

Received

OCT 05 2017

Board of Social
Work Examiners

IN THE MATTER OF

*

BEFORE THE

TOMI L. SCHON, LCSW-C

*

MARYLAND STATE BOARD

Respondent

*

OF SOCIAL WORK EXAMINERS

LICENSE NUMBER: 11125

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CASE NUMBER: 2015-2151

* * * * *

CONSENT ORDER

The Maryland Board of Social Work Examiners (the "Board") charged **Tomi L. Schon, LCSW-C (the "Respondent")**, License Number **11125**, with violating the Maryland Social Workers Act (the "Act"), codified at Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 19-101 *et seq.* (2014 Repl. Vol. & 2016 Supp.).

A Case Resolution Conference ("CRC") was held in this matter before a Board committee on July 12, 2017. The Respondent represented by counsel, and the Administrative Prosecutor assigned to the case participated in the CRC. As a result of negotiations at the CRC, the parties agreed to the following Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

The pertinent provisions of the Act under § 19-311 provide the following:

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;

(6) Violates any provision of this title or regulations governing the practice of social work adopted and published by the Board; [and]

(20) Fails to maintain adequate patient records[.]

The pertinent provisions of Md. Code Regs. ("COMAR") provide the following:

10.42.03.

03. Responsibilities to Clients

(5) Maintain documentation in the client's record which:

- (a) Is legible;
- (b) Accurately reflects the services provided, including treatment plans, treatment goals, and contact notes;
- (c) Indicates the time and date the services were provided;
- (d) Protects the client's privacy by including only information directly relevant to the delivery of services;
- (e) Is sufficient and timely to facilitate the delivery and continuity of services to be delivered in the future;
- (f) Is reasonably accessible for the period required in Health General Article, §4-403, Annotated Code of Maryland, after termination of services; and

ALLEGATIONS OF FACT

The Board makes the following Findings of Facts:

1. At all times relevant, the Respondent was licensed to practice clinical social work in the State of Maryland. The Respondent was initially licensed as a licensed certified social worker on May 15, 2001, and her license expires on October 31, 2017.
2. At all times relevant, the Respondent was employed as a social worker with a private counseling organization ("Facility A")¹ in Maryland. The Respondent began her employment at Facility A in 2008.

¹ To ensure confidentiality, the names of individuals, hospitals and health care facilities are not disclosed in these charges. The Respondent may obtain the identity of the referenced individuals and entities by contacting the assigned administrative prosecutor.

3. The Respondent's job duties at Facility A included individual and group counseling, and family therapy.

4. On or about November 10, 2015, the Board received a Complaint from the Assistant Administrator (the "Complainant") of Facility A alleging that the Respondent failed to include in numerous client files documentation supporting the service for which she billed the client. The inclusion of clinical notes supporting the services provided in the client file is a required billing practice at Facility A.

5. The Complainant stated that during a routine utilization review audit conducted in July 2015, Facility A discovered that the Respondent had numerous files that did not contain clinical notes to support the services for which clients were billed.

6. The Board initiated an investigation of the Respondent after receiving the Complaint.

7. In furtherance of its investigation, Board Staff interviewed witnesses and issued a subpoena for records including but not limited to the Respondent's personnel records and file documentation relevant to the allegations in the Complaint.

8. On or about August 25, 2016, Board Staff interviewed the Complainant, who stated that documentation problems dated back to 2011.

9. The Complainant stated that the Respondent informed her she had trouble timely completing file documentation because she was overwhelmed with work. The Complainant stated that the Respondent apologized for not completing her documentation in a timely manner.

10. In response to the Board's subpoena, Facility A provided the Board with the Respondent's client records in which she failed to include clinical notes to support her billing.

11. On or about July 31, 2015, Facility A terminated the Respondent's employment as a result of the billing documentation errors.

12. In furtherance of the investigation, on or about August 25, 2016, Board staff interviewed the Respondent's supervisor, a social work therapist ("Witness A"), who stated she supervised the Respondent for five years.

13. Witness A stated she observed that the Respondent had difficulty with completing documentation for her files, and she issued a verbal warning to the Respondent regarding these deficiencies.

14. In a Memorandum dated October 24, 2012, Witness A issued a verbal warning to the Respondent for failure to maintain proper documentation as required by Facility A's record-keeping procedures. The memorandum stated: "The review indicates that numerous contact notes are missing from the charts for sessions that have been billed for."

15. In response to the allegations in the Complaint, in a letter to the Board, dated August 26, 2016, the Respondent explained why her files did not include proper documentation. She stated: "What happened was not in any way intentional. I honestly got behind on my notes and had every intention of completing them. I was remiss in being slow in writing my notes but all my clients were seen."

16. On or about August 26, 2016, Board staff interviewed the Respondent under oath regarding the allegations in the Complaint. During the interview, the Respondent acknowledged that file notes were missing and she was not current with her file notes. She reported she worked on weekends to try to catch up with file notes. The Respondent acknowledged responsibility for the errors caused by the missing documentation and offered to remain at Facility A to complete the missing file documentation.

17. The Respondent's failure to document clinical notes in a timely manner to support services billed to clients and government agency constitutes: a violation of a provision of this title or regulations governing the practice of social work adopted and published by the Board, i.e. COMAR 10.42.03.03(5), in violation of § 19-311(6); and a failure to maintain adequate patient records, in violation of § 19-311(20).

CONCLUSIONS OF LAW

Based on the foregoing facts the Board finds that the Respondent violated:
Health Occ. II § 19-311 (6) and (20), and COMAR 10.42.03.03(5).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 13th day of October, 2017, by a majority of the quorum of the Board considering this case hereby:

ORDERED that effective the date of this Consent Order:

1. A reprimand shall be placed on the Respondent's license;
2. The Respondent shall be placed on probation for two years subject to the

following terms and conditions

(a) The Respondent shall complete a Board-approved continuing education course in ethics (3 CEUs) for social workers with emphasis on HIPPA or record-keeping within one year of the effective date of this Consent Order;

(b) The course required under this Consent Order shall not count towards the courses required to maintain a social work license in the State of Maryland;

(c) The Respondent shall meet monthly with a Board-approved supervisor to review her client files;

(d) The supervisor shall provide quarterly reports to the Board; and

(e) The Respondent shall be responsible for any costs associated with compliance with this Order.

BE IT FURTHER ORDERED that the Respondent's failure to comply with any of the conditions of this Consent Order in a timely manner as set out above shall be considered a violation of this Consent Order, 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 material facts, or an opportunity for a show cause hearing before the Board otherwise, may impose any other disciplinary sanctions that the Board may have imposed in this case, including additional probationary terms and conditions, reprimand, suspension, revocation and monetary penalty; and it is further


ORDERED that the Respondent shall comply with the Maryland Social Workers

Act and all applicable laws, statutes and regulations; and it is further

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

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. General Provisions §§ 4-104 *et seq.* (2014).

Oct 13 2017
Date



Denise Capaci, LCSW-C, Board Chair
State Board of Social Work Examiners


CONSENT

I, Tomi L. Schon, LCSW-C, License No. 11125, by affixing my signature hereto, acknowledge that:

1. I am represented by counsel, Brian Bregman, Esquire, 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. Health Occ. I, Code Ann. § 19-312 (2014 Repl. Vol.) and Md. State Gov't II, Code Ann. §§ 10-201 *et seq.* (2014 Repl. Vol.).
3. I acknowledge the validity and enforceability of this Consent Order as if entered into after the conclusion 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 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.

October 2, 2017
Date


 LCSW-C
Tomi L. Schon, LCSW-C
Respondent

NOTARY

STATE OF Maryland
COUNTY OF Howard

I HEREBY CERTIFY that on this 2 day of October, 2017, before me, a Notary Public of the State and County aforesaid, personally appeared Tomi L. Schon, LCSW-C, License Number: 11125, 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:


Notary Public

My Commission expires: 05/06/2018

JERRIE L. SCHOTT
NOTARY PUBLIC
HOWARD COUNTY
MARYLAND
MY COMMISSION EXPIRES 5/6/2018