

IN THE MATTER OF * BEFORE THE
MICHAEL W. RYAN, JR., LCSW-C * MARYLAND STATE BOARD
Respondent * OF SOCIAL WORK EXAMINERS
License Number: 08600 * Case Number: 10-1542

* * * * *

FINAL DECISION AND ORDER

BACKGROUND

On February 11, 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 Michael W. Ryan, 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 H.O. §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:

- (2) Fraudulently or deceptively uses a license;
- (4) Commits any act of gross negligence, incompetence, or misconduct in the practice of social work;
- (6) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work;
- (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;

- (12) Knowingly makes or files a false report or record in the practice of social work;
- (14) Submits a false statement to collect a fee; and
- (17) Fails to cooperate with a lawful investigation conducted by the Board[;].

Included with the Notice and charges to Respondent was a letter of procedure informing Respondent that he may request, within thirty (30) days of his 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 May 5, 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 May 23, 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 June 22, 2011 at 9:30 a.m. and a hearing on the merits of the Charges scheduled for July 27, 2011 at 9:30 a.m. It states on the Notice of In-Person Prehearing Conference the following: "Failure to appear or to give timely notice of your inability to appear for the prehearing conference may result in a decision against you."

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

The Prehearing Conference instructions required that a Prehearing Statement be filed with OAH and the Office of the Attorney General no later than fifteen (15) days before the prehearing conference. On June 7, 2011, the Administrative Prosecutor filed the State's Prehearing Statement with OAH and sent a copy, which reiterated the date of the prehearing conference, to the Respondent. To date, the Respondent has failed to file a Prehearing Statement.

On June 22, 2011, an in-person prehearing conference was held before Administrative Law Judge ("ALJ") Kimberly A. Farrell. Respondent failed to appear. The Administrative Prosecutor appeared on behalf of the State of Maryland and was ready to proceed.

The Administrative Prosecutor requested that ALJ Farrell issue a Proposed Default Order, with findings of fact to be the Allegations of Fact contained in the Notice, and conclusions of law to be violations of HO § 19-311 (2), (4), (6), (8), (12), (14) and (17). The Administrative Prosecutor also requested that ALJ Farrell propose that the Respondent's license to practice social work in Maryland be revoked. The Administrative Prosecutor's requests were supported by a written Motion for Proposed Default.

At 10:49 a.m. on June 22, 2011, a person identifying himself as the Respondent left a message on the voice mail of the OAH Docket Specialist. He indicated that he had just received notice of the prehearing conference that day, June 22, 2011, and that he was satisfied with the hearing date. The Respondent did not indicate any reason why notice sent by U.S. Mail on May 23, 2011 would not be received until one month later and the same day as the prehearing conference. The Respondent also did not

indicate why the State's Prehearing Conference Statement, which referenced the prehearing conference date, did not put him on notice of the prehearing conference.

On June 29, 2011, ALJ Farrell issued a Proposed Default Order wherein she concluded that all notices regarding the proceedings in this case before the Board and OAH were sent to the Respondent's address of record, and there was no evidence that any were returned to the senders. ALJ Farrell further concluded that notice to the Respondent was proper and that the Respondent had reasonable opportunity to know of the prehearing conference scheduled for June 22, 2011.

In the Proposed Default Order, ALJ Farrell proposed that Respondent be found in default and that the charges issued by the Board on February 11, 2011 be upheld. ALJ Farrell further proposed that Respondent's license to practice social work in State of Maryland be revoked.

In the Proposed Default Order, dated June 29, 2011, ALJ Farrell advised Respondent of his right to file written exceptions to the Proposed Default Order within fifteen (15) days from the date of the Proposed Default Order. To date, Respondent has not filed exceptions to the Proposed Default Order.

On September 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 Default 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 Default Order and the State's Motion for Default. For the reasons set forth below, the Board adopts the ALJ's Proposed Default Order in

its entirety. The ALJ's Proposed Default Order is attached and incorporated herein as 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 June 19, 1995, under License Number 08600. The Respondent's license is currently active and will expire on October 31, 2011.
3. The Respondent also was a practicing attorney but was disbarred by consent in 2009 for a series of violations of multiple Maryland Rules of Professional Conduct dealing with competence, diligence, communication and safekeeping property. In 2006, the Respondent had been suspended by consent for commingling funds in his trust account and medical problems related to the misconduct.
4. The Respondent is currently employed by the Baltimore City Department of Social Services as a Social Work Supervisor.
5. On or about February 7, 2008, the Board received information from the Mental Hygiene Administration ("MHA") regarding an investigation into allegations that the Respondent was billing Medicaid for mental health services that he did not provide.
6. Thereafter, the Board opened an investigation into this matter.
7. The Board's investigation revealed that on or about April 1, 2010, the Respondent was indicted by the Prince George's County Grand Jury, and charged with 12 counts of felony Medicaid fraud and 12 counts of felony theft.

8. On October 4, 2010, the Respondent pleaded not guilty to 22 counts of the indictment (two counts were dismissed). After a bench trial before the Honorable Maureen Lamasney, the Respondent was found guilty on all counts.

9. On November 12, 2010, the Respondent was sentenced to five years of incarceration, with all but 90 days suspended, as to count one of the indictment. The Respondent was also sentenced to five years of incarceration, with all but 90 days suspended, as to count two of the indictment. The remaining counts of the indictment were merged. The Respondent was ordered to complete his incarceration through the County Home Detention.

10. The Respondent also was ordered to pay restitution in the amount of \$31,192.50 to the Maryland Department of Health and Mental Hygiene.

11. The Board notified the Respondent of its investigation by letter dated December 8, 2010. The Respondent failed to respond. The Board's investigator left telephone messages for the Respondent at his home, work and cellular telephone numbers. The Respondent failed to contact the Board's investigator.

DISCUSSION

The Board agrees with the rationale of the ALJ in the Proposed Default Order, which is incorporated by reference into this Final Decision and Order. (See, Appendix A.). Respondent had received proper notice of the prehearing conference, yet failed to appear at the prehearing conference. Pursuant to COMAR 28.02.01.23A, if, after receiving proper notice, a party fails to attend or participate in a prehearing conference, hearing, or other stage of a proceeding, the judge may issue a proposed default order

against the defaulting party. Therefore, the Board adopts the Proposed Default Order in its entirety.

In addition, there is no dispute that Respondent was found guilty of multiple counts of felony Medicaid fraud and felony theft in the Circuit Court for Prince George's County in 2010. Respondent was sentenced to five years of incarceration, with all but 90 days suspended, and ordered to pay restitution in the amount of \$31,192.50 to the Maryland Department of Health and Mental Hygiene. Respondent's felony convictions constitute a violation of HO § 19-311(8) (Is convicted of or pleads 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).

Respondent's conduct also constitutes violations of HO § 19-311 (2) (Fraudulently or deceptively uses a license); (4) (Commits any act of gross negligence, incompetence, or misconduct in the practice of social work); (6) (Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work); (12) (Knowingly makes or files a false report or record in the practice of social work); and (14) (Submits a false statement to collect a fee). Respondent's failure to respond to the Board investigator's letter and telephone calls constitutes a violation of HO § 19-311(17) (Fails to cooperate with a lawful investigation conducted by the Board).

CONCLUSIONS OF LAW

The Board adopts and incorporates by reference the conclusions made by the ALJ in the Proposed Default Order dated June 29, 2011, wherein the ALJ proposed that the charges issued by the Board on February 11, 2011 be upheld. Accordingly, in

light of the foregoing Findings of Fact, Discussion and the Proposed Default Order, the Board finds that the Respondent violated H.O. §19-311 (2), (4), (6), (8), (12), (14) and (17).

SANCTION

The Respondent is guilty of committing felonies and serious crimes of moral turpitude. As a result, Respondent has violated the Maryland Social Workers Act. The Respondent repeatedly has been dishonest in his practice and defrauded his clients, Medicaid, and the public trust by his 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 SEPTEMBER, 2011, by a majority of the full authorized membership of the Board, hereby

ORDERED that Maryland social work license of Respondent, Michael W. Ryan, Jr., LCSW-C, license number 08600, 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, BCD
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.

sent to the Respondent by first class mail to his address of record with the Board. They were not returned by the United States Postal Service.

Additionally, on June 7, 2011, the Administrative Prosecutor, Tracee Orlove Fruman, Assistant Attorney General, sent the Respondent a copy of the State's Prehearing Conference Statement along with other materials. The documents were sent by Federal Express to the Respondent's address of record and were not returned as undelivered. The cover letter accompanying these items specifically makes reference to the prehearing conference scheduled for June 22, 2011.

I convened an in-person prehearing conference at the OAH in Hunt Valley, Maryland on Wednesday, June 22, 2011, at which time neither the Respondent nor anyone authorized to represent the Respondent appeared. The Respondent did not request a postponement of the prehearing conference. The Administrative Prosecutor appeared and was ready to proceed. After waiting more than twenty minutes, during which time the Respondent still failed to appear, the Administrative Prosecutor made a Motion for Default against the Respondent, which was supported by a written Motion for Proposed Default.

All notices regarding the proceedings before the Board and the OAH have been sent to the Respondent's address of record. There is no evidence that any were returned by the United States Postal Service or Federal Express. Consequently, I conclude that notice to the Respondent was proper and the Respondent is deemed to have had reasonable opportunity to know of the prehearing conference scheduled for June 22, 2011.

At 10:49 a.m. on June 22, 2011, a person identifying himself as the Respondent left a message on the voice mail of the Docket Specialist. He indicated that on June 22, 2011 he had just received notice of the prehearing conference. He further left a message to the effect that he

was satisfied with the hearing date. The Respondent did not indicate any reason why notice sent by U.S. mail on May 23, 2011 would not be received until one full month later, coincidentally the same day as the prehearing conference, nor did he indicate why the State's Prehearing Conference Statement specifically referencing the prehearing conference date did not put him on notice of the prehearing conference. I am not persuaded that the Respondent was legitimately lacking in notice regarding the prehearing conference scheduled for June 22, 2011.

Therefore, in accordance with section 19-312(e) of the Health-Occupations Article, Annotated Code of Maryland (2009) and Code of Maryland Regulations (COMAR) 28.02.01.20A:

I PROPOSE that the Respondent be found in default; and,

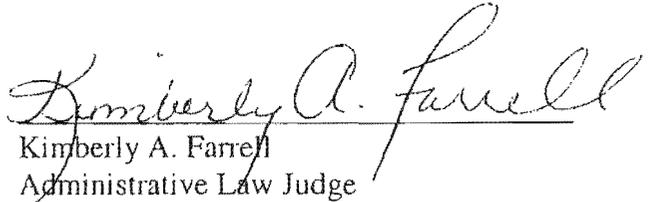
I FURTHER PROPOSE that the charges issued by the Board on February 11, 2011, be **UPHELD** and that the Respondent's license to practice social work in the State of Maryland be revoked; and,

I FURTHER PROPOSE that all further proceedings in this matter are **TERMINATED**; and

I FURTHER PROPOSE that in accordance with COMAR 28.02.01.20C and COMAR 10.42.04.06D(1), the Respondent or his authorized representative may file written exceptions to modify or vacate this Default Order with the Board within fifteen days of the date of this decision.

June 29, 2011
Date Decision Mailed

KAF/kkc
Document #124088



Kimberly A. Farrell
Administrative Law Judge