

IN THE MATTER OF * BEFORE THE
WANDA D. CURRIE, LCSW-C * MARYLAND STATE BOARD
Respondent * OF SOCIAL WORK EXAMINERS
License Number: 09961 * Case Number: 10-1535

* * * * *

FINAL DECISION AND ORDER

BACKGROUND

On June 10, 2011, the Maryland State Board of Social Work Examiners (the "Board") issued a Notice of Intent to Revoke Social Work License and charges (the "Notice") against Wanda D. Currie, LCSW-C (the "Respondent"), pursuant to its authority under the Maryland Social Workers Act (the "Act"), Maryland Health Occ. Code Ann., ("HO") §§19-101 *et seq.*, (2009 Repl. Vol. and 2010 Supp.). Specifically, the Board charged Respondent with violating the following provisions of HO §19-311:

Subject to the hearing provisions of §19-312 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (8) 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[;].

Included with the Notice and charges to Respondent was a letter of procedure informing Respondent that she may request, within thirty (30) days of her receipt of the Notice, a hearing on the charges. The Respondent contacted the Board in writing and requested a hearing.

The Board offered the Respondent a Case Resolution Conference ("CRC"), which was held on July 27, 2011. The case was not settled at the CRC. Therefore, a hearing and prehearing conference were scheduled at the Office of Administrative Hearings ("OAH").

On August 19, 2011, OAH issued to the Respondent a Notice of Hearing and a Notice of In-Person Prehearing Conference, with Pre-Hearing Conference instructions. The aforementioned notices advised Respondent of an in-person prehearing conference scheduled for September 15, 2011 at 9:30 a.m. and a hearing on the merits of the charges scheduled for October 20, 2011 at 9:30 a.m.

The notices were sent to the Respondent by first-class mail to her address of record with the Board. The notices were not returned by the United States Postal Service.

The Prehearing Conference instructions required the parties to file a Prehearing Conference Statement with OAH no later than fifteen (15) days before the prehearing conference. On August 25, 2011, the Administrative Prosecutor filed with OAH and served on the Respondent the State's Prehearing Conference Statement and a Motion for Summary Decision ("Motion"). The Motion alleged that the Respondent had been convicted of a criminal offense relating to the practice of social work and that the Board, therefore, was entitled to summary decision under the doctrine of collateral estoppel. The Respondent did not file a Prehearing Conference Statement or a response to the Motion.

On September 15, 2011, an in-person prehearing conference was held before Administrative Law Judge ("ALJ") Deborah H. Buie. The Administrative Prosecutor and

the Respondent both appeared. The Administrative Prosecutor presented an oral argument, with supporting exhibits, in support of the State's Motion for Summary Decision. Respondent stated that she was in the process of appealing her criminal conviction and needed additional time to respond to the State's Motion. The ALJ directed the Respondent to file a Prehearing Conference Statement and a response to the Motion by September 30, 2011. On September 30, 2011, the Respondent filed a response to the Motion, but she did not file a Prehearing Conference Statement.

On October 11, 2011, ALJ Buie issued a Proposed Order wherein she concluded that there are no material facts in dispute and that the Board is entitled to judgment as a matter of law. ALJ Buie further concluded that Respondent's license to practice social work in State of Maryland be revoked because she pleaded guilty to and was convicted of one count of Medicaid Fraud in the Circuit Court for Harford County on February 3, 2011. The Respondent was sentenced to five years of incarceration, suspended, and three years of supervised probation. In addition, Respondent was ordered to pay restitution to the Maryland Department of Health and Mental Hygiene in the amount of \$53,560. The ALJ concluded that this criminal conviction, both a felony and a crime of moral turpitude, constitutes a violation of HO § 19-311(8)

In the Proposed Order, dated October 11, 2011, ALJ Buie advised the parties of their right file written exceptions to the Proposed Order within ten (10) days from the date of the Proposed Order. To date, Respondent has not filed exceptions to the Proposed Order.

On December 9, 2011, with the Respondent having filed no exceptions, a majority of the full authorized membership of the Board voted to affirm the ALJ's

Proposed Order and to revoke Respondent's license to practice social work. The Board issues this Final Decision and Order based upon its consideration of the entire record, including the Proposed Order, the State's Motion for Summary Decision with exhibits, and the Respondent's Request to Deny Summary Decision. For the reasons set forth below, the Board adopts the ALJ's Proposed Order in its entirety. The ALJ's Proposed Order is attached and incorporated herein as Appendix A. (See, Appendix A).

FINDINGS OF FACT

The Board finds the following:

1. At all times relevant hereto, the Respondent was and is licensed to practice social work in the State of Maryland.
2. The Respondent was originally licensed to practice social work in the State of Maryland on August 28, 1998, under License Number 09961. The Respondent's license is currently active and will expire on October 31, 2012.
3. On April 16, 2010, the Board received a complaint from the Respondent's former co-worker alleging that the Respondent had plagiarized case logs by accessing a confidential computer file. According to the complaint, the Respondent used case logs written by the complainant and a graduate student and passed them off as her own. The complainant further alleged that the Respondent "may have reported seeing students when she did not" because the dates on her logs did not match.
4. The Board subsequently initiated an investigation.
5. On February 25, 2011, the Board received information that the Medicaid Fraud Control Unit of the Office of the Attorney General concluded the prosecution and sentencing of the Respondent for Medicaid Fraud.

6. The Board's investigation revealed that on or about February 3, 2011, the Respondent pleaded guilty in the Circuit Court for Harford County, Maryland to one count of Medicaid Fraud. The conviction stemmed from charges that between January 1, 2006 and March 18, 2010, the Respondent "did knowingly and willfully defraud the Maryland Medical Assistance Program (Medicaid)" by submitting false claims for payment to Medicaid for services that she did not provide.

7. The Respondent was sentenced to five years of incarceration, suspended, and three years of supervised probation. In addition, the Respondent was ordered to pay restitution to the Department of Health and Mental Hygiene in the amount of \$53,560.

DISCUSSION

The Board agrees with and adopts the Discussion of the ALJ in the Proposed Order, dated October 11, 2011. The Proposed Order is attached and incorporated herein as Appendix A.

There is no dispute that Respondent was convicted of the felony of Medicaid fraud in the Circuit Court for Harford County on February 3, 2011. Respondent was sentenced to five years of incarceration, which was suspended, placed on supervised probation for three years, and ordered to pay restitution in the amount of \$53,560 to the Maryland Medicaid program.

The Board's authority to take disciplinary action against the Respondent in this case is based upon Respondent's criminal conviction, a fact which is not in dispute. The Respondent's conviction constitutes a violation of HO § 19-311(8), which allows the Board to revoke a license if the licensee 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. The criminal conviction in the Circuit Court for Harford County is conclusive evidence of the Respondent's misconduct and may not be collaterally attacked in a hearing before OAH or the Board, regardless of whether the Respondent's conviction is the subject of an appeal. Therefore, the ALJ's granting of the State's Motion for Summary Decision is proper, and the Board adopts the Proposed Order in its entirety. (See, Appendix A).

CONCLUSIONS OF LAW

The Board adopts and incorporates by reference the Conclusions of Law made by the ALJ in the Proposed Order dated October 11, 2011, wherein the ALJ concluded that there are no material facts in dispute and that the Board is entitled to judgment as a matter of law. The ALJ further concluded that the Respondent's social work license should be revoked because she was convicted of a criminal offense that is both a felony and a crime of moral turpitude. Accordingly, in light of the foregoing Findings of Fact, Discussion and the Proposed Order, the Board finds that the Respondent violated HO §19-311(8). (See, Appendix A).

SANCTION

The Respondent is guilty of committing a felony and a serious crime of moral turpitude. As a result, Respondent has violated the Maryland Social Workers Act. The Respondent repeatedly has been dishonest in her practice and defrauded her clients, Medicaid, and the public trust by her actions. Due to Respondent's flagrant disregard of the law, the Board believes that a severe sanction is necessary to deter further misconduct by the Respondent and by other social workers who may be tempted to

abdicate their responsibilities to practice social work in an honest and responsible manner.

As the Board's sanctions act as a "catharsis for the profession and a prophylactic for the public," (McDonnell v. Comm'n on Medical Discipline, 301 Md. 426, 436 (1984)), it is imperative that social workers understand that serious misconduct has serious ramifications and is likely to have an effect on one's license to practice one's profession. Moreover, the health, safety and welfare of the citizens of Maryland must be protected. It is for these reasons that the Board has determined that revocation is the appropriate sanction for Respondent's misconduct.

ORDER

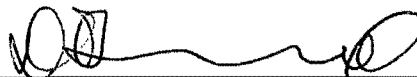
Based upon the foregoing Findings of Fact, Discussion and Conclusions of Law, it is this 9th day of December, 2011, by a majority of the full authorized membership of the Board, hereby

ORDERED that Maryland social work license of Respondent, Wanda D. Currie, LCSW-C, license number 09961, is **REVOKED**; and it is further

ORDERED that this Final Decision and Order shall be effective from the date it is signed by the Board; and it is further

ORDERED that this is a Final Order of the Maryland State Board of Social Work Examiners and, as such, is a PUBLIC DOCUMENT and is reportable to any entity to which the Board is obligated by law to report, and is disclosable under the Maryland

Public Information Act, Maryland State Gov't Code Ann. §§10-611 *et seq.* (2009 Repl. Vol., and 2010 Supp.).



Daniel L. Buccino, LCSW-C, BGD
Chair
Maryland State Board of Social Work
Examiners

NOTICE OF RIGHT TO APPEAL

Pursuant to Maryland Health Occ. Code Ann. §19-313, you have a right to take a direct judicial appeal. A petition for appeal shall be filed within thirty (30) days from your receipt of this Final Decision and Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Maryland State Gov't Code Ann. §§10-201 *et seq.*, and Title 7, Chapter 200 of the Maryland Rules.

Appendix A

MARYLAND BOARD OF SOCIAL
WORK EXAMINERS

v.

WANDA D. CURRIE

License No. 09961

RESPONDENT

* BEFORE DEBORAH H. BUIE
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH NO.: DHMH-BSW-87-11-31830
*

BOARD OF SOCIAL
WORK EXAMINERS

* * * * *

RULING ON BOARD'S MOTION FOR SUMMARY DECISION

STATEMENT OF THE CASE
DISCUSSION
CONCLUSIONS OF LAW
PROPOSED ORDER

STATEMENT OF THE CASE

On June 10, 2011, the State Board of Social Work Examiners (Board) notified the Respondent of its intent to revoke her license to practice as a clinical social worker because she had been convicted of a criminal charge (concerning insurance fraud in the practice of social work) involving both a felony and a crime of moral turpitude, pursuant to the Maryland Social Work Practice Act. Md. Code Ann., Health Occ. § 19-311(8) (2009). Thereafter the matter was referred to the Office of Administrative Hearings for a pre-hearing conference (PHC) on September 15, 2011. A hearing was scheduled for October 20, 2011.

On August 25, 2011, Tracee Orlove Fruman, the Administrative Prosecutor, filed and served on the Respondent a PHC statement and Motion for Summary Decision (Motion). The Motion alleged that the Respondent had been convicted of a criminal offense relating to the practice of social work and that the Board was therefore entitled to summary decision under the doctrine of collateral estoppel. The Respondent did not file a PHC statement or a response to the Motion.

A PHC in this matter was conducted on September 15, 2011.¹ COMAR 10.42.04.05. Ms. Orlove Fruman was present as well as the Respondent, who represented herself. The Administrative Prosecutor presented an oral argument, with supporting exhibits², in support of her Motion and the Respondent stated that she was in the process of appealing her conviction and needed additional time to respond to the Motion. I directed the Respondent to file a PHC statement and a response to the Motion by September 30, 2011. On September 30, 2011, the Respondent filed a response to the Motion; she did not file a PHC statement.

Procedure in this case is governed by the contested case provisions of the Administrative Procedure Act, the Rules of Procedure for the Board, and the Rules of Procedure of the Office of Administrative Hearings. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2009 & Supp. 2011); Code of Maryland Regulations (COMAR) 10.42.04; COMAR 28.02.01.

DISCUSSION

The standard for ruling on a motion for summary decision is set forth in COMAR 28.02.01.12D, which provides the following:

D. Motion for Summary Decision

(1) Any party may file a motion for summary decision on all or part of an action, at any time, on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law. Motions for summary decision shall be supported by affidavits.

(2) The response to a motion for summary decision shall identify the material facts that are disputed.

(3) An affidavit supporting or opposing a motion for summary decision shall be made upon personal knowledge, shall set forth the facts that would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit.

(4) The judge may issue a proposed or final decision in favor of or against the moving party *if the motion and response show that there is no*

¹ I issued a PHC Order on September 19, 2011.

² The Board's List of Exhibits is attached.

genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.

(Emphasis supplied.)

The purpose of a motion for summary decision, which is similar to summary judgment, is to decide whether a trial is necessary to resolve disputes of material facts. *Greenwell v. American Guaranty Corp.*, 262 Md. 102, 109 (1971).

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BOARD OF SOCIAL
WORK EXAMINERS

The OAH summary decision rules are similar to the Maryland Rules concerning summary judgment. Maryland Rule 2-501 provides in pertinent part:

(a) Motion. Any party may make a motion for summary judgment on all or part of an action on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law. *The motion shall be supported by affidavit if it is . . . based on facts not contained in the record.*

Emphasis added.

Cases decided under the Maryland Rules are therefore instructive. Pursuant to prevailing case law, summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986). A fact is material if it would affect the outcome of a case. *Id.* at 248. To establish that a material fact exists, the nonmoving party may not rest upon mere allegations or denials of the adverse party's pleading, but must come forward with specific facts showing that there is a genuine issue for trial. *Matshushita Electronic Indus. v. Zenith Radio Co.*, 475 U.S. 574 (1986). In deciding a motion for summary judgment or summary decision, the evidence, including all inferences derived from the evidence, must be viewed in the light most favorable to the nonmoving party. *Natural Design, Inc. v. Rouse Co.*, 302 Md. 47 (1984).

In the Motion, the Administrative Prosecutor argues that because the Respondent was found guilty of Medicaid fraud, which she alleges is a crime of moral turpitude, the Respondent is precluded from attacking in these proceedings the underlying offense that led to the guilty

finding. As such, the Administrative Prosecutor argues that there are no material facts in dispute. Furthermore, since Section 19-312 of the Health Occupation Article (HO) gives the Board the power to revoke the Respondent's clinical social worker license for felony convictions or for crimes of moral turpitude, the Administrative Prosecutor argues that the Board is entitled to judgment as a matter of law.

The Respondent, however, argues that she received ineffective assistance of counsel during plea negotiations and has filed a post-conviction appeal, which is scheduled for a hearing on October 21, 2011. In her response to the Motion, she attached a copy of a Petition for Post-Conviction Relief, indicating a pro-se filing; however, she does not dispute that she pleaded guilty to Medicaid Fraud, rather she questions her attorney's actions in negotiating the length of the suspended sentence.

I agree with the State that in these proceedings the Respondent is precluded from collaterally attacking the underlying offenses that led to her guilty conviction. *See Culver v. Maryland Ins. Comm'r*, 175 Md. App. 645 (2007). The Respondent was afforded an opportunity to fully litigate the criminal charges that were issued against her before the Circuit Court of Harford County. At trial, the Respondent pleaded guilty to one count of Medicaid Fraud, which all stemmed from her knowingly submitting false claims for payment to Medicaid for services she did not provide, during a two-year period of time. As a result of the guilty finding, the Respondent received a five year suspended sentence and she was placed on three years of supervised probation. She was ordered to pay restitution totaling \$53,560.00. Moreover, this administrative proceeding does not afford the Respondent the opportunity to re-negotiate the sentence.

In conclusion, pursuant to HO Section 19-311(8) the Board has the authority to reprimand, suspend or revoke a social work license if the licensee pleads guilty to a felony or a crime of moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction set aside. While the statute provides a licensee with an opportunity for a hearing before the Board takes its action, under these particular circumstances, the Respondent's appeal does not stay the Board's proposed action and the Respondent has failed to provide an issue other than being dissatisfied with her attorney's performance that would require an administrative hearing pursuant to the hearing regulations of the Board. Indeed, it should be noted, the Respondent did not file a PHC statement as ordered.

It is undisputed that the Respondent has pleaded guilty to a felony and a crime of moral turpitude, which stems from her social work practice in which she defrauded Medicaid. There are no material facts at issue to be resolved in the administrative hearing. Since the Board has the power to revoke, pursuant to HO Section 19-311(8), the Board is entitled to judgment as a matter of law. Accordingly, I find that the State's Motion for Summary Decision should be granted.

CONCLUSIONS OF LAW

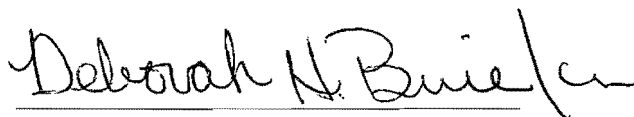
I conclude that there are no material facts in dispute and the Board is entitled to judgment as a matter of law. COMAR 28.02.01.12D; *Culver v. Maryland Ins. Comm'r*, 175 Md. App. 645 (2007). I further conclude that the Respondent's social work license should be revoked because she was convicted of a criminal offense that is both a felony and a crime of moral turpitude. Md. Code Ann., Health Occ. § 19-311(8) (Supp. 2008).

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BOARD OF SOCIAL
WORK EXAMINERS

PROPOSED ORDER

I **PROPOSE** that the State's Motion for Summary Decision be granted and that a hearing in this matter not be held. I further **PROPOSE** that the Respondent's social work license be revoked.

October 11, 2011
Date Decision Mailed



Deborah H. Buie
Deborah H. Buie
Administrative Law Judge

DHB/lh
#127046

NOTICE OF RIGHT TO FILE EXCEPTIONS

As set forth in the delegation letter, any party may file exceptions, in writing, to this Proposed Decision with the State Board of Social Work Practice within ten days of issuance of the proposed decision. The Office of Administrative Hearings is not a party to any review process.