

FEB 12 2020

IN THE MATTER OF

*

BEFORE THE MARYLAND Board of Social Work Examiners

SHELLY F. YOST, LCSW-C

*

STATE BOARD OF

RESPONDENT

*

SOCIAL WORK EXAMINERS

License Number: 14784

*

Case Number: 16-2224

* * * * *

CONSENT ORDER

On October 22, 2019, the Maryland State Board of Social Work Examiners (the "Board") charged SHELLY F. YOST, LCSW-C (the "Respondent"), License Number 14784, with violating various provisions of the Maryland Social Workers Act (the "Act") codified at Md. Code Ann., Health Occ. ("Health Occ.") §§ 19-101 *et seq.* (2014 Repl. Vol. and 2018 Supp.).

The pertinent provisions of the Act provide the following:

§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;
- (5) Engages in a course of conduct that is inconsistent with generally accepted professional standards 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[.]

The pertinent provisions of COMAR, the code of ethics, provide the following:

COMAR 10.42.03.03. Responsibilities to Clients.

B. The licensee may not:

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

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

COMAR 10.42.03.06 Standards of Practice

A. Professional Competence. The licensee shall:

- (8) Represent accurately the licensee's professional qualifications;

On January 6, 2020, 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 clinical social work in the State of Maryland. The Respondent was initially licensed to practice clinical social work in Maryland on or about March 13, 2012, under license number 14784. The Respondent's license expired on October 31, 2016.

Complaint

2. On or about June 20, 2016, the Board received a complaint (the "Complaint") from the parent of a former client (the "Complainant").¹ The Complaint was originally filed with the New Jersey Office of the Attorney General, Division of Consumer Affairs, State

¹ For purposes of ensuring confidentiality, proper names have been omitted and replaced with generic placeholders. Upon written request, the Administrative Prosecutor will provide the information to the Respondent.

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Board of Social Work Examiners. The Complaint alleged that the Respondent provided social work services to the Complainant's minor daughter in New Jersey without a valid New Jersey license.

3. Based on the Complaint, the Board began an investigation of the Respondent.

Investigation

4. In furtherance of its investigation, the Board obtained records from the New Jersey Office of the Attorney General. In addition, the Board obtained correspondence between the Respondent and the Complainant sent via text message, and email.
5. Finally, the Board conducted interviews of the Respondent and the Complainant.
6. The Board's investigation revealed that on or about December 15, 2014, the Respondent signed a lease agreement with a church located in Mountainside, New Jersey (the "Church"). The lease stated in part: "Tenant shall use a designated room in the leased premises as office space for **Christian counseling services that are Biblically and clinically sound[.]**" (emphasis added) At the end of the ten-page lease the "Landlord" was listed as the Church and the Respondent signed her name on behalf of the "Tenant," (Outpatient Counseling Entity),² on a line that stated "Shelly Yost, LCSW-C (MD & DC)."

² The Outpatient Counseling Entity has locations in eight states (as of 2019). According to the website: "[Outpatient Counseling Entity] exists to provide Christian-based, clinically sound counseling to individuals, couples, and families so that people experience life change emotionally, mentally, relationally, and spiritually. By 'Christian-based' we mean that we operate from a Christian worldview and recognize that we are all spiritual beings who were created to be in a relationship with God. By 'clinically sound' we mean that we strive to be in a constant learning process related to our field of expertise, i.e., counseling. We diligently acquire knowledge on an ongoing basis related to how people think, feel, relate, and act so that we can provide effective interventions."

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7. In online advertisements for the Outpatient Counseling Entity, the Respondent placed the "LCSW-C" designation after her name and indicated that she "is now a Licensed Clinical Social Worker,"³ who "[had] worked primarily with children who experienced severe abuse and trauma in early childhood." The advertisement indicated that the Respondent was the "regional director of [Outpatient Counseling Entity] of New Jersey."
8. The Complainant and her daughter ("Daughter") were members of the Church for approximately ten (10) years. At the time of the Complaint, the Daughter was fourteen years old and had been the victim of familial sexual assault. The Daughter had attempted suicide on several occasions and was experiencing bullying at school.
9. On or about October 4, 2015, staff⁴ at the Church recommended that the Complainant's daughter seek treatment from the Respondent, as the Respondent is known to specialize in trauma therapy. The Complainant indicated in her Complaint that she never questioned the Respondent's credentials as she was referred by trusted Church staff.
10. On or about October 19, 2015, the Complainant filled out an [Outpatient Counseling Entity] Client Information Sheet where she listed her insurance information. The Complainant noted that while the Respondent took all her insurance information, the Respondent charged her credit card a copay for the biweekly visits. The Respondent

³ The advertisement that was printed by the Complainant on or about May 4, 2016 did not mention that the Respondent was only licensed in Maryland and the District of Columbia. In a similar advertisement printed by the New Jersey Investigator on or about November 7, 2016, the words "in Maryland" were added after the phrase Licensed Clinical Social Worker. The November 2016 advertisement continued to list LCSW-C following the Respondent's name on the list of New Jersey providers. On or about May 17, 2017, the Complainant sent a printout of the Respondent's advertisement which removed the LCSW-C designation and lists M.S.W. following the Respondent's name.

⁴ Staff at the Church maintained a list of licensed and non-licensed counselors from which they would refer parishioners.

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denies taking insurance information for any payment purpose. Fees were prorated to \$65 a meeting. All charges were out of pocket expenses and insurance was not accepted permitting a \$10 co-pay.

11. The Respondent's first appointment with the Daughter at the Outpatient Counseling Entity located in New Jersey was on October 19, 2015.
12. According to the Outpatient Counseling Entity's Client Schedule Sheet provided by the Complainant, the Daughter was seen one time by the Respondent at the New Jersey location for a Psychiatric Evaluation and an additional four visits for individual psychotherapy. The Complainant paid a total of \$345.00 to the Respondent. The Client Schedule Sheet provided the following information:

Session	1	2+
CPT Code	90791 ⁵	90837 ⁶
Copay \$	\$85.00	\$65.00

Date	Sess. #	CPT Code	Fee Collected
10/19/15	1	90791	85.00
10/28/15	2	90834 ⁷	65.00
11/4/15	3	90834	65.00
12/2/15	4	90834	65.00

⁵ CPT Code 90791 - Psychiatric Diagnostic Evaluation – "This code is used for an initial diagnostic interview exam that does not include any medical services... It includes a chief complaint, history of present illness, review of systems, family and psychosocial history, and complete mental status examination, as well as the order and medical interpretation of laboratory or other diagnostic studies."

⁶ CPT Code 90837 - Individual Psychotherapy, 60 minutes with patient and/or family member

⁷ CPT Code 90834 - Individual Psychotherapy, 45 minutes with patient and/or family member

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12/9/15	5	90834	65.00
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13. The Complainant indicated that she made numerous attempts to obtain a copy of the invoiced bills for the services rendered. The Respondent provided a Patient Receipt that listed Outpatient Counseling Entity's Bowie, Maryland location instead of the New Jersey location where the Daughter received services.
14. On or about January 4, 2016, the Complainant submitted a Health Insurance Claim Form to her insurance company seeking reimbursement for the Daughter's first five (5) sessions with the Respondent.
15. On or about February 22, 2016, the Complainant received an Explanation of Benefits (EOB) from her insurance company indicating that "This claim is not paid. A copy of [the Respondent's] state license, complete address and tax identification number was required and was not received."
16. On March 1, 2016, the Complainant emailed the Respondent regarding the EOB and the denial of all claims related to the Respondent's services. The Complainant also asked the Respondent to provide "the invoice for the January 2016 visit."
17. On March 7, 2016, the Respondent sent an email asking the Complainant "what additional information [the insurance company] are [sic] requiring." The Respondent's email signature listed her as "Shelly Yost, LCSW-C Regional Director [Outpatient Counseling Entity]."
18. On March 7, 2016, the Complainant replied via email, "Regarding the EOB, they need a copy of [your] professional license."

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19. Between March 3, 2016 and April 7, 2016, the Complainant sent text messages to the Respondent requesting a copy of her New Jersey Social Work license. The Complainant noted that the Respondent did not appear on the New Jersey Consumer Affairs Occupational Licensing website.

20. On April 7, 2016, the Respondent sent the Complainant a photo of her Maryland Social Work license. The following text exchange occurred:

Respondent: Here is a copy of my Maryland clinical license. The number is active however the[y] no longer issues [sic] paper license I can also send you my degree if that helps. I have not yet charged you for the last two session[s] as I knew you needed to try to be reimbursed from our previous sessions.

Complainant: I need NJ paperwork

...

Complainant: I need NJ paperwork. I'm at work so I can't talk. And have been stressed by the possibility that you were not licensed. You have told me repeatedly that you were setting up your scanner to send me your license. NJ website does not have your info either.

Respondent: ...I am a clinics [sic] licensed social worker in Maryland that has not be[en] transferred to the NJ system yes [sic] which is why I do not accept insurance and you were given a it [sic] of pocket fee[.]

...

Complainant: I need the NJ license you have been agreeing to send me. I don't want to sound disrespectful but it's implied that you are licensed in NJ is [sic] that is where services are rendered. I'm very upset with everything that is going on with this. [Daughter] is not well – still in hospital⁸ and now I have to find a licensed therapist. She had already bonded with you. This is really heartbreaking and unprofessional conduct.

⁸ The Daughter was hospitalized in January 2016 due to suicidal ideation and self-harm behaviors.

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21. By letter dated May 4, 2016 and sent to the Outpatient Counseling Entity's Bowie, Maryland location, the Complainant sought a refund of payments.
22. By check dated May 24, 2016, the Respondent refunded the Complainant \$280.00.⁹

Maryland Board Investigator's Interviews

23. On March 6, 2018, the Respondent was interviewed by the Maryland Board's investigator under oath and with counsel present. The Respondent:
 - (a) Admitted that she moved to New Jersey in July 2013 and in 2014 became a solo practitioner at Outpatient Counseling Entity.
 - (b) Admitted that she provided biblical counseling and talk therapy to the Daughter who had a previous diagnosis of Post-Traumatic Stress Disorder and Depression.
 - (c) Admitted that talk therapy is a form of social work.
24. On March 27, 2018, the Complainant was interviewed under oath by the Maryland Board's investigator. The Complainant:
 - (a) Explained that in October 2015, the Daughter had been seeing a treating therapist for approximately six (6) months when staff at the Church stated that Complainant should consider sending the Daughter to the Respondent because the Respondent was specialized.
 - (b) Explained that the Daughter was receiving therapeutic counseling from the Respondent.
 - (c) Explained that she filed a complaint with the New Jersey Office of the Attorney General after learning from the Outpatient Counseling Entity's Bowie, Maryland, office that the Respondent was not licensed in New Jersey.
25. The Respondent was licensed as LCSW-C in Maryland at the time of all interactions with the Daughter.

⁹ The Complainant's credit card company reimbursed the Complainant \$65.00.

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26. The Respondent attests that she never intentionally represented that she was licensed in New Jersey, nor accepted insurance while working in New Jersey.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated Health Occ. § 19-311 (5) and (6), and COMAR 10.42.06.03 and 10.42.03.06. The Board in its discretion declines to find that the Respondent violated Health Occ. § 19-311 (2).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 12th day of February, 2020, by a majority of the quorum of the Board considering this case hereby:

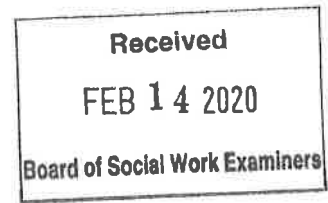
ORDERED that the Respondent's license to practice social work in the State of Maryland shall be **REPRIMANDED**; and it is further

ORDERED that the Respondent shall pay a fine in the amount of **one thousand dollars (\$1,000)** by certified check or money order to the Maryland Board of Social Work Examiners. The fine shall be paid within ninety (90) days of the date of this order; and it is further

ORDERED that the Board reserves the right to require probation terms upon reinstatement of license.

ORDERED that the Respondent shall not serve or continue to serve as a Board Authorized Sponsor, presenter and/or trainer of social work continuing education learning activities, an Ethics Tutor, an evaluator for the Board, or a Board Approved Supervisor for a period of 5 years from the effective date of this Consent Order; and it is further

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

ORDERED that for purposes of public disclosure, this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions, §§ 4-101 *et seq.* (2014) and is reportable to any entity to whom the Board is obligated to report.¹⁰

A handwritten signature in cursive script that reads "Sherryl L. Silberman LCSW-C".

2/14/2020
Date

Sherryl Silberman, LCSW-C,
Board Chair
Maryland Board of Social Work Examiners

¹⁰ This includes the Board's public website and NPDB.

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CONSENT

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I, Shelly Yost, LCSW-C, License No. 14784, by affixing my signature hereto, acknowledge that:

1. I am represented by counsel and I have consulted with counsel on 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 (2014 Repl. Vol. and 2018 Supp.) and Md. Code Ann., State Gov't, §§ 10-201 *et seq.* (2014 Repl. Vol. and 2018 Supp.).
3. I acknowledge the validity and enforceability of this Consent Order as if entered into after the conclusions of a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural precautions as provided by law. I am waiving those procedural and substantive processes.
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 any failure to abide by the conditions set forth in this Consent Order, I may be subject to further disciplinary actions, including up to 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.

2/11/2020

Date

Shelly Yost
Shelly Yost, LCSW-C

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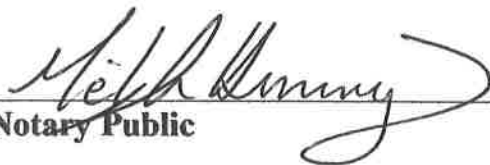
NOTARY

STATE OF

COUNTY OF

I HEREBY CERTIFY that on this 11th day of February, 2020, before me, a Notary Public of the State and County aforesaid, personally appeared Shelly Yost, LCSW-C, License Number: 14784, and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.


Notary Public

My Commission Expires: 08-29-2023

