

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

In the Matter of the Accusation Against:

KENNETH BUFORD PEARCE
430 Merritt Ave., # 301
Oakland, CA 94610

Associate Clinical Social Worker
Registration No. ASW 29444

Respondent.

Case No. AS-2012-1025

OAH No. 2014120224

DECISION AND ORDER

The attached Stipulated Surrender of Registration and Order is hereby adopted by the Board of Behavioral Sciences, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 15, 2015.

It is so ORDERED April 15, 2015.



FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
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12 **430 Merritt Ave., # 301**
13 **Oakland, CA 94610**

OAH No. 2014120224

14 **Associate Clinical Social Worker**
15 **Registration No. ASW 29444**

**STIPULATED SURRENDER OF
REGISTRATION AND ORDER**

16 Respondent.

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Behavioral Sciences (Board) of the Department of
19 Consumer Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary
20 Order which will be submitted to the Board for approval and adoption as the final disposition of
21 the Accusation.

22 PARTIES

23 1. Kim Madsen (Complainant) is the Executive Officer of the Board. She brought this
24 action solely in her official capacity and is represented in this matter by Kamala D. Harris,
25 Attorney General of the State of California, by Brett A. Kingsbury, Deputy Attorney General.

26 2. Kenneth Buford Pearce (Respondent) is representing himself in this proceeding and
27 has chosen not to exercise his right to be represented by counsel.

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1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 15. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Board may, without further notice or formal proceeding, issue and enter the following Order:

5 **ORDER**

6 IT IS HEREBY ORDERED that Associate Clinical Social Worker Registration No. ASW
7 29444, issued to Respondent Kenneth Buford Pearce (Respondent), is surrendered and accepted
8 by the Board of Behavioral Sciences (Board).

9 1. The surrender of Respondent's Associate Clinical Social Worker Registration and the
10 acceptance of the surrendered registration by the Board shall constitute the imposition of
11 discipline against Respondent. This stipulation constitutes a record of the discipline and shall
12 become a part of Respondent's registration history with the Board.

13 2. Respondent shall lose all rights and privileges as an Associate Clinical Social Worker
14 in California as of the effective date of the Board's Decision and Order.

15 3. Respondent shall cause to be delivered to the Board his wall certificate and current
16 renewal certificate on or before the effective date of the Decision and Order.

17 4. Respondent shall pay the agency its costs of investigation and enforcement in the
18 amount of \$2,195.00 prior to issuance of a new license or registration.

19 5. Respondent understands and agrees that the Board's adoption of his registration
20 surrender precludes him from petitioning the Board for reinstatement of the surrendered
21 registration.

22 6. Respondent further understands and agrees that should he ever apply for any new
23 license or registration issued by the Board, or any registration or license issued by any other
24 health care licensing agency in the State of California, all of the charges alleged in Accusation
25 No. AS-2012-1025 shall be deemed to be true, correct, and admitted for the purpose of any
26 Statement of Issues or other proceeding seeking to deny such application or reapplication.

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Exhibit A

Accusation No. AS-2012-1025

1 KAMALA D. HARRIS
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BOARD OF BEHAVIORAL SCIENCES
9 **DEPARTMENT OF CONSUMER AFFAIRS**
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10 In the Matter of the Accusation Against:

Case No. AS-2012-1025

11 **KENNETH BUFORD PEARCE**
12 **430 Merritt Ave.**
13 **Oakland, CA 94610**

A C C U S A T I O N

14 **Associate Clinical Social Worker**
Registration No. ASW 29444

15 Respondent.

16
17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about October 21, 2010, the Board of Behavioral Sciences issued Associate
23 Clinical Social Worker Registration Number ASW 29444 to Kenneth Buford Pearce
24 (Respondent). The Associate Clinical Social Worker Registration was in full force and effect at
25 all times relevant to the charges brought herein and will expire on October 31, 2015, unless
26 renewed.

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1 JURISDICTIONAL & STATUTORY PROVISIONS

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

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

10 5. Section 118, subdivision (b), of the Code provides, in pertinent part, that the
11 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
12 action during the period within which the license may be renewed, restored, reissued or
13 reinstated. Under section 4545 of the Code, the Board may renew an expired license at any time
14 within four years after the expiration.

15 6. Section 4992.3 of the Code states:

16 "The board may deny a license or a registration, or may suspend or revoke the license or
17 registration of a licensee or registrant if he or she has been guilty of unprofessional conduct.

18 Unprofessional conduct includes, but is not limited to, the following:

19 "(a) The conviction of a crime substantially related to the qualifications, functions, or duties
20 of a licensee or registrant under this chapter. The record of conviction shall be conclusive
21 evidence only of the fact that the conviction occurred. The board may inquire into the
22 circumstances surrounding the commission of the crime in order to fix the degree of discipline or
23 to determine if the conviction is substantially related to the qualifications, functions, or duties of a
24 licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a
25 plea of nolo contendere made to a charge substantially related to the qualifications, functions, or
26 duties of a licensee or registrant under this chapter is a conviction within the meaning of this
27 section. The board may order any license or registration suspended or revoked, or may decline to
28 issue a license or registration when the time for appeal has elapsed, or the judgment of conviction

1 has been affirmed on appeal, or, when an order granting probation is made suspending the
2 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code
3 allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the
4 verdict of guilty, or dismissing the accusation, information, or indictment.

5 ". . . .

6 "(c) Administering to himself or herself any controlled substance or using any of the
7 dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner,
8 as to be dangerous or injurious to the person applying for a registration or license or holding a
9 registration or license under this chapter, or to any other person, or to the public, or, to the extent
10 that the use impairs the ability of the person applying for or holding a registration or license to
11 conduct with safety to the public the practice authorized by the registration or license. The board
12 shall deny an application for a registration or license or revoke the license or registration of any
13 person who uses or offers to use drugs in the course of performing clinical social work. This
14 provision does not apply to any person also licensed as a physician and surgeon under Chapter 5
15 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a
16 patient under his or her care.

17 ". . . ."

18 7. Section 490, subdivision (a), of the Code states:

19 "In addition to any other action that a board is permitted to take against a licensee, a board
20 may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if
21 the crime is substantially related to the qualifications, functions, or duties of the business or
22 profession for which the license was issued."

23 **COSTS**

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 9. Respondent is subject to disciplinary action under Code sections 4992.3, subdivision
4 (a), and 490, subdivision (a), in that Respondent was convicted of an offense substantially related
5 to the qualifications, functions, or duties of a licensee.

6 10. On or about June 14, 2013, in the Superior Court of California for the County of San
7 Francisco, in the case entitled *People of the State of California v. Kenneth Buford Pearce*, Case
8 No. 12003160, Respondent pled no contest to and was convicted of violating California Vehicle
9 Code section 23152, subdivision (a) (driving under the influence of alcohol), and section 23152,
10 subdivision (b) (driving with blood alcohol greater than .08%), along with enhancements under
11 section 23578 for driving with blood alcohol greater than .15% and under section 23577 for
12 refusing to undergo chemical testing. The circumstances of the conviction were that on or around
13 January 31, 2012, Respondent was pulled over by police after stopping in the middle of an
14 intersection in San Francisco. Respondent displayed objective signs of intoxication, smelled very
15 strongly of alcohol, and refused to perform a field sobriety test or undergo preliminary alcohol
16 screening.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Dangerous Use of Alcohol)**

19 11. Respondent is subject to disciplinary action under Code section 4992.3, subdivision
20 (c), in that Respondent used alcohol to an extent or in a manner dangerous to himself, to another,
21 or to the public. The circumstances are described above in the First Cause for Discipline.

22 **DISCIPLINE CONSIDERATIONS**

23 12. In order to determine the degree of discipline, if any, Complainant alleges that on or
24 around September 11, 2002, in the Superior Court of California for the County of Kern, in the
25 case entitled *People of the State of California v. Kenneth Bufford (sic) Pearce*, Case No.
26 BM552502A, Respondent pled no contest to and was convicted of violating California Vehicle
27 Code section 23152, subdivision (a) (driving under the influence of a drug or alcohol), a
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1 misdemeanor, with one prior offense. The circumstances of the conviction were that on or around
2 December 3, 1997, drove his vehicle while legally intoxicated and was arrested.

3 13. In order to determine the degree of discipline, if any, Complainant alleges that on or
4 around February 26, 1997, in the Superior Court of California for the County of Kern, in the case
5 entitled *People of the State of California v. Kenneth (sic) Pearce*, Case No. BM540129A,
6 Respondent pled no contest to and was convicted of violating California Vehicle Code section
7 14601.1, subdivision (a) (driving on a suspended license). The circumstances of the conviction
8 were that on or around February 2, 1997, Respondent drove a vehicle while his license was
9 suspended.

10 14. In order to determine the degree of discipline, if any, Complainant alleges that on or
11 around November 21, 1996, in the Superior Court of California for the County of Kern, in the
12 case entitled *People of the State of California v. Kenneth Buford Pearce*, Case No. BM525681A,
13 Respondent was found guilty of violating California Vehicle Code section 23152, subdivision (a)
14 (driving under the influence of a drug or alcohol), a misdemeanor, with an enhancement under
15 California Vehicle Code section 23159, subdivision (a)(1), for refusing to submit to chemical
16 testing. Respondent was also found guilty of violating California Vehicle Code section 40508,
17 subdivision (a) (failure to appear in court to answer for citation), a misdemeanor. The
18 circumstances of the convictions were that in or around March of 1996, Respondent drove a
19 vehicle while legally intoxicated, and Respondent subsequently failed to appear in court to
20 answer for the citation.

21 **PRAYER**

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

24 1. Revoking or suspending Associate Clinical Social Worker Registration Number ASW
25 29444, issued to Kenneth Buford Pearce;

26 2. Ordering Kenneth Buford Pearce to pay the Board of Behavioral Sciences the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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

DATED: September 26, 2014



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

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