

IN THE MATTER OF	*	BEFORE THE STATE
ROSEMARY MCDOWALL, LCSW	*	BOARD OF SOCIAL
Respondent	*	WORK EXAMINERS
License No.: 04465	*	Case No.: 04-BP-058
		Board Case Number: 584
* * * * *		

CONSENT ORDER

The Maryland State Board of Social Work Examiners (the “Board”) charged Rosemary McDowall, LCSW (the “Respondent”), License Number 04465, with violating certain provisions of the Maryland Social Workers Act (the “Act”), Md. Health Occ. Code Ann., (“H.O.”) §§ 19-101 *et seq.* (2000 Repl. Vol.).

Specifically, the Board charged the Respondent with violating the following provisions of the Act and the regulations thereunder:

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;
- (5) Knowingly violates any provision of this title;
- (6) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work;
- (7) Violates any provision of this title or regulations governing the practice of social work adopted and published by the Board; and/or

(21) Fails to maintain adequate patient records.

§ 19-101. Definitions.

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

(3) For an individual licensed as a certified social worker, “practice social work” also includes:

- (i) Supervision of other social workers; and
- (ii) Treatment of psychosocial conditions and mental disorders and the provision of psychotherapy under the direct supervision of a licensed certified social worker-clinical.

(n) *Psychotherapy.* – “Psychotherapy” means a method for the treatment of mental disorders and behavioral disturbances in which a licensed health care practitioner enters into a professional contract with the patient and, through a therapeutic communication or interaction, attempts to:

- (1) Alleviate emotional disturbances;
- (2) Reverse or alter maladaptive patterns of behavior; or
- (3) Encourage personality growth and development.

(o) Supervision. – “Supervision” means a formalized professional relationship between a supervisor and a supervisee that:

- (1) Provides evaluation and direction of the supervisee; and
- (2) Promotes continued development of the supervisee’s knowledge, skills, and abilities to provide social work services in an ethical and competent manner.

H.O. § 19-401. Practicing without license.

(b) *Clinical social work.* – Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice clinical social work in this State unless licensed by the Board as a certified social worker-clinical.

H.O. § 19-402. Misrepresentation.

Unless authorized to practice social work under this title, a person may not:

- (2) Use any title, abbreviation, sign, card, or other representation that the person is a licensed social worker, including the use of the words “social worker” or “social work” and the use of the abbreviations “LSWA”, “LGSW”, “LCSW”, or “LCSW-C”.

The Board further charges the Respondent with violating of the following Regulations:

Code Md. Regs. (“COMAR”) tit. 10, § 42.03.03 **General Conduct.**

A. The licensee shall:

- (2) Make the fee for service clear, maintain adequate financial records, and confirm arrangements for financial reimbursement with the client;
- (5) Maintain documentation in the client’s record which:
 - (b) Accurately reflects the services provided, including treatment plans, treatment goals, and progress notes[.]

B. In the capacity of or identity as a licensed social worker, the licensee may not:

(2) Misrepresent professional qualifications, education, experience, or affiliation;

(3) Exploit a relationship with a client for personal advantage or satisfaction; or

(7) Share with another individual a confidence revealed by a client without a client's consent, except if there is a danger to self or to another individual, or for a compelling professional reason.

C. The licensee may not enter into a nonprofessional, social, or dual relationship with a client, or an individual with whom the client has a close personal relationship.

As a result of negotiations between the Office of the Attorney General, by Alice L. Tayman, Assistant Attorney General, the Respondent, through her attorney, Bryant L. Welch, Esq., and the Board, the parties agree to enter into this Consent Order consisting of Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

Background.

1. The Respondent was first licensed as a Licensed Certified Social Worker "LCSW" on September 14, 1984 being issued license #04465. The Respondent's license expires on October 31, 2006.
2. In or around April 2003, the Board received a complaint from Patient A¹ alleging that the Respondent had failed to repay several loans totaling \$3160, and that a District Court had entered a judgment in Patient A's favor which ordered the Respondent to repay the loans. Patient A indicated that the Respondent had

¹ In order to protect patient privacy and the confidentiality of health care records, patient names are not contained in this order.

treated her as a friend and that the Respondent had disclosed personal information about herself to Patient A.

3. In her complaint, Patient A reported that the Respondent had inappropriately disclosed information about the Respondent's family life to Patient A.
4. Based on this complaint, the Board opened an investigation which consisted of a subpoena for patient records, interview with Patient A, and a written reply by the Respondent.
5. In summary, the investigation revealed that the Respondent had violated numerous generally accepted standards in the practice of social work and ethical rules governing the practice of social work. In so doing, the Respondent placed Patient A at risk of harm and potentially damaged public trust in the social work profession. The specific violations revealed in the investigation were as follows:

Misrepresentation of Credentials.

6. As stated in paragraph #1 above, the Respondent is currently licensed as an LCSW not as an LCSW-C.
7. In the Respondent's correspondence with the Board on December 8, 2003 and February 9, 2004, her letterhead includes the credential "LCSW" after her name.
8. In the Respondent's personal correspondence with Patient A's cousin dated December 13, 2001, the Respondent's letterhead includes the credential, "LCSW-C" after her name.

9. On numerous Explanation of Benefit forms received from Patient A's insurance carriers, American Medical Security and Blue Cross and Blue Shield, the Respondent's credential after her name is "LCSW."
10. Throughout the Respondent's progress notes documenting Patient A's treatment, the Respondent puts the credential, "LCSW-C" after her signature at the end of each entry.

Failure to Seek Supervision.

11. As required by H.O. § 19-101(m)(3), the Respondent, as a licensed LCSW, must be supervised by an LCSW-C to provide psychotherapy. The Respondent has provided no documentation of any direct supervision by an LCSW-C in her work providing psychotherapy to Patient A.
12. The Respondent provided, and documented that she provided, psychotherapy to Patient A and Patient A's family members.
13. The Respondent submitted bills to Patient A's insurance companies under the procedure code of CPT 90806 which is individual psychotherapy of 50 minutes duration.
14. The progress note on January 21, 1999 begins, "[Patient A] was previously seen for psychotherapy visits at the Greenbelt office during 1998...[Patient A] was sometimes included in the psychotherapy session of her nephew."
15. In an undated "Patient Evaluation and Treatment Plan" which was apparently completed in or around July of 1999 because of a facsimile transmission stamp, the Respondent recommends "long term psychotherapy."

Personal Disclosures by the Respondent.

16. The Respondent told Patient A about her personal life including family matters.
17. The Respondent made inappropriate personal disclosures to Patient A regarding her own personal and financial concerns.
18. The Respondent alleged in her correspondence with the Board that in April of 2001, she “no longer considered [Patient A] a client” and that it was at that time that she shared information about her personal life with Patient A. Despite the Respondent’s statement that her professional relationship with Patient A had terminated in 2001, the Respondent continued to provide services to Patient A as evidenced by progress notes written into 2002.

Nonprofessional/Social Relationship with Patient A’s Family.

19. The Respondent sent numerous cards, gifts and photographs to Patient A’s male cousin expressing a desire to meet him and develop a relationship with him.
20. The Respondent sent cards to the children of Patient A’s cousin. The Respondent signed these cards “Aunt Rosemary” despite the fact that she had never met the children and was not related to them.

Financial Transactions and Gifts.

21. Patient A alleged that the Respondent had borrowed money from her on more than one occasion. In October 1999, the Respondent received \$400 from Patient A. In May of 2000, the Respondent received another \$500 from Patient A. Patient A stated that both of these loans were paid back by the Respondent. The Respondent did not document either of these transactions in Patient A’s record.

22. Patient A filed a civil action against the Respondent alleging that the Respondent had borrowed \$3160 and not repaid it.² In July 2003, a judgment was entered in Patient A's favor finding that the Respondent had borrowed the \$3160 and not repaid it.
23. The Respondent did not send Patient A any bills and did not keep a record of the in-person or telephone sessions with Patient A.
24. The Respondent alleges that Patient A would make regular payments for her treatment. The Respondent has no billing or payment records indicating any pattern of payments or agreement between herself and Patient A for Patient A to make payments in a specified amount or frequency.
25. The Respondent admits in her correspondence with the Board that in or around September of 2000, Patient A gave the Respondent \$800 to give to the Respondent's parents to pay for funeral expenses for the Respondent's brother's funeral in Trinidad. The Respondent interpreted this to be a gift. This transaction of money is not mentioned in the Respondent's documentation of her care of Patient A.

Breach of Confidentiality.

26. According to the Respondent's correspondence with the Board, in or around June of 2000, Patient A became upset with the Respondent, accusing her of forging Patient A's signature on two checks. Patient A made several angry telephone calls

² The caption, case number and other identifying information regarding this civil case, which are public record, have been intentionally omitted from this document to protect the confidentiality of Patient A.

to the Respondent. Upon realizing that she had misinterpreted the Respondent's conduct, Patient A allegedly apologized for getting angry with the Respondent and asked her not to tell anyone about the way she had acted. The Respondent alleges that she decided to terminate her professional contact with Patient A because of this incident.

27. In the Respondent's correspondence with the Board, she describes that after she terminated her professional contact with Patient A in June of 2000, Patient A's family members began calling her. She admitted the following breach of Patient A's confidentiality:

During these many phone calls from [Patient A's] relatives, I did not discuss [Patient A] or anything pertaining to my decision to end my professional relationship with her. Finally in September of 1999³, one of her family members called me on the pretext of wanting me to see one of the family members professionally. She said that she would ask [Patient A] to bring this person into the office. I told her that I did not think that was a good idea and of course she asked me why not. I told her that I had terminated my professional relationship with [Patient A] because she had been rude to me on a number of occasions and the final straw was when she accused me of signing my name to the two checks she had given me. I realized that this information would get back to [Patient A] and I hoped that this would put an end to her attempts to maintain contact with me.

28. According to the Respondent's correspondence with the Board, Patient A contacted her in September of 2000. The Respondent described that Patient A was "tearful" and felt "embarrassed and ashamed" that the Respondent had told her relative about Patient A being rude and harassing her.

Miscellaneous Violations of Professional Standards.

³ This is the date which appears in the Respondent's correspondence with the Board. According to the Respondent's progress notes of Patient A's treatment, the date was probably September of 2000.

29. The Respondent did not appropriately execute or document her plan to terminate her treatment of Patient A. In the progress notes of Patient A's treatment, the Respondent's entry for the month of July 2000 describes that she decided to terminate the treatment relationship because of Patient A's accusation that the Respondent had forged her name on checks. In that note, the Respondent described that she terminated the treatment relationship by not taking Patient A's call and simply not responding. In the chart, the Respondent did not provide any explanation to Patient A, either in written or oral form, for her decision to terminate treatment of Patient A. The Respondent also did not document any referral of the patient to any other provider.

30. The Respondent deviated from generally accepted professional standards in the practice of social work by continuing to provide unsupervised therapy services to Patient A without seeking consultation from any other mental health care provider despite the fact that Patient A would not follow any therapeutic limits set by the Respondent and the fact that the skills required to treat the symptoms of Patient A's mental disorders were beyond the Respondent's competence.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board finds that by misrepresenting her credentials to practice social work the Respondent violated H.O. § 19-311 (2) which prohibits fraudulently or deceptively using a license, (4) which prohibits any act of misconduct in the practice of social work, (5) violation of any provision of the Social Work Act, H.O. § 19-401 which prohibits the practice of clinical social work unless

licensed as an LCSW-C, and H.O. § 19-402 which prohibits use of any social work title or abbreviation unless licensed to do so by the Board. The Respondent also violated COMAR 10.42.03.03B(2) which prohibits misrepresentation of professional qualifications.

The Board finds that by failing to seek supervision by an LCSW-C for the provision of psychotherapy services to Patient A, the Respondent violated H.O. § 19-101 which requires that LCSWs be supervised by an LCSW-C to provide psychotherapy, H.O. § 19-311(4) which prohibits the commission of any act of gross negligence, incompetence, or misconduct in the practice of social work, (5) knowing violation of any provision of the Social Work Act, and (6) which prohibits engaging in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work.

The Board finds that by making inappropriate personal disclosures about herself to Patient A, the Respondent violated H.O. § 19-311(4), (5), (6), (7) and COMAR 10.42.03.03 B(3) which prohibits a licensee from exploiting a relationship with a client for personal advantage or satisfaction, and C which prohibits a licensee from entering into a nonprofessional, social, or dual relationship with a client.

The Board finds that the Respondent violated H.O. § 19-311(4), (5), (6), (7) and COMAR 10.42.03.03B(3) which prohibits exploitation of a relationship with a client for personal advantage or satisfaction and COMAR 10.42.03.03C which prohibits entering into a social relationship with an individual with whom the client has a close personal relationship by pursuing a personal relationship with Patient A's cousin and his family.

The Board finds that by entering into inappropriate and undocumented financial transactions with Patient A, the Respondent violated H.O. § 19-311(2), (4), (5), (6), (7), (21) and COMAR 10.42.03.03A which requires that the licensee make the fee for service clear, maintain adequate financial records and confirm arrangements for financial reimbursement with the client. This conduct by the licensee also violated COMAR 10.42.03.03 B(3) which prohibits licensed social workers from exploiting a relationship with a client for personal gain.

The Board finds that by disclosing confidential information about Patient A, the Respondent violated H.O. § 19-311(4), (6), (7) and COMAR 10.42.03.03B(7) which prohibits a licensee from sharing a confidence revealed by a client without a client's consent or a compelling professional reason.

The Board finds that the Respondent's failure to appropriately discuss and execute her plan to terminate treatment of Patient A, the Respondent's failure to refer Patient A to another therapist, and the Respondent's failure to seek consultation or supervision with another therapist despite the obvious signs that Patient A's mental disorder was beyond the Respondent's competence are violations of H.O. § 19-311 (4) which prohibits any act of gross negligence, incompetence, or misconduct in the practice of social work and (6) which prohibits engagement in a course of conduct which is inconsistent with generally accepted professional standards in the practice of social work.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is by a majority of a quorum of the Board, hereby:

ORDERED that the Respondent's license to practice Social Work in the State of Maryland shall be **SUSPENDED** for one (1) year commencing upon the date of this Consent Order; and it is further

ORDERED that at the conclusion of the one (1) year period, the Respondent may petition the Board for Reinstatement of her license; and it is further

ORDERED that the Respondent may seek earlier Reinstatement of her license by petitioning the Board in writing for Reinstatement of her license after completion of all of the terms delineated below but, in any case, no earlier than three (3) months from the issuance of this Order⁴; and it is further

ORDERED that and Respondent shall complete, and submit to the Board documentation of completion of the following terms, as a condition precedent to the Board issuing an order staying or terminating the suspension of her license:

a. The Respondent shall enroll in and satisfactorily complete a Board-approved⁵ college level professional ethics course or tutorial focusing on boundary issues. This course will not apply to any continuing education required for renewal of the Respondent's license;

b. The Respondent shall submit an essay to the Board, which must be acceptable to the Board as satisfactory, describing the practice errors and issues she encountered in treating Patient A and applying the principles learned in the professional ethics course or

⁴ The Respondent may petition the Board for early Reinstatement of her license after three (3) months of active suspension, however, it is the expectation of the Board that the conditions precedent for Reinstatement may take at least six (6) months to complete.

⁵ The Respondent must submit a course syllabus or tutorial description to the Board and obtain Board approval prior to enrolling in the course or tutorial.

tutorial. This essay shall be in addition to any essay required for completion of the course or tutorial;

c. The Respondent shall undergo a Practice Review with a Board-approved supervisory social worker (or other appropriate professional approved by the Board) to evaluate the Respondent's practice. The Respondent shall be responsible for procuring a report from the supervisor that, in the opinion of the supervisor, the Respondent's return to practice would not be a danger to the public;

d. The Respondent will pay Restitution to Patient A in the amount of \$3,160.00 in accordance with the District Court Order. The Respondent will also pay any interest and/or penalty required by the judgment of the District Court;

e. The Respondent must have procured and obtained Board-approval for a supervisory LCSW-C who will supervise the Respondent's practice on an ongoing basis as required by the Act. The supervisory LCSW-C must also agree, in writing to the Board, to perform the necessary reporting to the Board as delineated herein; and it is further

ORDERED that the decision to stay the Suspension is entirely discretionary with the Board and the Board's refusal to stay the suspension is not appealable. The Board may, at its discretion, seek input from the Administrative Prosecutor regarding the Respondent's compliance with the Consent Order, prior to reinstating the Respondent's license; and it is further

ORDERED that the Respondent shall be on **PROBATION** for a period of two (2) years, to begin immediately upon the Board's issuance of an order staying or terminating the Suspension, subject to the following terms and conditions:

1. The Respondent, an LCSW, shall provide a copy of this Consent Order to the LCSW-C who will be supervising her practice as required by H.O.19-101(o) and this Order;

2. The supervisor shall submit **quarterly** reports to the Board indicating that the Respondent's practice is in compliance with the Act and that the Respondent is practicing competently;

3. The Respondent has sole responsibility for ensuring that the supervising LCSW-C submits the quarterly reports to the Board.

4. If the Board receives a report from the supervising LCSW-C indicating that the Respondent is not in compliance with the Act and/or is not practicing competently, the Board may, after notice and an opportunity for a Show Cause hearing, impose any lawful disciplinary sanctions it deems appropriate, including but not limited to revocation or suspension of the Respondent's license to practice social work

5. At the end of the two (2) year probationary period, the Respondent may petition the Board for termination of her probationary status and the terms of this Consent Order, and shall establish that she has fulfilled all of the terms and conditions of probation as set forth in this Consent Order, is not in violation of this Consent Order, and that there are no outstanding violations of the Act or charges pending against the Respondent; and it is further

ORDERED that the Respondent shall practice Social Work in accordance with the Maryland Social Work Act, and in a competent manner, and it is further

ORDERED that in the event the Board finds for any reason that the Respondent has violated any provision of Md. Health Occ. Code Ann. § 19-101 *et seq.* or the regulations thereunder during the Suspension or Probationary period, the Board, after notification to the Respondent, and opportunity for a Show Cause hearing, may take immediate action and may impose any lawful disciplinary sanctions it deems appropriate, including but not limited to revocation or suspension of the Respondent's license to practice social work; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred pursuant to this Consent Order, and it is further

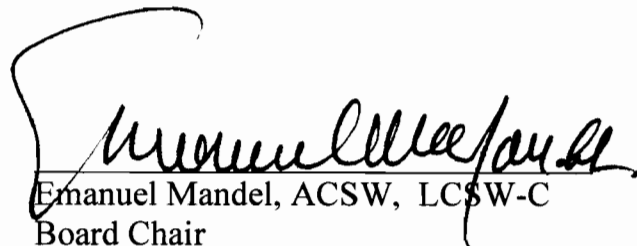
ORDERED that for purposes of public disclosure, as permitted by Md. State Gov't Code Ann. § 10-617(h) (2004 Repl. Vol.) this document consists of the foregoing Findings of Fact, Conclusions of Law, and Order and that the Board may disclose to any national reporting bank or other entity to whom the Board is mandated to report; and it is further

ORDERED that the conditions of this Consent Order are effective as of the date of this Order; and it is further

ORDERED that this Consent Order is a FINAL ORDER and, as such, is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2004 Repl. Vol.).

IT IS SO ORDERED THIS 10th **DAY OF** June, **2005**

JUNE 10, 2005
Date


Emanuel Mandel, ACSW, LCSW-C
Board Chair
Maryland Board of
Social Work Examiners

CONSENT OF ROSEMARY MCDOWALL, LCSW

I, **ROSEMARY MCDOWALL, LCSW, License Number 04465** affixing my signature hereto, acknowledge that:

1. I am represented by counsel and I have reviewed this Consent Order with my attorney.
2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 19-312 (2000 Repl. Vol.) and Md. State Gov't. Code Ann. §§ 10-201 *et seq.* (2004 Repl. Vol.) I waive any right to contest the terms and findings herein, and I waive my right to a full evidentiary hearing and any right to appeal this Consent Order as set forth in H.O. § 19-313 of the Act and Md. State Gov't. Code Ann. §§ 10-201 *et seq.*
3. I acknowledge the validity of this Consent Order as if entered into after 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 provided by law.

4. I voluntarily admit to the foregoing Findings of Fact, Conclusions of Law and Order and submit to the terms and conditions set-forth herein as a resolution of the Charges against me. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may suffer disciplinary action, which may include revocation of my license to practice social work in the State of Maryland.

5. I sign this Consent Order without reservation as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

6/7/05
Date

Rosemary McDowall
Rosemary McDowall, LCSW

Approved by: _____
Bryant L. Welch, J.D., Ph. D.

NOTARY

STATE OF Maryland

CITY/COUNTY OF Montgomery

I HEREBY CERTIFY THAT on this 7th day of June, 2005, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Rosemary McDowall, LCSW., and made oath in due form of law that the foregoing Consent Order was her voluntary act and deed.