

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE MARYLAND</b>
<b>KEVIN R. SUTTER, LGSW</b>	*	<b>STATE BOARD OF SOCIAL</b>
<b>Respondent</b>	*	<b>WORK EXAMINERS</b>
<b>License Number: G13105</b>	*	<b>Case Number: 09-1468</b>
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**CONSENT ORDER**

On July 28, 2010, the Maryland State Board of Social Work Examiners (the "Board") charged **KEVIN R. SUTTER, LGSW** (the "Respondent") (DOB: 05/30/70), License Number G13105, with violating provisions under the Maryland Social Workers Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") §§ 19-101 *et seq.* (2009 Repl. Vol.) and related regulations.

Specifically, the Board charged the Respondent with violating the following provisions of the Act under H.O. § 19-311:

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

- (4) Commits any act of gross negligence, incompetence, or misconduct in the practice of social work;
- (5) Knowingly violates any provision of this title;
- (6) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work; [and]
- (7) Violates any provision of this title or regulations governing the practice of social work adopted and published by the Board.

The Board also charged the Respondent with violating the Code of Maryland Regulations (“COMAR”) tit. 10, § 42.03.03B:

- (6) Engage or participate in an action that violates or diminishes the civil or legal rights of a client.

On October 20, 2010, a Case Resolution Conference was convened in this matter. Based on negotiations occurring as a result of this Case Resolution Conference, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, Order, and Consent.

### **FINDINGS OF FACT**

The Board finds the following:

#### **BACKGROUND**

1. At all times relevant hereto, the Respondent was and is certified to practice as a licensed graduate social worker (“LGSW”) in the State of Maryland.
2. On or about June 26, 2009, the Jefferson School<sup>1</sup> reported to the Frederick County Department of Social Services (“Frederick DSS”) that, on June 25, 2009, the Respondent, while working as a therapist at the Jefferson School, struck a fifteen-year-old male student (“the Student”) several times while the Student was restrained by staff. Frederick DSS began its investigation into the incident on June 26, 2009.
3. On or about July 8, 2009, Frederick DSS reported the above

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<sup>1</sup> The Jefferson School is a special education school and a residential treatment facility for children with emotional disabilities. The Jefferson School is a member of the Sheppard Pratt Health System, a not-for-profit behavioral health system.

incident to the Board.

4. Based on this complaint, the Board initiated an investigation of the Respondent, the findings of which are set forth *infra*.

### **INVESTIGATIVE FINDINGS**

5. On or about September 1, 2009, Frederick DSS notified the Respondent that it found him to be a person allegedly responsible for indicated child abuse.<sup>2</sup> The notice also informed the Respondent that he had a right to request a hearing to contest the decision issued by Frederick DSS. On or about September 1, 2009, the Respondent filed an appeal and a request for a hearing.

6. On or about January 20, 2010, the Respondent appeared before the Maryland Office of Administrative Hearings (“OAH”). Following a hearing on the matter, OAH issued a decision on or about March 8, 2010.

7. The OAH decision established the following facts:

a. On or about June 25, 2009, the Respondent overheard the Student<sup>3</sup> arguing with another student. The Respondent approached the two students to diffuse the argument.

b. The Student moved close to the Respondent, pointed his finger in the Respondent’s face, and told the Respondent that he did not have to

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<sup>2</sup> Maryland law defines child abuse as “the physical or mental injury of a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child’s health or welfare is harmed or at a substantial risk of being harmed...” Md. Code Ann., Fam. Law § 5-701(b)(1). Maryland law requires four elements in order to conclude that child abuse is “indicated”: (1) physical injury, (2) caused by a parent, caretaker, or household or family member, (3) the alleged victim was a child at the time of the incident, and (4) the nature, extent, and location of the injury demonstrate that the child’s health or welfare was harmed or was placed at substantial risk of harm. COMAR 07.02.07.12

<sup>3</sup> The Student, then age fifteen, was placed at the Jefferson School over a year prior to the incident by the Department of Juvenile Services.

answer to him and to shut up.

c. A residential counselor pulled the Student away from the Respondent, and the Student sat down at a cafeteria table.

d. The Respondent left the cafeteria and reported the incident to other staff members.

e. The Respondent returned to the cafeteria, sat down across the table from the Student, and told him that he may not threaten him. The Respondent stood up, moved closer to the Student, and told him that he was going to impose a seventy-two-hour disciplinary action on him.

f. The Student stood up and stated that this action would result in the loss of his upcoming weekend pass.

g. As the Respondent started walking away from the Student, the Student lunged toward the Respondent and punched him with a closed fist to the right side of his head, near his ear.

h. Jefferson School staff members grabbed the Student from behind and held his arms. While the Student was physically restrained, the Respondent struck him with a closed fist in his face, near his left eye, and struck the Student several more times with his fists, elbows, and/or forearms.

i. Jefferson School staff members wrestled the Student to the floor in a maneuver called a "take down."

j. Jefferson School staff members escorted the Student to the health office where a nurse observed bruising and swelling near the Student's left eyebrow.

k. At approximately 11:10 p.m. on or about June 25, 2009, Jefferson School staff members accompanied the Student to Frederick Memorial Hospital ("FMH"). A physician at FMH diagnosed the Student with a contusion (a bruise) to the left periorbital area (area surrounding the eye socket). The Student stated to the hospital nurse that he was punched in the face.

l. On or about June 26, 2009, employees of Frederick DSS took photographs of the Student's injuries.

8. The OAH decision reached the following conclusions of law:

a. The Respondent committed an act of unsubstantiated child abuse, as set forth in COMAR 07.02.26.14B(2), because it was unclear whether the Student's injuries were caused by the Respondent's actions in striking the Student or the take down.

b. Frederick DSS may include in a central registry and its other files the name of the Respondent as part of the "identifying information" related to the investigation of this case.

9. The Respondent's actions, as described above, constitute a violation of the following provisions of the Act: commits any act of gross negligence, incompetence, or misconduct in the practice of social work, in violation of H.O. § 19-311(4); knowingly violates any provision of this title, in violation of H.O. § 19-311 (5); engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work, in violation of H.O. § 19-311 (6); and violates any provision of this title or regulations governing the practice of social work adopted and published

by the Board, in violation of H.O. § 19-311 (7). The Respondent's actions, as described above, also constitute a violation of the following provision of COMAR: engages in or participates in an action that violates or diminishes the civil or legal rights of a client, in violation of COMAR 10.42.03.03B(6).

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated the following provisions of the Act: commits any act of gross negligence, incompetence, or misconduct in the practice of social work, in violation of H.O. § 19-311(4); knowingly violates any provision of this title, in violation of H.O. § 19-311 (5); engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work, in violation of H.O. § 19-311 (6); and violates any provision of this title or regulations governing the practice of social work adopted and published by the Board, in violation of H.O. § 19-311 (7). The Board also concludes as a matter of law that the Respondent violated the following provision of COMAR: engages in or participates in an action that violates or diminishes the civil or legal rights of a client, in violation of COMAR 10.42.03.03B(6).

### **ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 12<sup>th</sup> day of NOVEMBER, 2010, by a quorum of the Board considering this case:

**ORDERED** that the Respondent's license to practice social work is hereby **SUSPENDED** for a period of **THIRTY (30) DAYS**, to commence on the date the

Board executes this Consent Order; and it is further

**ORDERED** that after the conclusion of the **THIRTY (30) DAY** period of **SUSPENSION**, the Board shall lift the suspension and place the Respondent on **PROBATION** for a minimum period of **EIGHTEEN (18) MONTHS**, to commence on the date the Board lifts the suspension of his license, and continuing until the Respondent successfully complies with the following terms and conditions:

1. Within thirty (30) days of the date the Board executes this Consent Order, the Respondent shall enroll in anger management counseling with a Board-approved counselor, subject to the following:

(a) The Respondent shall seek Board approval of the counselor prior to entering into such counseling. At a minimum, the Respondent shall submit to the Board the *curriculum vitae* of the candidate he proposes to provide counseling, and a written statement from the proposed counselor that he/she is willing to provide anger management counseling and the structure of such counseling;

(b) The Respondent understands and agrees that the Board retains the discretion to require him to submit additional information about the candidate he proposes, or the submission of an alternative candidate to provide counseling if it does not approve the candidate he has submitted;

(c) The Respondent understands and agrees that after the Board reviews the qualifications of the counselor he submits for approval, and after such approval has been granted, the Board shall provide the counselor with this Consent Order, the disciplinary charges under Board Case Number 2009-1468, and any other documents contained in the Board investigative file with respect to this matter;

(d) The Respondent understands and agrees that once he enrolls in counseling with the Board-approved counselor, the counselor shall submit monthly reports to the Board that address the Respondent's level of attendance, compliance with counseling and progress with counseling. The Respondent understands and agrees that he shall be solely responsible for ensuring that the counselor submits monthly assessment statements to the Board in a timely manner;

(e) The Respondent understands and agrees that he shall remain in counseling until such time as the counselor determines that he has made sufficient treatment gains and has developed appropriate strategies to ensure that he will not repeat the behavior that gave rise to the Board's charges against him;

(f) The Respondent understands and agrees that at the conclusion of anger management counseling, the counselor shall submit a written report to the Board that sets forth his/her assessment of the Respondent and whether he has made sufficient treatment gains and has successfully concluded treatment;

(g) The Respondent understands and agrees that he shall be responsible for all costs associated with such counseling; and

(h) The Respondent understands and agrees that if for any reason the counselor discontinues providing anger management counseling to him prior to the conclusion of treatment, the Respondent must immediately notify the Board and submit an alternative candidate to provide counseling according to the protocol described above.

2. The Respondent shall practice according to the Maryland Social Workers Act and in accordance with all applicable laws, statutes, and regulations pertaining to the practice of social work. Failure to do so shall constitute a violation of this Consent Order.

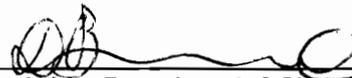
**AND IT IS FURTHER ORDERED** that if the Respondent violates any of the terms or conditions of probation or this Consent Order, the Board, after notice and an opportunity for an evidentiary hearing before the Board if there is a genuine dispute as to the underlying material facts, or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction that it may have imposed, including a reprimand, probation, suspension, revocation and/or monetary fine, said violation being proven by a preponderance of the evidence; and it is further

**ORDERED** that after the conclusion of the entire **eighteen (18) month**

**period of probation**, the Respondent may file a written petition for termination of his probationary status without further conditions or restrictions, but only if he has satisfactorily complied with all conditions of this Consent Order, including all terms and conditions of probation, and including the expiration of the **eighteen (18) month period of probation**, and if there are no outstanding complaints involving similar issues before the Board. Before making a decision on the Respondent's petition for termination of probation, the Board may, in its discretion, require that he personally appear before the full Board, or a panel of the Board, for the purpose of determining whether he has satisfactorily complied with all of the terms and conditions of the Consent Order and whether his probation should be terminated; 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 considered a **PUBLIC DOCUMENT** pursuant to Md. State Gov't. Code Ann. § 10-611 *et seq.* (2009 Repl. Vol.).



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

### **CONSENT**

I, Kevin R. Sutter, LGSW, acknowledge that I have had the opportunity to consult with counsel before signing this document. By this Consent, I agree and 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.

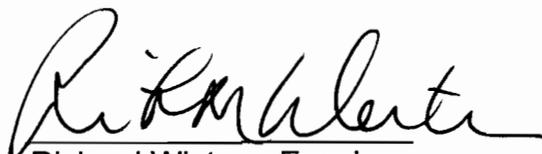
I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

October 29, 2010  
Date

  
Kevin R. Sutter, LGSW  
Respondent

Read and approved by:

10/29/10  
Date

  
Richard Winters, Esquire  
Counsel for Mr. Sutter

**NOTARY**

STATE OF Maryland

CITY/COUNTY OF: Fredrick

I HEREBY CERTIFY that on this 29<sup>th</sup> day of October, 2010,  
before me, a Notary Public of the State and County aforesaid, personally  
appeared Kevin R. Sutter, LGSW, 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.

Deborah A. Boucher  
Notary Public

Deborah A. Boucher  
My commission expires: 12/31/11