoke Licensure, August 14, 2020.

The Respondent did not offer any exhibits.

Testimony

The State presented the testimony of the following witnesses:

1. Earnest Ford, Investigator for the Board.
2. Icia Ragsdale, Clinical Director at National Pike Health Center, Inc. (National Pike).
3. Chervon Walker, Social Worker for Baltimore City Public Schools.
4. Samantha Sailsman, Program Director at National Pike.

The Respondent testified.

PROPOSED FINDINGS OF FACT

Having considered the evidence presented, I find the following facts by a preponderance of the evidence:

1. At all times relevant to this proceeding, the Respondent was a licensed social worker in the State of Maryland.
2. On or about November 26, 2018, the Respondent started working as a social worker and therapist for National Pike Health Center, Inc. (National Pike).
3. National Pike is an outpatient mental health clinic with three offices: Catonsville, Dundalk, and downtown Baltimore on Pratt Street.

³ National Pike Health Center.

4. National Pike first assigned the Respondent to its Dundalk location, but she soon transferred to the Pratt Street location.

5. The Pratt Street clinic serves a mix of vulnerable adult and child clients who often face socio-economic distress, homelessness, and difficulty maintaining cell phone service. The clients typically have issues such as major depression, substance abuse, post-traumatic stress disorder, bipolar disorder, attention deficit hyperactivity disorder, oppositional defiance disorder, anger, anxiety, and explosive disorder.

6. National Pike assigned the Respondent a quota of meeting twenty-eight clients weekly. Most clients were to be seen once a week and the Respondent was responsible for documenting every encounter with her clients in National Pike's electronic medical records.

7. The Respondent met her quota and was a successful employee, providing therapy and assistance to the clients on her caseload. She received a raise and promotion on February 11, 2019.

8. Around this same time, however, the Respondent was failing to follow-up with clients by scheduling their next appointments, conducting therapy sessions as scheduled, and updating their records.

9. On February 18, 2019, the Respondent was the victim of a rear-end motor vehicle collision in which she sustained significant injuries.

10. The Respondent was under a physician's care and receiving physical therapy for the next several weeks. Her medical providers certified that she was disabled and unable to work through April 2, 2019.

11. On behalf of National Pike, Ms. Ragsdale and Ms. Sailsman continually tried to get information from the Respondent about when she would return to work. The Respondent

provided dates for her expected return, but then would miss those dates and continue on sick leave.

12. Meanwhile, the Respondent's clients were not receiving services from National Pike.

13. The Respondent returned to work on or about March 27, 2019; however, her employment status changed to being a contractual rather than a full-time employee. Her client caseload remained approximately the same as it had been before the accident, about twenty-six clients.

14. The Respondent did not contact or meet with most of the clients on her caseload after her return to work. Some clients requested that National Pike transfer them to another therapist; others said they would like to continue with the Respondent but had not heard from her in months. One client complained that he made appointments with the Respondent at Pratt Street but when he arrived, she would not be there.

15. The Respondent made almost no entries in the clients' electronic medical records after her return to work to document appointments, services provided, or attempts to contact them.

16. The Respondent is a Licensed Master Social Worker (LMSW); as such, she could not diagnose mental disorders, treat mental or emotional disorders, or provide psychotherapy without the supervision of a licensed certified social worker – clinical (LCSW-C).

17. National Pike assigned Tawanna Tilghman, LCSW-C, to supervise the Respondent, but that arrangement ended after a short time. On December 17, 2018, the Respondent executed a contract for supervision with Chervon Walker, LCSW-C. The

Respondent agreed to meet with Ms. Walker three times a month for one hour each time to review the Respondent's notes and treatment plans.

18. Ms. Walker is a full-time social worker for the Baltimore City Public Schools. In 2019, she also worked as a clinical supervisor for National Pike, but her hours were mostly after 3:00 p.m.

19. The Respondent had difficulty remaining at work in the late afternoon because she needed to care for her children during that time.

20. The Respondent and Ms. Walker met for supervision once in December 2018, twice in January 2019, and once in February 2019. They also met once or twice in March 2019.

21. The Respondent did not meet with Ms. Walker at all in April or May 2019. Ms. Walker tried to schedule meetings, but the Respondent was not available when Ms. Walker was.

22. Ms. Walker left National Pike in early May 2019, after which the Respondent had no supervision.

23. National Pike serves only Medicaid-approved clients.

24. National Pike does not, and is not permitted to, serve incarcerated clients.

25. On January 24, 2019, the Respondent used National Pike letterhead to request access to Michael K. Smith, an inmate incarcerated at the Jessup Correctional Institution (JCI), to conduct an evaluation.

26. On January 25, 2019, JCI approved the Respondent's visit with Mr. Smith to perform an initial treatment assessment.

27. The Respondent met with Mr. Smith at JCI on January 29, 2019.

28. On February 1, 2019, the Respondent completed an assessment and a treatment plan for Mr. Smith on National Pike forms. The assessment form has a code in the lower left

corner that corresponds to the name of an actual National Pike client, showing that Mr. Smith's assessment was not a National Pike document and that he was not a client of National Pike.

29. On February 21, 2019, the Respondent sent an email to Mr. Smith⁴ from her National Pike email address stating that he had been contingently offered housing in the Community Re-Entry Housing Program for Ex-Offenders.

30. National Pike has no such program.

31. On January 25, 2019, Brittany Rice sent a letter addressed To Whom It May Concern on the letterhead of Empowering Girls 4 Success, Inc., stating that Mr. Smith had been offered employment with Empowering Girls 4 Success, Inc.

32. Empowering Girls 4 Success, Inc. was not in operation in 2019.

33. Brittany Rice was an office assistant at National Pike until she left in February 2019.

34. On or about April 9, 2019, the Respondent began working for a psychiatric rehabilitation program called Changing Lives at Home.

35. National Pike terminated the Respondent's employment on June 20, 2019.

DISCUSSION

The State has the burden of proving by a preponderance of the evidence that the Respondent committed the alleged violations of the Act. COMAR 10.42.04.06C(2). To prove an assertion or a claim by a preponderance of the evidence means to show that it is "more likely so than not so" when all the evidence is considered. *Coleman v. Anne Arundel Cty. Police Dep't*, 369 Md. 108, 125 n.16 (2002).

⁴ Mr. Smith must have been out of prison at this time, as he had a yahoo.com email address.

The grounds for reprimand or probation of a licensee, or suspension or revocation of a license, under the Act include the following relevant provisions:

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;

(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;

...

(11) Makes or files a false report or record in the practice of social work;

...

(20) Fails to maintain adequate patient records[.]

Health Occ. § 19-311. The regulations allegedly violated under section 19-311(6), above, are as follows:

COMAR 10.42.02.03B(1). An LMSW shall practice social work only under a social work supervisor.

COMAR 10.42.03.03A. The Licensee shall:

...

(3) Notify the client promptly and seek the transfer, referral, or continuation of service in relation to the client's need or preference if the licensee anticipates the termination or interruption of service;

(4) Prepare and disseminate to an identified colleague or record custodian a written plan for the transfer of clients and files in the event of the licensee's incapacitation, death, or termination of service; and

(5) Maintain documentation in the client's record which:

...

(b) Accurately reflects the services provided, including treatment plans, treatment goals, and contact notes;

(c) Indicates the time and date the services were provided;

...

(e) Is sufficient and timely to facilitate the delivery and continuity of future services[.]

COMAR 10.42.03.03B. The licensee may not:

(1) Participate or condone dishonesty, fraud, deceit, or misrepresentation;

(2) Misrepresent professional qualifications, education, experience, or affiliation[.]

COMAR 10.42.03.06A. Professional Competence. The licensee shall:

...

(7) Document and maintain appropriate and accurate records of professional service, supervision, and research work[.]

As outlined in the Findings of Fact, above, the evidence establishes that the Respondent committed each of the charged violations.

The Respondent went out on extended sick leave after her automobile accident on February 18, 2019. National Pike became annoyed with the Respondent because she did not return to work when she said she would, but the Respondent had documentation of disability from her medical providers that stated that she could not return to work until April 3, 2019. The Respondent's absence caused problems for National Pike because the Respondent's clients were calling to schedule appointments and asking when she was coming back. Additionally, those clients were not receiving the services they needed. National Pike was suspicious of the

Respondent and even went so far as to call her physician's office to inquire whether they were really treating the Respondent. The reply was in the affirmative.

During this time, the Respondent cannot be held responsible for whatever problems National Pike and the clients encountered because of her absence. The Respondent was genuinely physically disabled and unable to work, and despite National Pike's frustration and suspicions, is not to blame for the difficulties her sick leave caused.

Ms. Sailsman audited the Respondent's clients' records at the end of May 2019 and found only one entry where the Respondent met with a client after returning to work. The entries generally indicate that the last client contacts occurred around the end of January and the beginning of February 2019, so it appears that the Respondent's problems maintaining and serving her caseload began before the accident, as will be discussed later.

The Respondent quite clearly committed several serious violations before the accident. Most egregious were her misrepresentations and falsifications involving Michael Smith, the JCI inmate. The relationship between the Respondent and Mr. Smith is unknown – the Respondent testified that she knows Mr. Smith's family and has no personal relationship with him. But when she filled out a patient information form (State's Exhibit 9) after her accident, she listed Michael Smith as her emergency contact and described him as her fiancé.

Whatever the relationship may have been, the Respondent obviously used false pretenses to get into JCI to see him. She used National Pike letterhead to falsely imply that she needed to evaluate Mr. Smith as a potential client. In fact, National Pike does not serve incarcerated clients. Its contract allows it to serve only clients covered by Medicaid, and prisoners do not have Medicaid coverage. Both Ms. Ragsdale and Ms. Sailsman testified that National Pike has never served an incarcerated population and could not do so.

The Respondent conned her way into JCI using this ruse and had a contact visit with Mr. Smith on January 29, 2019. Afterward, she wrote up an assessment document on a National Pike form, but the form contains the code name of an existing patient at the bottom. This means that the information about Mr. Smith would not go into National Pike's records under his own name and shows that he was not an actual client of National Pike.

Next, the Respondent used her National Pike email address (with the National Pike logo) to send Mr. Smith an email stating that he had been "contingently offered a housing assignment" at the Community Re-Entry Housing Program for Ex-Offenders. The purpose of this letter seems to be to provide Mr. Smith with evidence that he had a place to live during his transition from prison to the community. National Pike has never had such a program, and there is nothing in the record to suggest that it existed anywhere. The Respondent sent this email on February 21, 2019, while she was on sick leave from National Pike after the accident.

The Respondent also completed a treatment plan for Mr. Smith showing that she would provide services to him as his "assigned therapist" at National Pike's Pratt Street location. Ms. Sailsman testified credibly, and documents in the record show, that Mr. Smith was never on the Respondent's caseload or a client of National Pike.

Also in the record is a suspicious letter from Brittany Rice addressed To Whom It May Concern dated January 25, 2019, stating that Empowering Girls 4 Success, Inc. was offering Mr. Smith a job "upon his availability to begin employment." Ms. Sailsman testified that Ms. Rice was an office assistant at National Pike's Pratt Street location until February 2019. Ms. Rice signed this letter as "Program Director" of Empowering Girls 4 Success, Inc., even though she was still working at National Pike at the time.

Ms. Sailsman testified that the Respondent and Ms. Rice were “close” when they worked at National Pike. She also said that she looked up the address of Empowering Girls 4 Success, Inc. from Ms. Rice’s letter and it appeared on Google Maps to be an abandoned house. Ms. Sailsman also called the telephone number on the letterhead and received no response.

The Respondent testified that she, Ms. Rice, and Malerie Bracey were “trying to put together a program” to serve transitioning inmates, but Ms. Sailsman stated that Ms. Bracey was an office administrator who, like Ms. Rice, had no social work credentials. Neither Ms. Bracey nor Ms. Rice, she said, had authority to institute a program or authorize the Respondent to interact professionally with an inmate.

The evidence on this point overwhelmingly proves that the Respondent falsely used her credentials as a licensed social worker and an employee of National Health to gain access to Mr. Smith, prepare records for him that were not legitimate or related to her employment, and create bogus documents purporting to provide housing and employment for him. The Respondent’s deception violated several provisions of the Act, most specifically section 19-311(2), which prohibits false or deceptive use of a license. Additionally, it was an act of misconduct in the practice of social work, prohibited by section 19-311(4). The Respondent also violated COMAR 10.42.03.03B(1), prohibiting dishonesty, fraud, deceit, or misrepresentation, and B(2) by misrepresenting to JCI that she was providing services to Mr. Smith as part of her affiliation with National Pike. The Respondent’s failure to adhere to those regulations also violated section 19-311(6) of the Act. Additionally, the Respondent’s preparation of the assessment and treatment plan on National Pike forms to convey the impression that Mr. Smith was a client of National Pike constitutes a violation of section 19-311(11) of the Act, which prohibits making or filing a false report or record in the practice of social work.

Turning to the next alleged violation, the Respondent demonstrated an aversion to being supervised throughout her tenure at National Pike. As set forth previously, COMAR 10.42.02.03B(1) requires that an LMSW practice social work only under a social work supervisor. Additionally, section 19-307(c)(2)(ii) and (iii) of the Act provides that an LMSW may not diagnose a mental disorder, treat a mental or emotional disorder, or provide psychotherapy without the supervision of an LCSW-C. Health Occ. § 19-307. COMAR 10.42.02.02B(19) defines “supervision” as “a formalized professional relationship between a supervisor and supervisee in which the supervisor directs, monitors, and evaluates the supervisee’s social work practice while promoting the development of the supervisee’s knowledge, skills, and abilities to provide social work services in an ethical and competent manner.”

The Respondent and Ms. Ragsdale both testified that the Respondent began providing therapy to clients immediately after she was hired and completed a day or two of training. This was the Respondent’s first job as a clinical social worker. National Pike first assigned Tawanna Tilghman, LCSW-C, as the Respondent’s supervisor. That supervision never occurred, for reasons that are unclear but cannot be blamed on the Respondent. On December 17, 2018, the Respondent signed a supervision agreement with Chervon Walker, LCSW-C, to meet with Ms. Walker three times monthly to review the Respondent’s case management, contact notes and treatment plans. Each meeting would be for one hour and had to be face-to-face. This was the minimum amount of supervision required by State regulation. COMAR 10.42.08.07C(5).

COMAR 10.42.08.08 states that it is the supervisee’s obligation to be available for supervision and adhere to the terms of the supervision contract. The Respondent did not fulfill the contract during any month of her employment at National Pike, either before or after her

accident. Ms. Walker testified that she worked part-time at National Pike as a supervisor, usually in the Catonsville office from 3:00 to 8:00 p.m. The Respondent never informed Ms. Walker that being available for supervision as agreed would be a problem.

Ms. Walker stated flatly that the Respondent “didn’t make herself available for supervision.” Documents in the record (State’s Exhibit 15) show that after the initial meeting on December 17, 2018, the Respondent met with Ms. Walker on January 15 and 22, 2019; February 4, 2019; and March 29, 2019.⁵ Ms. Walker did not have a complete recollection of these events but testified that she met with the Respondent only once or twice in March 2019. The records do not show any other meetings.

Ms. Walker also indicated that she had difficulty getting the Respondent’s records for review and in communicating with the Respondent in general. Emails in the record support this testimony, including one on January 30, 2019 asking for records “ASAP” and another on April 10, 2019 expressing some frustration about the Respondent’s reluctance to commit to a time for supervision. By April 2019, Ms. Walker concluded that she could not successfully supervise the Respondent and began reaching out to National Pike to see if another supervisor could take over. This effort was unsuccessful, Ms. Walker left National Pike in early May, and the Respondent remained unsupervised after March 29, 2019.

The Respondent blamed National Pike for her difficulties with supervision. She testified that Ms. Walker was available only after 3:00 p.m., and the Respondent could not stay late for meetings because she had three children to look after. However, Ms. Ragsdale testified that she told the Respondent that she (the Respondent) would have to work late two evenings a week, per National Pike policy. The Respondent also stated that at some point she asked National Pike to

⁵ The Respondent cancelled a scheduled meeting on February 18, 2019, obviously because she was just involved in the motor vehicle collision.

transfer her to another supervisor, but there is no record of such a request, and neither Ms. Ragsdale nor Ms. Sailsman mentioned it in their testimony.

I find that the evidence supports the State's position on this issue. The Respondent mentioned difficulties caused by Ms. Walker's schedule only after the fact; she voiced no complaints during Ms. Walker's active supervision. COMAR 10.42.08.08 requires that the social worker being supervised be available for supervision and provide the records necessary for effective supervision. The Respondent, as an LMSW, had an obligation and did not meet it. She continuously performed social work activities without supervision and seemed to actively avoid being supervised. The Respondent is highly educated and well trained; she surely knew and understood that she required an LCSW-C's supervision.

The Respondent's failure to cooperate with supervision violated COMAR 10.42.02.03B(1), which requires that an LMSW practice only under supervision. This regulatory violation is also prohibited by section 19-311(6).

The final area in which the State alleges deficiencies is client care. Apparently, National Pike began to be concerned about the Respondent's actions shortly before her accident on February 18, 2019. Ms. Sailsman testified that, after February 11th, half of the Respondent's hours were to be devoted to a psychiatric rehabilitation program for students at Cherry Hill School. Ms. Sailsman became suspicious that the Respondent was referring these clients to herself as private patients, possibly under the auspices of an entity called Serendipity, rather than treating them as an employee of National Pike.

The evidence is not sufficient to establish as fact that the Respondent did as Ms. Sailsman suspected. However, those suspicions were part of the reason that National Pike began looking into the Respondent's records in detail.

The Respondent came back to work on March 27, 2019, as a contract employee, meaning that she could perform her social work duties either at National Pike's office or in the field, and that she would be paid based on the invoices she turned in for treating National Pike's clients. The Respondent had told National Pike that she wanted to keep the same caseload as she had before the accident, to the extent possible, and was assigned the clients who had not been discharged.

Subsequently, the Respondent did not turn in invoices, attend staff meetings, or document in the electronic medical records her meetings with clients or her attempts to contact clients. For National Pike, the situation became intolerable in May 2019 with the Respondent's clients complaining that they were receiving no services.

At the end of May, Ms. Sailsman inventoried the Respondent's client records and contacted the clients that she could. Many had stopped communicating with National Pike and could not be found. Others expressed great frustration about being unable to schedule appointments with the Respondent, or scheduling appointments only to find that the Respondent was not there when they showed up. Ms. Sailsman's audit of the medical records showed only one documented instance where the Respondent met with a client after her return to work – on April 5, 2019. The last appointments most of the clients had with the Respondent were in late January or early February. The Respondent entered nothing in the clients' records about attempts to contact them.

The Respondent generally challenged the State's evidence on the issue of client care by asking rhetorically why she would neglect her assigned clients if she was paid only for seeing them. Generally, this would be a valid point, but it is meaningless without some evidence that she did provide services for her clients. The record contains no hint that she did so. Additionally,

the Respondent testified (and told Mr. Ford) that on April 9, 2019, she had begun working for a program called Changing Lives at Home. In her sworn statement of October 16, 2019, the Respondent stated that she was a program manager of the psychiatric rehabilitation program for Changing Lives at Home and did not provide therapy, but then almost immediately said that she did provide therapy for a family of four clients. State's Exhibit 7.

In simpler terms, by April of 2019, National Pike had assigned the Respondent a caseload of clients for whom she was expected to provide social work services. The Respondent was not providing those services; instead, she was devoting her attention to her new job at Changing Lives at Home.

Ms. Ragsdale testified quite poignantly about the harm caused by the Respondent's neglect of her clients. They need the support a therapist can provide because their lives are so very difficult, with severe socio-economic, medical, psychiatric, and cultural problems. Being abandoned causes the clients to lose hope and reinforces the idea that they don't count, and no one cares about them. They often drop out of sight, as many of the Respondent's clients did. As she stealthily left National Pike, the Respondent did nothing to track down her clients, transition them to other therapists, or refer them elsewhere.

The Respondent's abandonment of her clients amounts to gross negligence, incompetence, and misconduct under sections 19-311(4) of the Act and COMAR 10.42.03.03A(3) and (4). As a regulatory violation, it is also another violation of section 19-311(6). The Respondent's actions were also far from the generally accepted professional standards in the practice of social work. Health Occ. § 19-311(5). Also, after February 18, 2019, the Respondent did not document any interactions with her National Pike clients, thus failing to maintain adequate patient records. Health Occ. § 19-311(20); COMAR 10.42.03.03A(5); COMAR 10.42.03.06A(7).

Sanctions

The Board may impose disciplinary sanctions and/or a monetary penalty against a licensee who is found to have violated the Act. Health Occ. §§ 19-311, 19-311.1; COMAR 10.42.03.07; COMAR 10.42.09.03. The Board's regulations contain a matrix of sanctions in COMAR 10.42.09.04, factors to be considered when assessing a monetary penalty in COMAR 10.42.04.11B, and considerations that may mitigate or aggravate otherwise appropriate sanctions in COMAR 10.42.09.05. The Board is seeking revocation of the Respondent's license to practice social work, with no monetary penalty.

In the disciplinary sanction matrix of COMAR 10.42.09.04, revocation is the maximum penalty for each of the Respondent's violations except record-keeping, which carries a maximum of two years probation. Under the matrix, revocation of the Respondent's license is an appropriate sanction.

COMAR 10.42.09.05A lists nine mitigating factors to be considered in imposing a sanction. Only one applies: the Respondent's lack of prior disciplinary history. The Respondent did not self-report her violations, admit her misconduct, or undertake rehabilitative measures. The Respondent also continued to provide therapy without supervision at Changing Lives at Home, indicating that her transgressions are likely to recur.

COMAR 10.42.09.05B provides nine aggravating factors:

- (1) The licensee has a previous criminal or administrative disciplinary history;
- (2) The violation was committed deliberately or with gross negligence or recklessness;
- (3) The violation had the potential for, or caused, serious patient or public harm;
- (4) The violation was part of a pattern of detrimental conduct;
- (5) The licensee was motivated to perform the violation for financial gain;
- (6) The vulnerability of the clients;
- (7) The licensee lacked insight into the wrongfulness of the conduct;

- (8) The licensee committed the violation under the guise of treatment; and
- (9) Previous attempts at rehabilitation of the licensee were unsuccessful.

Factors (1), (5), and (9) are not present here, but the others have been proved. Essentially, the Respondent ignored the Code of Ethics in COMAR 10.42.03.03 and operated in her own self-interest rather than providing the services needed by her clients and required by her employer, resulting in significant harm to both. Based upon the Respondent's proven misconduct, I find that revocation of her license is the only appropriate sanction.

PROPOSED CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Respondent did violate the provisions of the Act as alleged. Md. Code Ann., Health Occ. § 19-311(2), (4), (5), (6), (11), (20) (2021).

I further conclude as a matter of law that the Respondent is subject to a disciplinary sanction of revocation of her license to practice social work for the cited violations. *Id.*; COMAR 10.42.03.07; COMAR 10.42.04.11; COMAR 10.42.09.03-.05.

PROPOSED ORDER

I **PROPOSE** that charges filed by the State Board of Social Work Examiners against the Respondent on August 14, 2020, be **UPHELD**.

I further **PROPOSE** that the Respondent's license to practice social work be **REVOKED**.

October 6, 2021
Date Decision Issued

Richard O'Connor

Richard O'Connor
Administrative Law Judge

ROC/dlm
#194450

NOTICE OF RIGHT TO FILE EXCEPTIONS

Any party adversely affected by this proposed decision may file written exceptions with the State Board of Social Work Examiners within fifteen (15) days after issuance of this decision. COMAR 10.42.04.06D. Within ten (10) days of the filing of exceptions, the opposing party may file an answer. *Id.* The Board will review timely exceptions prior to rendering the final agency decision. Md. Code Ann., State Gov't. §§ 10-216, 10-221 (2021); COMAR 10.42.04.06D-E. The Office of Administrative Hearings is not a party to any review process.

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IN THE MATTER OF
KENYONA DAVIS, LMSW

Respondent

License Number 24076

*** BEFORE THE**
*** MARYLAND STATE BOARD**
*** OF SOCIAL WORK EXAMINERS**
*** Case Number 2019-2665**

* * * * *

FINAL DECISION AND ORDER

On August 14, 2020, the Maryland State Board of Social Work Examiners (“the Board”) issued a Notice of Intent to Revoke (“Notice”) under the Maryland Social Work Practice Act (the “Act”) against Kenyona Davis (“Respondent”). The Notice alleged that Respondent committed misconduct in the practice of social work, violating the laws governing the practice of social work and violating regulations in the Board’s Code of Ethics. *See* Health Occ. (“H.O”) § 19-311(2), (4), (5), (6), (11) and (20); and COMAR 10.42.02.03, 10.42.03.03, and 10.42.03.06.

Respondent requested an evidentiary hearing on the Notice. The Board delegated the matter to the Office of Administrative Hearings (“OAH”) for an evidentiary hearing and a proposed decision. OAH convened the evidentiary hearing before an administrative law judge (“ALJ”).

On October 6, 2021, the ALJ issued a proposed decision (“PD”). The PD concluded that the Respondent violated sections 19-311 (2),(4), (5), (6) (11), and (20) of the Maryland Social Work Practice Act (2021) and COMAR 10.42.03.07, COMAR 10.42.04.11; and COMAR 10.42.09.03 -.05. The PD recommended that the Notice be upheld and that the Respondent’s license to practice social work be revoked. The Respondent filed exceptions.

Exceptions

On December 10, 2021, a hearing on the Respondent's exceptions was held before the full Board. The Respondent took exceptions to: (1) an alleged statement by the ALJ regarding the lack of supervision at her new place of employment, (2) an alleged statement by the ALJ that the Respondent failed to take care of her own mental health during her employment at the clinic where the incidents occurred, and (3) the ALJ's proposed sanction recommending revocation of her license.

The Board considered Respondent's exceptions and finds that they are all without merit. As to the Respondent's first exception, the ALJ did not make a finding concerning the Respondent's supervision at her new place of employment. The Respondent's contention relates to facts that were not offered or admitted into evidence. Thus, the first exception must be rejected. The Respondent's second exception is unsubstantiated. The Respondent failed to provide the Board with a citation or location in the transcript where this alleged statement may be found. Without more, the Board was not able to locate the statement or confirm its existence, veracity or context. More importantly the Board is unable to reconcile how this alleged statement bears any significance in light of the charges against the Respondent. Therefore, the Board must reject the second exception. Third, the Respondent takes exception to the proposed sanction and requests that the Board consider allowing her to continue practicing social work with a fine or period of suspension. The Board rejects this request. The Board agrees with the ALJ that the evidence in this case was overwhelming that the Respondent abandoned vulnerable clients, failed to maintain client records which disrupted the continuity of care for her clients, failed to comply with the requirement for supervision as a LMSW, and her actions surrounding the fraudulent use of her social work license as well as agency letterhead and emails to arrange

visits with an inmate who was not a client of the agency, all demonstrate actions that are highly egregious for a social work professional. It is for these reasons that the Board rejects the Respondent's third exception and finds that they were all without merit.

CONCLUSIONS OF LAW

The Board adopts the PD in its entirety. The Board accepts and adopts the summary of the evidence presented at the hearing before the ALJ and adopts the ALJ's proposed findings of fact which are incorporated herein by reference and attached hereto as Exhibit 1 at 4 - 8. The Board accepts and adopts the ALJ's Discussion of the evidence presented which establishes that the Respondent committed each of the charged violations. The ALJ's Discussion is incorporated herein by reference and is attached hereto as Exhibit 1 at 8 - 18. Based on the foregoing Findings of Fact and Discussion, the Board accepts and adopts the ALJ's conclusions of Law as set forth in the PD which is incorporated by reference and attached hereto as Exhibit 1 at 20.

The Board concludes that the Findings of Fact were proven by a preponderance of the evidence and as a matter of law that the Respondent did violate HO § 19-311 (2),(4), (5), (6) (11), and (20) of the Maryland Social Work Practice Act (2021) and COMAR 10.42.03.07, COMAR 10.42.04.11; and COMAR 10.42.09.03 -.05, as alleged.

SANCTION

The Board accepts and adopts the ALJ's Discussion of the disciplinary sanctions which is incorporated herein by reference and attached hereto as Exhibit 1 at 19 - 20. In assessing the appropriate sanction in this case, the Board considered mitigating and aggravating factors under COMAR 10.42.09.05A-B. The Board also considered the minimum and maximum sanctions for each of the violations as stated under COMAR 10.42.09.04A-B. The Respondent violated generally accepted standards of the practice of social work. As a social worker with less than

five years in the profession, the Respondent's lack of interest in supervision, keeping client appointments, documenting client meetings and fraudulent use of her work email and letterhead sheds light on her insight and judgment. The Board finds the Respondent's use her social work license in this manner troubling. The Board believes that the actions of Respondent were intentional, deliberate and grossly negligent; potentially harmful, demonstrate a lack of insight and poor judgment, as well as a disregard for the ethical standards of social work practice which is detrimental to the profession.

ORDER

The Board accepts and adopts the ALJ's Proposed Order, which is incorporated herein by reference and attached hereto as Exhibit 1 at 20. It is, on the affirmative vote of a majority of the quorum of the Board, hereby

ORDERED that the Respondent's license to practice as a licensed master social worker, in the State of Maryland, license number 24076, is hereby **REVOKED**; and it is further

ORDERED that this is a public document.



5/20/2022

Date

Karen Richards, LCSW-C, Chair
Maryland State Board of Social Work Examiners

NOTICE OF APPEAL RIGHTS

Any person aggrieved by a final decision of the Board under Md. Code Ann., Health Occ. §§ 19-313 may take a direct judicial appeal within thirty (30) days as provided by Md. Code Ann., Health Occ. § 17-512, Md. Code Ann., State Gov't § 10-222, and Title 7, Chapter 200 of the Maryland Rules, including Md. Rule 7-203 ("Time for Filing Action").