

IN THE MATTER OF	*	BEFORE THE
JUSTIN PROCTOR, LCSW-C	*	MARYLAND BOARD
Respondent	*	OF SOCIAL WORK EXAMINERS
LICENSE NUMBER: 16918	*	CASE NUMBER: 2014-2013
* * * * *	*	* * * * *
* * * * *		

CONSENT ORDER

On June 29, 2016, the Maryland Board of Social Work Examiners ("the Board") charged **JUSTIN PROCTOR, LCSW-C (the "Respondent")**, License Number **16918** with violating the Maryland Social Work Examiners Act ("the Act") codified at Md. Health Occ. Code Ann. ("H.O.") §§ 19-101 *et seq.* (2014 Repl. Vol.) and Code Md. Regs. ("COMAR"), tit. 10, § 42.03.01 *et seq.*

The Board charged the Respondent with violating the following provisions of H.O. § 19-311:

Subject to the hearing provisions of §19-213 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, to wit:

10.42.03.03 Responsibilities to Clients. A. The licensee shall: (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; (e) Is sufficient and timely to facilitate the delivery and continuity of services to be delivered in the future;

10.42.03.06. Standards of Practice. A. Professional Competence. The licensee shall: (7) Document and maintain appropriate records of professional service, supervision, and research work; [and]

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

On September 13, 2016, a Case Resolution Conference was convened in this matter. The Respondent agreed to enter into this Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds the following:

1. The Respondent was initially licensed as a licensed certified social worker - clinical ("LCSW-C") on May 13, 2011. The Respondent's LCSW-C license is current and is scheduled to expire on October 31, 2017.

2. At all times relevant, the Respondent was employed as a social worker and clinical supervisor at Program A1, which provides comprehensive health services for individuals suffering from mental illness and addiction.

3. On or about October 15, 2014, the Board received a complaint from Program A alleging that during its conversion to electronic medical records (EMR), Program A discovered that the Respondent had not been maintaining adequate clinical documentation to support submission of claims for reimbursement to third party payors. The complaint further stated that the

¹ In order to maintain confidentiality, the names of individuals and entities are not used in these Charges.

Respondent could not provide any documentation to scan into the EMR system. Program A determined that the Respondent failed to maintain adequate records for approximately 569 patients over 2124 visits from 2011 to 2014.

4. According to the complaint, Program A refunded claims to third party payors in the amount of \$81,414.06. As a result of the Respondent's documentation deficiencies, Program A terminated the Respondent's employment.

5. Thereafter, the Board initiated an investigation.

6. In furtherance of the Board's investigation, the Board issued a subpoena for 15 medical records that the Respondent failed to adequately document. Program A provided the medical records, along with a patient-by-patient list of the services that Program A refunded to third party payors.

7. A review of the 15 medical records revealed that the Respondent failed to document diagnostic evaluations, informed consent forms, treatment plans and session notes for individual therapy sessions.

8. On or about January 29, 2016, the Board's investigator interviewed Witness A, the Executive Director of Program A, who confirmed that Program A repaid approximately \$81,415 to third party payors as a result of the Respondent's failure to document adequately in support of payment of the services that he provided to patients.

9. On or about February 16, 2016, the Board's investigator interviewed Witness B, Chief of Evaluation and Compliance for Program A. According to Witness B, the Respondent began providing mental health services

in 2011 and submitted service tickets to bill for those services. However, upon review of the medical records, "there was almost no documentation to support those services."

10. Witness B further stated "there is no documentation to review regarding what kind of treatment they received[;] [t]here are no treatment plans to say what [the Respondent's] plans were regarding treatment and care; [and] there are no assessments to document diagnostic rationale."

11. Witness B stated that she was not aware of existing issues with the Respondent's documentation, although the Respondent's performance evaluations noted that he needed to improve on monitoring the timeliness of his employees' documentation.

12. On or about February 10, 2016, the Board's investigator interviewed the Respondent, who admitted to the allegations. The Respondent stated that although he is unsure of how Program A determined the number of deficient records, he agreed that there were "a lot of notes missing" and "that is true that there was three years of scattered, missing and fragmented notes."

13. The Respondent further stated that he was overwhelmed with clinical and supervisory work, which caused him to fall behind with his documentation.

14. The Respondent stated the he did provide services to his clients, but did not keep up with his documentation.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concluded that, if proven true, the factual allegations would support a finding as a matter of law that the Respondent violated H.O. §§ 19-311(4), (5) and (6) and (20). The relevant COMAR provisions are: COMAR 10.42.03.03A(5)(a), (b), (e) and 10.42.03.06A(7).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 14 day of October, 2016, by a majority of a quorum of the Board considering this case:

ORDERED the Respondent shall be immediately placed on Board-supervised **PROBATION** for a period of at least **ONE (1) YEAR** and until the following terms and conditions are satisfactorily complied with:

1. The Respondent's status as a licensed clinical social worker will be listed in the Board's computer records and website as being on "Probation";
2. The Respondent shall provide a copy of this Consent Order to his employer(s) within five (5) days of commencing any employment. The Respondent shall ensure that his employer(s) send confirmation of their receive of this Consent Order to the Board;
3. During the probationary period, the Respondent shall enroll in and successfully complete a Board-approved, in-person, recordkeeping course, focusing on the issues that gave rise to this case. After the successful completion of the recordkeeping course, the instructor shall

provide the Board with a written report detailing the Respondent's participation in and completion of the course. The Respondent shall also submit a written statement to the Board stating what he has learned from the ethics tutorial. The Respondent may not use any continuing education credits earned through taking the required course to fulfill any continued education requirements that are mandated for licensure renewal in this State;

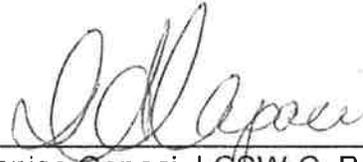
ORDERED that no earlier than **ONE (1) YEAR** from the commencement of the probationary period, the Respondent may submit a written petition to the Board requesting termination of probation. The Board shall, in its discretion, grant the termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions, including successful completion of the recordkeeping course, and there are no pending complaints related to the charges; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of Probation and this Consent Order, the Board, in its discretion, after notice and an opportunity for a show cause hearing before the Board, may impose any sanction which the Board may have imposed in this case, including a probationary term and conditions of probation, reprimand, suspension, revocation and/or a monetary penalty; and it is further

ORDERED that the Respondent shall practice according to the Maryland Social Work Examiners Act and in accordance with 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 shall be a PUBLIC DOCUMENT pursuant to Md. Code Ann. General Provisions §§ 4-101 *et seq.* (2014 Repl. Vol.).



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

CONSENT

I, Justin Proctor, acknowledge that I consulted with counsel before signing this document. By this Consent, I accept to be bound by this Consent Order and its conditions and restrictions. I waive any rights I may have had to contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had 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 acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I also affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

9/27/2016
Date

Justin Proctor
Justin Proctor, LCSW-C
Respondent

Read and approved:
[Signature]
Clay Opara, Esq., Attorney for Respondent

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF BALTIMORE :

I HEREBY CERTIFY that on this 27th day of SEPTEMBER, 2016, before me, a Notary Public of the foregoing State personally appeared Justin Proctor and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.



Bernice Duckett
Notary Public

My Commission Expires: 9-7-18