

IN THE MATTER OF

PAUL RUBENSTEIN, LMSW

RESPONDENT

License Number: 23406

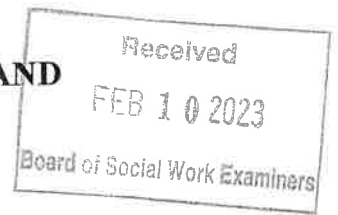
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BEFORE THE MARYLAND

BOARD OF

SOCIAL WORK EXAMINERS

Case Number: 2021-3034



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CONSENT ORDER

The Maryland Board of Social Work Examiners (the “Board”) charged PAUL RUBENSTEIN, LMSW (the “Respondent”), License Number 23406, with violating the Maryland Social Workers Practice Act (the “Act”) codified at Md. Code Ann., Health Occ. §§ 19-101 *et seq.*

The pertinent provisions of the Act provide the following:

§ 19-307 – Practice of social work, authorized activities

- (b) A licensed social worker may practice social work only within the scope of the specific category of license issued by the Board.
- (c)(2) A licensed master social worker may not:
 - (i) Engage in independent practice unless the licensed master social worker is approved by the Board to engage in independent practice in accordance with § 19-302(f) of this subtitle;
 - (ii) Treat behavioral health or emotional disorders or provide psychotherapy without the supervision of a licensed certified social worker-clinical;
 - (iii) Diagnose a behavioral health disorder without the supervision of a licensed certified social worker-clinical; or
 - (iv) Engage in private practice[.]

§ 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;
- (12) Fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file the report[.]

Pursuant to Health Occ. § 19-311(6), the pertinent provisions of Md. Code Regs. (“COMAR”), provide the following:

COMAR 10.42.02.03 – Scope of Practice

B. Licensed Master Social Worker (LMSW).

- (3) An LMSW's practice may not include the treatment of emotional disorders, psychotherapy, or diagnosis of a mental disorder without the supervision of an LCSW-C.
- (4) An LMSW may not engage in the practice of social work independent of social work supervision unless approved by the Board for independent practice.
- (5) On or before December 31, 2019, an LMSW may not engage in private practice without the supervision of an LCSW-C.

- (6) On or after January 1, 2020, an LMSW may not engage in private practice as defined in Regulation .02B (13) of this chapter.¹

COMAR 10.42.02.05 – Independent Practice

- C. An LBSW or LMSW may not engage in the independent practice of social work until the licensee is approved by the Board for independent status in accordance with this regulation.

COMAR 10.42.03.03 – Responsibilities to Clients

- B. The licensee may not:
 - (1) Participate or condone dishonesty, fraud, deceit, or misrepresentation;
 - (2) Misrepresent professional qualifications, education, experience, or affiliation[.]

COMAR 10.42.03.06 – Standards of Practice

- A. Professional Competence. The licensee shall:
 - (7) Document and maintain appropriate and accurate records of professional service, supervision, and research work;

COMAR 10.42.08.08 – Responsibilities of a Supervisee

- A. A supervisee shall:
 - (1) Receive social work supervision for social work practice as set forth in Health Occupations Article, § 19-101, Annotated Code of Maryland;

¹ COMAR 10.42.02.02B(13) provides:

Private Practice.

- (a) “Private practice” means the provision of psychotherapy by a licensed certified social worker-clinical (LCSW-C) who assumes responsibility and accountability for the nature and quality of services provided to a client in exchange for direct payment or third-party reimbursement or on a pro-bono basis as stated in Health Occupations Article, § 19-101(q), Annotated Code of Maryland.
- (b) “Private practice” includes the terms solo practice, solo private practice, or group practice.

- (4) Maintain documentation, for at least 5 years, of the supervisory sessions, including the dates, duration, and focus of the supervisory sessions[.]

On December 5, 2022, the parties appeared at a Case Resolution Conference (“CRC”) before a committee of the Board. The Respondent, represented by counsel, and the Administrative Prosecutor assigned to the case participated in the CRC. As a result of the negotiations at the CRC the parties agreed to the following Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant hereto, the Respondent was licensed to practice masters-level social work (“LMSW”) in the State of Maryland. The Respondent was initially licensed to practice as an LMSW in Maryland on October 26, 2017, under license number 23406. The Respondent’s LMSW license is currently active and scheduled to expire on October 31, 2023.
2. The Respondent has not, and does not, hold any other licenses or certifications from any State or District licensing board.
3. In 2012, the Respondent established a solo practice (the “Practice”)² located in Bethesda, Maryland. At all times applicable, the Respondent was the sole practitioner at the Practice.

² For confidentiality and privacy purposes, the names of individuals and facilities involved in this case are not disclosed in this document. Upon written request, the Administrative Prosecutor will provide the information to the Respondent.

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4. On or about August 19, 2021, the Respondent submitted to the Board an Application for Advanced Licensure (the “Application”), specifically an application for licensure as an LCSW-C.
5. As part of the application process, the Respondent submitted the Board’s application Checklist form and the following information:
 - Application form submitted online on 08/19/21
 - Supervision Verification Form
 - Contractual Agreement Form for Supervision
 - Summary Sheet
 - Resume
 - Official MSW transcript with the date the MSW degree was awarded/conferred
6. On or about September 15, 2021, the Board received a complaint (the “Complaint”) regarding the Respondent’s practice. The Complaint was submitted by one of the Board’s Staff Social Workers (the “Staff SW”). The Staff SW was reviewing the Respondent’s Application and supplemental documentation and discovered several issues.

Issue 1– Practicing as an LCSW prior to licensure

7. The Board’s investigator reviewed the Respondent’s Application and supplemental documentation and discovered the following: On the Respondent’s resume submitted with the Application, the first entry under ‘Experience’ states:

[Practice]

2012-PRESENT

For neuro-diverse individuals and their families

- Assessment and Diagnosis
- Treatment Planning and Case Management
- Psychotherapy

8. The Board investigator noted that Health Occ. § 19-307(b)(2) and COMAR 10.42.02.03 limit what LMSW are able to do – specifically, they are not allowed to diagnose a behavioral health disorder, treat behavioral or emotional health disorders, perform psychotherapy or engage in private or independent practice.
9. On or about December 31, 2021, the Respondent submitted an updated resume to correct what he referred to as “a resume error, but not a factual error.” The first entry on his resume now read: “[Practice] **2018-PRESENT**”
10. On February 4, 2022, during an interview with the Board’s investigator, the Respondent explained that he “was sending an amended resume to reflect the fact that [he] was doing educational therapeutic coaching until 2017[.]”
11. A review of billing records from 2016 revealed entries for Therapeutic Coaching, Educational/ Therapeutic Coaching, Educational Coaching, Tutoring, and Social Skills Camp. Billing records from 2020 and 2021 revealed entries for “Diagnostic evaluation, biopsychosocial assessment”, “Psychotherapy alone 60 (53+minutes)”, and “Family psychotherapy conjoint psychotherapy without the patient present.”

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Issue 2 – LMSW in Private Practice

12. In December 2019, the Board sent a reminder email to all licensees holding an LMSW in the State of Maryland. The letter contained the following information:

Dear Licensee

Two years ago the Governor signed into law a number of changes to our Social Work Statute. One of those changes related to the private practice of psychotherapy by LMSW level social workers. Regulations were also promulgated to provide additional information. The changes are to go into effect on January 1, 2020.

The changes state that LMSW social workers:

1. May ***not*** provide psychotherapy as a solo practitioner
2. May ***not*** practice clinical social work independently
3. May ***only*** practice clinical social work under the supervision of an LCSW-C

Recently, the Board and its Assistant Attorney General reviewed these changes and clarified that LMSW social workers ***cannot*** engage in private clinical practice, but ***can*** work as an employee or under contract in someone else's private clinical practice. They must always be supervised by an LCSW-C social worker.

(For more information go to: Article- Health Occupation Title 19 – Social Worker)³

13. In addition to the December 2019 email, the Board also notified its LMSW licensees through its Board newsletter⁴⁵⁶⁷ starting in the summer of 2018 as well as

³ The email included a copy of the relevant statutes.

⁴ BSWE Newsletter Fall 2019 – p 5 “LBSW AND LMSW INDEPENDENT PRACTICE” (Located at: https://health.maryland.gov/bswe/Documents/Newsletters/2019/BSWE_Newsletter_Fall2019.pdf)

⁵ BSWE Newsletter Spring 2019 – p 1 “Chair’s Report” (Located at: https://health.maryland.gov/bswe/Documents/Newsletters/2019/BSWE_Newsletter_Spring2019.pdf)

⁶ BSWE Newsletter Fall 2018 – p 9 “Questions Regarding LMSW and Private Practice.” (Located at: https://health.maryland.gov/bswe/Documents/Newsletters/2018/Newsletter_Fall2018.pdf)

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maintaining a copy of all current statutes and regulations on its public-facing website (Currently located at: <https://health.maryland.gov/bswe/Pages/regulation.aspx>).

14. By letter dated October 28, 2021, the Respondent provided the following information:

My understanding based on reading the general email sent to licensees in 2019 was that the prohibition on LMSW's having a private practice was intended for new private practice. Similarly, because the email did not state the change in regulations was retroactive, I understood it to mean it did not apply to my practice.

My understanding of the change in regulations was that it prohibited LMSW's from opening a private practice after December 31, 2019. Likewise, my understanding was that if the BSWE intended to change the status of people like me who had once been allowed to establish a private practice, specific notification that I needed to end my practice would be sent to me directly and not via a general email[.]

15. There is no documentation in the Board's file, nor provided by the Respondent during the investigation that he contacted the Board at or around the change in regulations to clarify his situation.

16. On February 1, 2022, the Respondent closed the Practice.

Issue 3 – Failure to Maintain Proper Supervision Records

17. On October 21, 2021, the Board investigator subpoenaed the individual listed as the Respondent's supervisor ("Supervisor") on the Contractual Agreement Form

⁷ BSWE Newsletter Summer 2018 – p 2 “REVISED SOCIAL WORK STATUTE – HEALTH OCCUPATIONS TITLE 19 2017 HB-1183 / CHAPTER 548 and 2017 SB-986 / CHAPTER 549” (Located at: https://health.maryland.gov/bswe/Documents/Newsletters/2018/BSWE_Newsletter_Summer2018.pdf)

for Supervision. The Board's Investigator also subpoenaed the Respondent for a copy of his supervision records.

18. On or about October 29, 2021, the Supervisor submitted his own copies of the Contractual Agreement Form for Supervision, Supervision Verification Form, and Supervision Record.
19. The Supervisor's supervision documentation included the dates of supervision, length of time, as well as narratives outlining discussion topics. Each entry bore the signature of the Supervisor. The Supervisor's Supervision Record contained entries starting on November 2, 2017 and ending on January 11, 2022.
20. On December 31, 2021, the Respondent submitted his supervision documentation. The document contained a list of 143 dates/entries starting on November 2, 2017 and ending on August 10, 2021. Of the 143 dates, none contained the required duration of the supervisory session and only 17 entries contained any sort of narrative regarding the focus of the supervisory session.
21. On February 4, 2022, the Board's investigator asked the Respondent why he did not maintain the required supervisory documentation, the Respondent stated: "My understanding was that I was required to keep a record and that the supervisor keeps the notes."

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated:

§ 19-307 – Practice of social work, authorized activities

- (b) A licensed social worker may practice social work only within the scope of the specific category of license issued by the Board.
- (c)(2) A licensed master social worker may not:
 - (i) Engage in independent practice unless the licensed master social worker is approved by the Board to engage in independent practice in accordance with § 19-302(f) of this subtitle;
 - (ii) Treat behavioral health or emotional disorders or provide psychotherapy without the supervision of a licensed certified social worker-clinical;
 - (iii) Diagnose a behavioral health disorder without the supervision of a licensed certified social worker-clinical; or
 - (iv) Engage in private practice[.]

§ 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;
- (12) Fails to file or record any report as required by law, willfully impedes or obstructs the filing or recording of the report, or induces another to fail to file the report[.]

COMAR 10.42.02.03 – Scope of Practice

- B. Licensed Master Social Worker (LMSW).
- (3) An LMSW's practice may not include the treatment of emotional disorders, psychotherapy, or diagnosis of a mental disorder without the supervision of an LCSW-C.
 - (4) An LMSW may not engage in the practice of social work independent of social work supervision unless approved by the Board for independent practice.
 - (5) On or before December 31, 2019, an LMSW may not engage in private practice without the supervision of an LCSW-C.
 - (6) On or after January 1, 2020, an LMSW may not engage in private practice as defined in Regulation .02B (13) of this chapter.⁸

COMAR 10.42.02.05 – Independent Practice

- C. An LBSW or LMSW may not engage in the independent practice of social work until the licensee is approved by the Board for independent status in accordance with this regulation.

COMAR 10.42.03.03 – Responsibilities to Clients

- B. The licensee may not:
- (1) Participate or condone dishonesty, fraud, deceit, or misrepresentation;
 - (2) Misrepresent professional qualifications, education, experience, or affiliation[.]

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COMAR 10.42.03.06 – Standards of Practice

A. Professional Competence. The licensee shall:

- (7) Document and maintain appropriate and accurate records of professional service, supervision, and research work;

COMAR 10.42.08.08 – Responsibilities of a Supervisee

A. A supervisee shall:

- (1) Receive social work supervision for social work practice as set forth in Health Occupations Article, § 19-101, Annotated Code of Maryland;
- (4) Maintain documentation, for at least 5 years, of the supervisory sessions, including the dates, duration, and focus of the supervisory sessions[.]

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this **10th** day of **February, 2023**, by a majority of the quorum of the Board considering this case hereby:

ORDERED that the Respondent's license is **REPRIMANDED**; and it is further

ORDERED that the Respondent's license to practice social work shall be placed on **PROBATION** for a **minimum of ONE (1) YEAR**, and continuing until the Respondent has successfully completed the following probationary conditions:

1. During the probationary period, the Respondent shall be supervised by a Board-approved supervisor ("Probation Supervisor"), to whom the Board may release any portion of the investigative file as is deemed necessary;
2. The Respondent shall ensure that the Probation Supervisor provides the Board with written quarterly reports on the Respondent's progress during the supervisory period;

3. The Board has sole authority to implement any changes in the supervision and retains all authority to approve any changes in the supervision;
4. In the event that the supervisor discontinues supervising the Respondent for any reason, the Respondent shall immediately notify the Board and submit a replacement candidate to serve as his supervisor under the terms specified above;
5. Within one (1) year of the date of the effective date of the Consent Order, the Respondent shall pay a **fine** in the amount of **five hundred dollars (\$500)** by certified check or money order to the Maryland Board of Social Work Examiners;
6. Within one (1) year of the date of the effective date of the Consent Order, the Respondent shall enroll in and complete an **ethics course**, approved in advance by the Board;
7. Within one (1) year of the date of the effective date of the Consent Order, the Respondent shall enroll in and complete a **course on documentation/recordkeeping**, approved in advance by the Board;
8. Within one (1) year of the date of the effective date of the Consent Order, the Respondent shall provide the Board with written documentation of his successful completion of the courses required by this Consent Order; and
9. The Respondent shall comply with the Maryland Social Workers Act and all laws, statutes and regulations pertaining thereof; and it is further

ORDERED that no part of the training or education that the Respondent receives in order to comply with the Consent Order may be applied to his continuing education credits required for certification or licensure; and it is further

ORDERED that the Respondent cannot apply for advanced licensure from the Board unless and until the Respondent successfully completes the terms and conditions of probation as provided in this Consent Order, and the Respondent receives an order from the Board terminating his probation; and it is further

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ORDERED that if the Respondent applies for further certification or licensure at any time in the future, none of the hours the Respondent worked in case number 2021-3034, at the Practice from January 1, 2020, until February 1, 2022, when he was not in compliance with Maryland law, can be utilized to meet the supervised experience requirements; and it is further

ORDERED that at the conclusion of the one (1) year probationary period, the Respondent may petition the Board for termination of his probation. The Board may terminate the Respondent's probation, through an order by the Board, depending on whether he has fulfilled all of the terms and conditions of the Consent Order, and whether there are any pending complaints against him; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing if there is a genuine dispute as to the underlying facts, or an opportunity for a show cause hearing before the Board otherwise, may impose any sanction that the Board may have imposed in this case, including a reprimand, probationary terms and conditions, suspension, revocation and/or a monetary penalty; and it is further

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

ORDERED that the Respondent shall not serve or continue to serve as: a Maryland Board Authorized Sponsor, presenter and/or trainer of social work continuing

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education learning activities, an Ethics Tutor, an evaluator for the Maryland Board, or a Maryland Board Approved Supervisor for a period of 5 years from the effective date of this Consent Order; and it is further

ORDERED that the Consent Order is a Final Order of the Maryland Board of Social Work Examiners and as such is a **PUBLIC DOCUMENT** which shall be posted to the Board's website and is reportable to any entity whom the Board is obligated to report pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2019) and Health Occ. § 1-607.



2/10/2023

Date

Sondra Petty, LCSW-C, Board Chair
Maryland Board of Social Work Examiners

CONSENT

I, Paul Rubenstein, LMSW, License No. 23406, by affixing my signature hereto, acknowledge that:

1. I am represented by counsel, and I have consulted with counsel in this matter. I have knowingly and voluntarily agreed to enter into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.
2. I am aware that I am entitled to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 19-312 (2021 Repl. Vol.) and Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2021 Repl. Vol.).

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substantive and procedural protections as provided by law. I am waiving those procedural and substantive protections.

4. I voluntarily enter into and agree to abide by the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.
5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may be subject to disciplinary actions, which may include revocation of my license to practice as a social worker.
6. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

2/9/23
Date

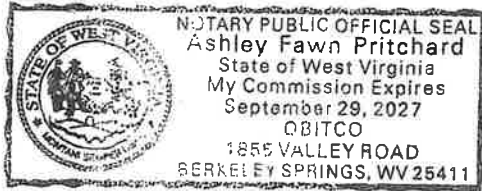
Paul Rubenstein LMSW
Paul Rubenstein, LMSW

NOTARY

STATE OF West Virginia
COUNTY OF Morgan

I HEREBY CERTIFY that on this 9th day of February, 2023 before me, a Notary Public of the State and County aforesaid, personally appeared Paul Rubenstein, LMSW, License Number: 23406, and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.



Ashley Fawn Pritchard
Notary Public

My Commission Expires: 9/29/27