

IN THE MATTER OF * **BEFORE THE MARYLAND**
BRIAN L. FRUCHTMAN, * **STATE BOARD OF SOCIAL**
APPLICANT * **WORK EXAMINERS**
* **Case Number: 2021-2975**

* * * * *
FINAL ORDER

On or about October 14, 2022, the Maryland Board of Social Work Examiners (the “Board”) issued a formal Notice of Intent to Deny Application for Social work to **Brian L. Fruchtman, (the “Respondent”)**, under provisions of the Maryland Social Workers Act (the “Act”), codified at Md. Code Ann., Health Occ. § 19-101 *et seq.* (2014 Repl. Vol. and 2020 Supp.).

The pertinent provisions of the Act provide the following:

§ 19-302. Qualifications of applicants

(a) *In general.* – To obtain a license, an applicant shall demonstrate to the satisfaction of the Board that the applicant:

. . . .

(3) Is of good moral character [.]

Health Occ. § 19-302.1. Out-of-state Applicant

To obtain a certified social worker license or a certified social worker-clinical license, an out-of-state applicant shall:

- (1) Meet the requirements of § 19-302(a) of this subtitle;
- (2) Be licensed or registered to practice social work in another state at a level of licensure that is equivalent to a certified social worker license or a certified social worker-clinical license

§ 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...if the applicant...:

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

...

(6) Violates any provision of this title or regulations governing the practice of social work adopted by and published by the Board; [and]

...

(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[.]

Grounds for disciplinary action under Health Occ. § 19-311(9) include the following:

...

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

...

(6) Violates any provision of this title or regulations governing the practice of social work adopted and published by the Board.

PROCEDURAL SUMMARY

The Board issued a notice of hearing to the Respondent by regular mail and certified mail return receipt for a virtual hearing to be held on April 4, 2022. On April 4, 2022, the Respondent emailed the Board, requesting a reset of the hearing, due to his work schedule. On October 14, 2022, the Board conducted a hybrid hearing on this matter, with the Respondent appearing via Google Meet and the Board and the Administrative Prosecutor

appearing in person. A quorum of the Board was present. The State was represented by Administrative Prosecutor, Assistant Attorney General Robert Gilbert. The Respondent elected to go forward without the assistance of counsel.

The hearing convened to decide whether the Respondent’s application for licensure was rightfully denied by the Board.

SUMMARY OF THE EVIDENCE

The Board accepted and admitted evidence presented by the State and the Respondent. The Respondent testified on his own behalf. The following exhibits were admitted into evidence without objection:

State’s Exhibits:

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
1	Respondent’s Application for Licensure, April 7, 2021.....
2	Maryland Board of Social Work Examiners Investigative Information, August 3, 2021.....
3	Stipulation and Consent Order, Minnesota Board of Social Work, May 15, 2015.....
4	Order of Removal of Stay of Suspension, Minnesota Board of Social Work, December 16, 2019.....
5	Findings of Fact, Conclusions, and Final Order, Minnesota Board of Social Work, January 23, 2020.....
6	Licensure Information, Minnesota Board of Social Work, April 22, 2021
7	Notice of Intent to Deny Application for Social Work Licensure Under the Maryland Social Workers Act, September 10, 2021

Respondent's Exhibits:

- 1 Letter of Reference from Clarissa Dowhower, August 8, 2020
- 2 Letter of Recommendation from Brandy Hitchcock, RSD (no date)
- 3 Performance Appraisal of Respondent, from Brent Keeney, Shift Supervisor (Arlington House), December 5, 1997
- 4 Supplemental Report, Burnsville Police Department, Report Date October 15, 2012
- 5 Employee Performance Evaluation for Respondent, from Connie Rogers, Evaluating Supervisor (Bloomington), July 26, 2002
- 6 Letter of Reference from Norma Jeanne Akrivos, Principal, South High School, Minneapolis Public Schools, April 4, 1996
- 7 Findings of Fact, Conclusions and Final Order, Minnesota Board of Social Work, January 24, 2020
- 8 Letter of Reference from Gary Gulbrandson, Executive Director, Human Resources, St. Paul Public Schools, June 29, 1995
- 9 Work Site Monitor Report Forms Minnesota Health Professional Services Program, Reports Dated:
 - October 11, 2018
 - January 15, 2019
 - April 17, 2019
 - July 15, 2019
- 10 Performance Review of Respondent, from Supervisor Robin Wold, Evaluation Dates 12/13/18 and 12/28/18
- 11 Letter of Reference, Description of Clinical Social Work Practice, from Myra Barrett, Ph.D., May 4, 2020
- 12 Referral Letter, Minnesota Board of Social Work, Board File No. MG2019238, October 28, 2019
- 13 Letter of Recommendation, from Marjorie C. Taborn, LICSW, Lead Social Worker, Minneapolis Public Schools (No Date)
- 14 Letters of Recommendation, Minneapolis Public Schools:
 - Letter from Andrea Johnson, Licensed School Nurse, Edison High School, May 6, 1999

- Letter from Stephen J. O’Toole, Edison Level IV-Special Education, Office of the Principal, Edison High School
- 15 Respondent’s explanation of incidents for:
- New Brighton Health and Rehab (Incident date: May 2016)
 - Glacier Care Center (Termination Date: December 2016)
 - St. Rose Care Center (Termination Date: July 2017)
 - Respondent’s Resume
- 16 Letter from Respondent to Hennepin County Judges, April 26, 2014
- 17 Respondent’s explanation of terminations and mandatory leave for:
- ProAct (no termination date given)
 - People Incorporated (no termination date given)
 - Community Involvement Programs (no termination date given)
 - Minneapolis Public Schools (no termination date given)
 - Welcome Homes (Termination Date: 1991)
 - Dungarvin (Termination Date: 1989)
 - Walk-In Counseling Center (mandatory year leave—no date given)
 - REM Hennepin at Grand
- 18 License Verification Report for Respondent, Minnesota Board of Social Work, dated October 16, 2019

FINDINGS OF FACT

The Board finds the following:

1. At all times relevant, the Respondent is not and never has been licensed to practice social work in the State of Maryland.
2. On or about April 7, 2021, the Respondent filed the Application with the Board to practice as a Licensed Master Social Worker (“LMSW”). Respondent was applying as an out-of-state applicant for licensure, and claimed to be licensed in another state.

3. The Application required the Respondent to answer “YES” or “NO” to a series of questions and provide written explanations for all “YES” responses:

4. The Respondent answered “YES” to Question Two (2), which asks:

Are you currently under investigation by the Maryland Board, or has any Licensing or Disciplinary Board or a comparable body of the Armed Forces denied your application for licensure, reinstatement, renewal or taken any action against your license, including but not limited to reprimand, suspension, or revocation?

5. The Respondent provided the following written explanation:

In MArch of 2018, I believe, my supervisor came into my office to discuss a report on me she was giving to the agency monitoring me for the Minnesota Board of Social Work. She said she was marking me down from the previous report because "the fact that you do not comb your hair limits what you can do with clients". SHE knew this to be a lie, that it

was not a "fact" that I did not comb my hair, as I had told her at least once that I combed my hair every day upon coming to work, and as she knew, as any adult of normal intelligence knows, that having a hair out of place is not proof that a person did not previously comb his or her hair that day. Rather she was making up a lie about me to escalate her campaign to get me to change my hair STYLE to one more to her liking by attempting to intimidate me into wearing it unattractively flat against my skull like herself. THIS alarmed me, especially as it appeared from the context in which she spoke she would probably share this lie with agency reporting to the Minnesota Board, the Health Professionals Service Program. I was so upset that I missed the next day of work. WHEN I found out in August of a grievance structure at my employer's business, I filed a request that I be reimbursed for the sick time used to cover the day I had missed. I received a note at work weeks later (Cont'd in Sect.5 question 1) (capitalization, punctuation and spelling as in the original).

6. The Respondent continued his explanation in the space provided for Question One (1), stating:

The note said that my request was denied because "each person handles stress in his own way" , I believe. I was outraged and distraught because I had planned on spending the rest of my life as long as I was able to work there, using my heart and mind to help others, but didn't know that I could work for such people. I called the chairwoman and left a message

that she was "an evil and nasty woman" who would experience G_d's disappointment some day when her life came to its natural end. THEN came further victimization:

The board of Hope House then fired me. I called Kimberley Zillmer the woman monitoring my performance, expecting support. She told me to stop practicing social work and get a "forensic mental health eval" at my own expense. She later lied to the board, perhaps unintentionally, by telling them that I had told her that I was upset that my supervisor didn't like my hairdo. The board supported the demand for the unpaid-for

eval; when I refused they suspended my license. The reason the board had been having my license monitored in the first place stemmed from their religious bigotry and pseudofascist thinking. I was persecuted partially for having shared my religious(Jewish) beliefs with someone who had acted unethically in 2012 and for having protested the action of a dishonest judge in 2010.(See mailed documents.)My lifelong depression too. (punctuation, capitalization and parentheticals as in the original).

7. After receiving the Respondent's Application, the Board initiated an investigation into the Applicant's professional licensing history and requested records from the Minnesota Board of Social Work "(the Minnesota Board").
8. The Board's investigation revealed that the Applicant's license was Suspended by the Minnesota Board of Social Work on January 23, 2020, as a result of violating the terms of a previous consent order issued by the Minnesota Board on May 15, 2015.
 - (a) Applicant was originally licensed by the Minnesota Board on November 29, 2001.
 - (b) In or around October 2012, the Applicant received notification from an agency that he was not selected for employment following a job interview. The staff from the agency stated that they felt threatened by the Applicant's telephone calls and messages.

- (c) On September 9, 2013, the Applicant pled guilty to petty misdemeanor, disorderly conduct.
- (d) The May 15, 2015 Consent Order found that Applicant had been terminated from multiple social work positions and thus, required corrective action. The Consent Order required Applicant to enroll in the Minnesota Health Professionals Service Program (HPSP) for monitoring of his mental health, enter into a Participation Agreement with HPSP, and comply with all terms of the Participation Agreement.
- (e) On September 20, 2019, following a wage dispute with his then-employer, Applicant notified HSPS of his desire to withdraw from HPSP. Applicant was discharged from HPSP on September 23, 2019 and his case was referred to the Minnesota Board.
- (f) On October 28, 2019, Applicant was notified of the Minnesota Board of Social Work's decision to refer him back to HPSP. Applicant was ordered to contact HPSP by November 12, 2019, complete an intake interview, enter into a new Participation Agreement with HPSP by December 12, 2019, and comply with HPSP requests, including the completion of an assessment with a forensic psychologist.
- (g) On November 19, 2019, Applicant was discharged from HPSP due to failure to contact HPSP and his case was referred again to the

Minnesota Board of Social Work.

9. On September 10, 2021, the Board issued a Notice of Intent to Deny Application for Social Work Licensure Under the Maryland Social Worker Act, which allows the Board to deny a license to an applicant if the applicant violated any provisions of Health Occ. § 19-311.
10. Applicant requested a formal hearing before the Board. At the hearing, Applicant repeated his explanations for termination of employment contained in his original application for licensure.
11. Applicant also testified regarding the 2012 incident involving a potential employer and the police. Applicant testified to the following:
 - (a) That in 2012, Applicant applied for a Personal Care Assistant position at a private facility in the Minneapolis area.
 - (b) When Applicant did not receive the job, he called the interviewer and asked for feedback and an explanation, or to tell him that she wasn't comfortable giving feedback.
 - (c) Applicant then proceeded to keep calling the facility for about 10 days, until he was "90 percent sure based on my life experience that she wasn't willing to talk."
 - (d) When Applicant still had received no response, he called the interviewer's supervisor and left a message asking for a call to discuss

his concerns with the interviewer.

- (e) Applicant was then contacted by the police, who told him to not contact the facility again, and that if he were to go to the facility, he would be arrested for trespassing.
- (f) Applicant then received information that the initial police report had come from the supervisor at the facility, not the woman he interviewed with. Applicant then “felt the need to respond,” and sent the manager a letter, describing his religious beliefs to the manager. Applicant accused the manager of acting unprofessional and stated that he thought calling the police were not the actions of a “good person.” Applicant closed the letter by stating that he hoped the manager would “become a better person before he would meet his maker.”
- (g) Applicant was then arrested and charged with stalking and harassment. Applicant then pled guilty to a Petty Misdemeanor and disturbing the peace, with an \$80 fine. During testimony, Applicant likened his arrest and treatment to the treatment of African American Slaves in the 19th century and to the bigotry of industrialist German thought in the 1940s and 1930s.
- (h) Applicant testified that he did refuse to comply with the Minnesota Board’s consent order, but claimed that the suspension of his license was not due to his noncompliance, but due to being religiously

persecuted as a non-Christian. Applicant repeatedly characterized the Minnesota Board of Social Work as “religious bigots and fascists.”

12. Applicant also testified that he had also been denied licensure to practice social work by the Montana Board of Social Work in 2017, and by the Pennsylvania Board of Social Work in 2020. Applicant stated that he believed that those denials of licensure were unethical, as the denials considered his suspension in Minnesota as a factor in denial of his licensure. Applicant stated that he did not believe he could be ethically denied a license unless they made an independent evaluation that was not “tainted” by the Minnesota Board’s decision, which imposed the Board’s “private Christian morality” on himself.

13. Applicant also testified that in March of 2022, the Board’s compliance manager, Ms. Tyson, emailed him a request for availability to schedule the hearing. Applicant stated that his response to Ms. Tyson’s email was “F--- you.” Applicant stated that he believed that his response was professional and justified.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Applicant’s license shall be **DENIED** based on the following statutory and regulatory provisions:

Health Occ. § 19-302. Qualifications of applicants

(a) *In general.* – To obtain a license, an applicant shall demonstrate to the satisfaction of the Board that the applicant:

.....

(3) Is of good moral character [.]

Health Occ. § 19-302.1. Out-of-state Applicant

To obtain a certified social worker license or a certified social worker-clinical license, an out-of-state applicant shall:

- (1) Meet the requirements of § 19-302(a) of this subtitle;
- (2) Be licensed or registered to practice social work in another state at a level of licensure that is equivalent to a certified social worker license or a certified social worker-clinical license

Health Occ. § 19-311. Grounds for license denials, discipline

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[.]

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this **9th** day of **December, 2022**, by a majority of the quorum of the Board considering this case hereby:

ORDERED that the Applicant's application for licensure is hereby **DENIED**;

ORDERED that the for the public disclosure, this Final Order is considered a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014) and is reportable to any entity to who the Board is obligated to report.¹



12/9/2022

Date

Sondra Petty, Board Chair
State Board of Social Work Examiners

Notice of Right to Appeal

Pursuant to Md. Code Ann., Health Occ. § 19-313, you have the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the date of the 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. The Board should be served with the- court's process at the following address:

Daphne McClellan, Executive Director
Maryland State Board of Social Work Examiners
4201 Patterson Avenue
Baltimore, Maryland 21215-2299
Fax: 410-358-2469

¹ This includes the Board's public website and NPDB.