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BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **STEPHEN EDWARD SCHAEFER** **PO Box 86020** **San Diego, CA 92138** **Licensed Clinical Social Worker License No. LCS 10551** Respondent.	Case No. LC-2008-921 **FIRST AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Kim Madsen (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs.

2. On or about November 15, 1983, the Board of Behavioral Sciences issued Licensed Clinical Social Worker License Number LCS 10551 to Stephen Edward Schaefer (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2013, unless renewed.

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JURISDICTION

3. This First Amended Accusation is brought before the Board of Behavioral Sciences (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

5. Section 4996.11 of the Code states that "[t]he board may suspend or revoke the license of any person who is guilty on the grounds set forth in Section 4992.3. The proceedings for the suspension or revocation of licenses under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter."

STATUTORY PROVISIONS

6. Section 4992.3 of the Code states, in pertinent part:

"The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

. . .

"(d) Incompetence in the performance of clinical social work.

"(e) An act or omission that falls sufficiently below the standard of conduct of the profession as to constitute an act of gross negligence.

"(f) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

. . .

"(j) Intentionally or recklessly causing physical or emotional harm to any client.

. . .

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7. Health and Safety Code section 1253 states, in pertinent part:

"(a) No person, firm, partnership, association, corporation, or political subdivision of the state, or other governmental agency within the state shall operate, establish, manage, conduct, or maintain a health facility in this state, without first obtaining a license therefore as provided in this chapter."

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

REGULATORY PROVISIONS

9. California Code of Regulations, Title 16, section 1881 states, in pertinent part:

"The board may suspend or revoke the license of a licensee or may refuse to issue a license to a person who:

"(d) Intentionally or recklessly causes physical or emotional harm to a client.

"(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee."

FACTS

PATIENT MK

10. Respondent owns and operates Puente de Vida (PDV), an eating disorder clinic located in San Diego, CA.

11. On or around October 3, 2009, the Board received a complaint against Respondent and his facility PDV from patient MK.

12. Patient MK was admitted to PDV for inpatient treatment from or around July 7, 2005 until or around August 5, 2005.

13. MK received treatment from Respondent at PDV for her eating disorder and alcoholism.

14. Before entering Respondent's treatment program, MK thoroughly researched many eating disorder and alcoholism treatment centers. MK considered many highly reputable programs. MK chose Respondent's program based on the fact that Respondent guaranteed that his program would be covered under MK's Blue Cross/Blue Shield insurance policy. Based on Respondent promise that MK's insurance would cover 80% of her treatment at his facility, MK's family paid Respondent $30,000.00 up front. This $30,000.00 did not include additional fees which were incurred for doctor visits and tests while MK was at PDV.

15. MK found Respondent's program to be disorganized and poorly staffed. MK believed that Respondent falsely advertised his program and failed to provide the program he had promised in terms of activities, therapy styles, meals, meetings, and financial responsibilities.

16. MK left Respondent's program after approximately 30 days. Respondent promised MK that he would help her get reimbursed for 80% or $24,000.00 of the fees paid for his program. Since August of 2005, MK has written numerous letters and made over fifty phone calls. Respondent has kept MK's $30,000.00 and refuses to respond to any of MK's attempts to contact him. Respondent has breached his contract with MK by keeping the $30,000.00 and not assisting MK with reimbursement of the fees.

17. Respondent failed to meet with Division of Investigation investigators to discuss MK's complaints.

PATIENT CB

18. On or around February 12, 2008, the Board received a complaint against Respondent and his facility PDV from patient CB.

19. Patient CB received treatment from Respondent at PDV from or around November 12, 2006 until or around February 21, 2007.

20. CB began treatment with Respondent at PDV for her eating disorder through appointments three (3) to four (4) times a week. In or around December of 2006, CB had appointments at PDV five (5) to six (6) times a week.

21. In or around February of 2007, PDV staff recommended that CB switch to inpatient treatment.

22. On three (3) occasions within four (4) months, CB's therapists (Respondent and two other therapists) forgot about CB's sessions and left her sitting at the treatment center for her full hour session. There were several weeks when Respondent used CB's allotted time for sessions to continue to work with the patient before CB. There were at least six (6) occasions when CB's individual therapy sessions were cancelled in an unprofessional manner.

23. PDV continued to bill CB's insurance company for her weekly treatment, and failed to remove her missed individual sessions from the bills. CB's insurance company received and paid for bills for services that CB never received. Respondent failed to reimburse CB and/or her insurance company for services paid for but not received.

24. On a few occasions, when CB was having a particularly difficult time with her treatment, there were no therapists available. Twice CB was encouraged to discuss her trauma with unlicensed interns. CB believes that caused her more damage.

25. CB was told that she needed to have inpatient treatment. CB left PDV and sought treatment at a different facility. CB told Respondent that her insurance company required a letter of referral to inpatient treatment from her current provider. Respondent promised CB that he would write the letter of referral for inpatient treatment. However, Respondent failed to write the letter. CB's insurance company denied the claim since Respondent did not provide a letter recommending inpatient treatment.

26. CB contacted PDV numerous times requesting the return of her treatment journal. CB believed that her journal was essential to her recovery. Respondent would not return CB's journal which caused CB to spend a lot of time in her subsequent therapy because she could not refer to her journal and had to recreate what had been done at PDV.

27. Respondent failed to meet with Division of Investigation investigators to discuss CB's complaints.

OPERATING AN UNLICENSED FACILITY

28. The California Department of Health Services (DHS) determined that Respondent was operating a Congregate Living Health Facility at 4695 Lisann Street in San Diego, CA 92117, without a license. On December 20, 2007, DHS issued a cease and desist order to

Respondent to stop operating the unlicensed facility. Respondent was also ordered to inform DHS of the arrangements made for the care of the patients at the unlicensed facility.

FIRST CAUSE FOR DISCIPLINE

(Incompetence in the Performance of Clinical Social Work)

29. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (d), in that Respondent was incompetent in the performance of clinical social work when he failed to appropriately treat MK, as more particularly set forth in paragraphs 10 through 17 above.

30. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (d), in that Respondent was incompetent in not adhering to his administrative responsibilities to client MK, as more particularly set forth in paragraphs 10 through 17 above.

31. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (d), in that Respondent was incompetent by treating client MK and her support system in a dishonest and fraudulent manner through misrepresentation of his actions and capabilities, as more particularly set forth in paragraphs 10 through 17 above.

32. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (d), in that Respondent acted incompetently by his misleading advertising of his organization's responsibilities and capabilities on a public website, as more particularly set forth in paragraphs 10 through 17 above.

33. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (d), in that Respondent's actions or inactions regarding client MK demonstrated incompetence and a lack of clinical awareness regarding the clientele that he practices with, as more particularly set forth in paragraphs 10 through 17 above.

34. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (d), in that Respondent's

incompetence was reflected by his lack of compliance with the investigation of client MK's complaints, as more particularly set forth in paragraphs 10 through 17 above.

35. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (d), in that Respondent was incompetent in the performance of clinical social work when he failed to appropriately treat CB, as more particularly set forth in paragraphs 18 through 27 above.

36. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (d), in that Respondent's incompetence was reflected by his lack of compliance with the investigation of client CB's complaints, as more particularly set forth in paragraphs 18 through 27 above.

SECOND CAUSE FOR DISCIPLINE

(Negligence)

37. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (e), in that Respondent's acts and omissions fell sufficiently below the standard of conduct of the profession as to constitute gross negligence in the treatment of client MK, as more particularly set forth in paragraphs 10 through 17 above.

38. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (e), in that Respondent's acts and omissions fell sufficiently below the standard of conduct of the profession as to constitute gross negligence as evidenced by Respondent's disregard for his client MK and her support system, as more particularly set forth in paragraphs 10 through 17 above.

39. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (e), in that Respondent's acts and omissions fell sufficiently below the standard of conduct of the profession as to constitute gross negligence as evidenced by Respondent's not adhering to basic ethical principles and values regarding his client MK, as more particularly set forth in paragraphs 10 through 17 above.

40. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (e), in that Respondent's acts and omissions fell sufficiently below the standard of conduct of the profession as to constitute gross negligence as evidenced by Respondent's ignoring client MK post discharge and not providing assistance, as more particularly set forth in paragraphs 10 through 17 above.

41. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (e), in that Respondent's acts and omissions fell sufficiently below the standard of conduct of the profession as to constitute gross negligence as evidenced by Respondent's failure to provide client MK with consent to treat documentation or explanations regarding billing, insurance, third party compliance, and client-agency responsibilities, as more particularly set forth in paragraphs 10 through 17 above.

42. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (e), in that Respondent's acts and omissions fell sufficiently below the standard of conduct of the profession as to constitute gross negligence in the treatment of CB, as more particularly set forth in paragraphs 18 through 27 above.

43. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (e), in that Respondent's acts and omissions fell sufficiently below the standard of conduct of the profession as to constitute gross negligence as evidenced by Respondent's refusal to cooperate in the transfer and continuity of care of client CB and refusal to allow client CB access to her journal and medical records, as more particularly set forth in paragraphs 18 through 27 above.

THIRD CAUSE FOR DISCIPLINE

(Violating Statutes and Regulations)

44. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (f), in that Respondent violated statutes and regulations adopted by the Board in his treatment of MK, as more particularly set forth in paragraphs 10 through 17 above.

45. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (f), in that Respondent violated statutes and regulations adopted by the Board in his treatment of CB, as more particularly set forth in paragraphs 18 through 27 above.

FOURTH CAUSE FOR DISCIPLINE

(Intentionally or Recklessly Causing Physical or Emotional Harm to Clients)

46. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (j), in that Respondent intentionally or recklessly caused physical or emotional harm to MK, as more particularly set forth in paragraphs 10 through 17 above.

47. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section 4992.3, subdivision (j), in that Respondent intentionally or recklessly caused physical or emotional harm to CB, as more particularly set forth in paragraphs 18 through 27 above.

FIFTH CAUSE FOR DISCIPLINE

(Operating a Health Care Facility Without a License)

48. Respondent is subject to disciplinary action under section 4996.11 on the grounds of unprofessional conduct, as defined in section Health and Safety Code section 1253, subdivision (a), in that Respondent operated a health facility without a license, as more particularly set forth in paragraph 28 above.

PRAYER

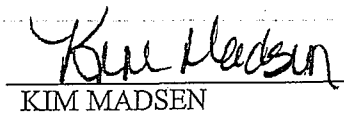
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Behavioral Sciences issue a decision:

1. Revoking or suspending Licensed Clinical Social Worker License Number LCS 10551 issued to Stephen Edward Schaefer;

2. Ordering Stephen Edward Schaefer to pay the Board of Behavioral Sciences the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: September 13, 2011



KIM MADSEN
Executive Officer
Board of Behavioral Sciences
Department of Consumer Affairs
State of California
Complainant

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