

IN THE MATTER OF
MARIE BEJACMAR-DIDER, LCSW-C
Respondent

*** BEFORE THE MARYLAND**
*** STATE BOARD OF**
*** SOCIAL WORK EXAMINERS**

LICENSE NUMBER 13195

*** Case Number: 2017-2323**

*** * * * ***

FINAL DECISION AND ORDER

I. BACKGROUND

On May 22, 2017, the Maryland Board of Social Work Examiners (“the Board”) received a complaint alleging that on August 18, 2015, the Respondent entered a plea of guilty to one count of Medicaid Fraud, and was sentenced to two (2) years of probation, ordered to pay restitution and a fine in Dekalb County Superior Court. The Respondent did not disclose her guilty plea or her charges to the Board and even applied and received permission from the Board to be an approved supervisor. The Respondent accepted a position as a clinic manager which required her to conduct intake assessments for individuals with Medicaid insurance coverage. She failed to disclose her guilty plea, charges and Medicaid exclusion to her employer. The Respondent’s employer billed Medicaid for approximately 43 intake assessments between January and February 2017 under the Respondents Medicaid billing number while she was still on the Medicaid exclusion list.

The Board opened an investigation. At the conclusion of the investigation, on March 19, 2018, the Board issued charges under the Maryland Social Workers Act (the

"Act"). Md. Code Ann., Health Occupations II ("HO") §§ 19-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.). The charges comprise pertinent provisions of the Act under § 19-311 and Code Md. Reg. ("COMAR") tit. 10 § 42.03, which in part states:

§ 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:

(1) Obtained or attempted to obtain a license for the applicant or licensee or for another through fraud, deceit, or misrepresentation;

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

[and]

(7) Is convicted or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside.

A notice of hearing was mailed to the Respondent by regular and certified mail return receipt on or about August 8, 2018. The notice indicated that an evidentiary hearing was scheduled on Friday, October 12, 2018 at 1:30 pm.

II. HEARING BEFORE THE BOARD

On October 12, 2018, the hearing commenced at approximately 1:30 pm. A quorum of the Board was present. Assistant Attorney General Sherrai Hamm,

Administrative Prosecutor, was present to represent the State. The Respondent was present and represented herself at the proceeding.

Exhibits and Witnesses

State's Exhibits:

- A. Complaint, dated 5/13/17
- B. Charges Under the Maryland Social Work Act, dated 3/19/18
- C. Certified Court Documents: *State of Georgia v. Maria Bejacmar-Dider*, Case No.: 14CR3016-4
- D. Renewal Application, dated 8/18/16
- E. Notice of Hearing, dated 8/8/18
- F. Return Receipt
- G. USPS tracking, dated 9/6/18

State's Witnesses:

- 1. Garcia Gilmore

Respondent's Exhibits:

- 1. Unofficial Court Documents: *State of Georgia v. Maria Bejacmar-Dider*, Case No.: 14CR3016-4
- 2. EEOC (Inquiry) Number 531-2018-03026
- 3. Unauthenticated Medical/Treatment Records

Respondent's Witnesses:

- 1. Maria Bejacmar-Dider

A full evidentiary hearing was held. Sherrai Hamm, Assistant Attorney General, presented the State's case. State's Exhibits A – E and the Respondent's Exhibits 1 – 3 were admitted into evidence. The testimony of two witnesses was entered into the record.

III. FINDINGS OF FACT

The Board makes the following findings of fact based upon the entirety of the record:

1. At all times relevant, the Respondent was licensed as a social worker in the State of Maryland.
2. The Respondent was initially licensed to practice clinical social work in Maryland on or about July 19, 2006.
3. The Respondent's license is up for renewal on or before October 31, 2018.
4. At all times relevant to the proceeding, the Respondent was an employee at an outpatient mental health facility ("Establishment A"), located in Maryland.
5. On or around May 22, 2017, the Board received a Complaint from, a social worker ("Social Worker A"), employed at Establishment A.
6. Social Worker A alleged in the complaint that while the Respondent was employed as clinic manager at Establishment A, she completed at least 43 intake assessments.
7. Establishment A billed Medicaid for the intake assessments completed by the Respondent.
8. The employees at Establishment A discovered that the Respondent pled guilty to Medicaid Fraud and was placed on the Medicaid exclusion list in 2015.
9. A subsequent investigation by Board Staff revealed that on or about August 18, 2015, the Respondent pled guilty to one count of felony Medicaid Fraud in the Superior Court of DeKalb County, Georgia.
10. Between August 2012 and October 2013, the Respondent a Medicaid Provider, submitted false claims to the Georgia Medicaid program for services that were not rendered.

11. On August 18, 2015, the Respondent was placed on probation for a period of two (2) years. She was also ordered to pay restitution in the amount of eight thousand dollars (\$8000.00), required to pay a two thousand dollar (\$2000.00) fine, and excluded from participating in the Georgia Medicaid Program.

12. Further investigation by Board Staff revealed that on or about August 18, 2016, the Respondent filed an Online License Renewal Application with the Board.

13. The Respondent affirmed under penalties of perjury that the entire content of her renewal application was true and correct.

14. Despite pleading guilty to Medicaid Fraud in August 2015, the Respondent answered "NO" to the following question on her renewal application that pertained to character and fitness:

4. Within the last two years, have you pled guilty to, nolo contendere to, been convicted of or received probation before judgment to any criminal act excluding misdemeanor traffic violations? (Misdemeanor traffic violations include driving while under the influence of alcohol, while impaired by alcohol, or while impaired by a drug, or a combination of drugs and therefore, do not need to be reported to the Board.

15. On October 25, 2016, the DeKalb County, Georgia Superior Court ordered that the Respondent be discharged without court adjudication of guilt.

16. The Respondent's renewal application was filed with the Board two (2) months prior to the Respondent's court ordered discharge.

17. The Respondent knowingly falsified the renewal application she filed with the Board on August 18, 2016.

18. The Respondent's conduct as set forth above is a violation of H.O. § 19-311 (1), (4), and (7).

IV. DISCUSSION

Pursuant to section 19-311 of the Act, the Board may reprimand any licensee, place any licensee on probation, or suspend or revoke the license of a licensee if the Board finds, by a preponderance of the evidence, that the licensee committed any of the enumerated acts. The Board considered whether the Respondent committed the following violations of the Act: obtaining or attempting to obtain a license for the licensee through fraud, deceit, or misrepresentation; committing any act of gross negligence, incompetence, or misconduct in the practice of social work; or is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside. See H.O. § 19-311.

The State's Case

The state presented testimony through, Garcia Gilmore, the Board's investigator. In May 2017, the Board received a complaint against the Respondent. Upon investigation of the complaint, the Board learned that on August 18, 2015, the Respondent negotiated a plea of guilty to a Felony charge of Medicaid Fraud under the Georgia First Offender Act/Conditional Discharge. She was sentenced to two years of probation; excluded from participation in Georgia Medicaid program; ordered to pay restitution in the amount of \$8000.00 and a fine of \$2,000.00 by September 1, 2015; and ordered to testify at the trial of her co-defendant. On August 18, 2016, the Respondent filed an online renewal application with the Board. In response to question

number four which states, “[w]ithin the last two years, have you been convicted or pled guilty or received probation before judgment for a crime,” the Respondent answered “NO”.

The Respondent’s Case

The Respondent testified on her own behalf. She testified that in 2015 she pled guilty, that she was on probation for one year and she paid her fines. She argued that because the court discharged her without adjudication of guilt, she did not believe she was required to report her guilty plea on the renewal application. The Respondent explained that after entering the plea she was sentenced as a First Offender in Georgia and then placed on probation. Upon successful completion of her probation her criminal record was expunged. In 2016, she was discharged from probation without court adjudication of guilt and completely exonerated.

Analysis of the Evidence

The State argued that a preponderance of the evidence shows that the Respondent violated pertinent provisions of the Act as set forth in H.O. § 19-311 (1), (4), and (7), by lying on her renewal application. The State directed the Board to review the court documents showing that the Respondent pled guilty on August 18, 2015. One year later, she filed an online application with the Board on August 18, 2016. Question number four on the Online License Renewal Application states,

4. Within the last two years, have you pled guilty to, nolo contendere to, been convicted of or received probation before judgment to any criminal act excluding misdemeanor traffic violations? (Misdemeanor traffic violations include driving while under the influence of alcohol, while impaired by alcohol, or while impaired by a drug, or a combination of drugs

and therefore, do not need to be reported to the Board.

The Respondent answered "NO" to this question even though she had pled guilty to one count of Medicaid fraud just one year prior and was still on probation.

The Respondent asked the Board to consider that she was sentenced as a first offender, and not adjudicated guilty, therefore upon successful completion of her sentence she was not required to disclose the guilty plea on her license renewal application. The Georgia first offender statute specifically states,

When a defendant has not been previously convicted of a felony, the court may, upon a guilty verdict or plea of guilty or nolo contendere and before an adjudication of guilt, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and:

(1) Place the defendant on probation;

...

(c) The court shall not sentence a defendant under the provisions of this article and, if sentenced under the provisions of this article, shall not discharge the defendant upon completion of the sentence unless the court has reviewed the defendant's criminal record as such is on file with the Georgia Crime Information Center.

Code of Georgia Annotated ("O.C.G.A."), § 42-8-60 (a) (2018). Under the O.C.G.A., as a first time offender, the Respondent would only be adjudicated guilty if she failed to successfully complete her sentence. Even though she was eventually discharged, she was not discharged at the time she filed the application with the Board.

The State met its burden as to HO § 19-311 (1) and (7). Simply put, question four on the Board's application requires applicants to answer "YES" or "NO" to whether they have pled guilty to a crime in the last two years. If the answer is "Yes", then applicants may provide an explanation. If the answer is "NO", then applicants move to the next question. The Respondent offered a court document and letters from her attorney all dated on or after October 25, 2016. These documents do not refute that on August 18, 2016, the day the Respondent filed the license renewal application with the Board, she had pled guilty to a felony, namely Medicaid fraud. The Respondent's testimony in this regard does little to further her argument. In fact, when asked directly by the Board if she pled guilty, she answered "NO, I did not... I pled guilty as a first offender." The Board finds that the Respondent's response to this line of questioning diminished her credibility. The Respondent refused to acknowledge that since she had not yet received a court order discharging her, that she was still on probation at the time she filed the renewal application. The Respondent misrepresented her criminal history by answering "NO" to question number four, so that she could renew her clinical social work license. The Board acknowledges that in late October 2016, more than two months after the Respondent filed her license renewal application with the Board, the Georgia Superior Court did discharge the Respondent.

The State also met its burden with regard to HO §19-311 (4). The Respondent knowingly worked as a clinical social worker in Maryland and failed to disclose her criminal involvement and Medicaid exclusion to her employer. The Respondent did not deny that she provided Medicaid services in Maryland when asked by the Board. She avoided answering the question altogether by stating that she did not know she was still

on the Medicaid exclusion list. Again, the Board finds the Respondent's response to this line of questioning also diminished her credibility. The Respondent lacked candor, dodged answering direct questions and was unable or unwilling to appreciate the Board's concerns. She avoided engaging the Board in a manner that would have otherwise required her to acknowledge her role in the events that occurred. In light of Respondent's testimony and the lack of any evidence to the contrary, the Board finds it more likely than not that the Respondent completed intakes for forty-three patients billed under Medicaid. Her actions in this regard amount to gross negligence and misconduct in the practice of social work.

The Board finds that these violations of the Act and COMAR most appropriately fall within COMAR 10.42.09.04 A (1), (4), and (8), of the Board's sanctioning guidelines. The range of potential sanctions under these provisions includes reprimand to revocation and/or a minimum fine of \$500 to a maximum fine of \$5,000. In considering an appropriate sanction for the Respondent's license, the Board took into account evidence that: a) the Respondent pled guilty of one count of felony Medicaid Fraud; b) before the Respondent was discharged by the Georgia Court she filed a license renewal application with the Board; c) she did not answer question number four on the renewal application truthfully; d) she obtained a license under false pretenses; e) she used her ill-gotten license for personal gain, such as employment as a clinical social worker in Maryland; and f) the Respondent placed herself, her patients and her employer at risk by failing to disclose her Medicaid exclusion to her employer. The Respondent's diversion and unwillingness to take responsibility for her actions could potentially place the public at risk.

The Respondent's conduct demonstrates a proclivity to engage in behavior that reflects poorly on the practice of social work and that serves no useful purpose in the social work profession. The lack of accountability is concerning and certainly affects her ability to render impartial, safe and appropriate care and treatment services to clients. The Respondent's actions are indicative of a conscious disregard of the ethics and responsibilities in the social work profession that are in place to ensure social work services are rendered to the public safely and properly. Thus, the most appropriate sanction is revocation of her license to practice social work in the State of Maryland.


V. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes that a preponderance of the evidence presented to the Board shows that the Respondent violated Md. Code Ann., Health Occ. H.O. § 19-311 (4), (5), (6), and (16) as well as COMAR 10.42.03.

VI. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby: **ORDERED** that the Respondent's license to practice as a licensed certified social worker, clinical in the State of Maryland, license number 13195, is hereby **REVOKED**; and it is further **ORDERED** that this Order is a **PUBLIC DOCUMENT** under Md. Code Ann., State Gov't § 10-617(h) (2009 Repl. Vol.).

12/14/18
Date


Sherryl Silberman, LCSW-C
Board 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. § 19-311 may file a petition for judicial review in the circuit court within thirty (30) days as provided by Md. Code Ann., Health Occ. § 19-313, 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").