

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

In the Matter of the Accusation Against:

STERLING REGINALD HARRIS

Licensed Clinical Social Worker License
No. LCS 9788,

Respondent.

Case No. LC-2010-1167

OAH No. 2013110623

DECISION AFTER REJECTION

This matter came on regularly for hearing on August 7, 2014, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Kim Madsen (Complainant) was represented by Leslie A. Walden, Deputy Attorney General.

Sterling Reginald Harris (Respondent) was present and represented himself.

Oral and documentary evidence was received. The record was closed on the hearing date, and the matter was submitted for decision.

The proposed decision of the Administrative Law Judge was submitted to the Board on August 28, 2014. After due consideration thereof, the board declined to adopt said proposed decision and thereafter on October 27, 2014 issued an Order of Non-adoption. The Board requested written arguments from the parties, due by December 21, 2014. The time for filing written arguments in this matter has expired and no written arguments have been received from either party. The board has read and considered the entire record, including the transcript and exhibits of said hearing. Pursuant to Government Code section 11517, the Board hereby makes the following decision and order:

FACTUAL FINDINGS

1. Complainant brought the Accusation in her official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs, State of California (Board).

2. On November 12, 1982, the Board issued Licensed Clinical Social Worker License No. LCS 9788 to Respondent. Since that time, the license expired due to non-payment of renewal fees no fewer than eight times. The license is presently valid. It will expire on February 29, 2016, unless renewed.

3. On December 11, 2008,¹ in the Superior Court of California, County of Los Angeles, in Case No. SA069678, Respondent pled guilty to a violation of Health and Safety Code section 664/11350, subdivision (a) (attempted possession of rock cocaine), a felony substantially related to the qualifications, functions, and duties of a licensed clinical social worker pursuant to California Code of Regulations, title 16, section 1812.

4. Finding a factual basis for the plea, the court deferred entry of judgment for 36 months under various terms and conditions including payment fines and fees totaling \$250, a prohibition against possessing restricted drugs, drug paraphernalia, and dangerous weapons, a prohibition against associating with drug users and sellers, and completion of a drug diversion education and treatment program. Respondent successfully completed the diversion program, and the deferred entry of judgment was terminated on June 14, 2010.

5. The underlying facts and circumstances are that Respondent attempted to purchase \$50 worth of rock cocaine from an undercover police officer. Although the transaction was completed, he had actually purchased candy that had been disguised to look like rock cocaine. At the administrative hearing, Respondent claimed he attempted to purchase the cocaine for, and at the request of, his cousin who was dying of cancer and who died five months later. However, the credibility of Respondent's testimony was called into question by the admission he made to the police that "I saw those guys and I just wanted to try some rock." (Exhibit 5, page 5.)

6. Respondent accepts responsibility for his crime. He recognizes the illegality of his actions and claims he would never do such a thing again. However, he also believes that his cousin's suffering, her need for the drug, and his desire to help her, created a "valid excuse" for his misconduct. Nonetheless, he regrets his actions and acknowledges that he should not have done it.

7. Respondent denied ever having used cocaine. However, he admitted having smoked marijuana and also admitted that he continues to do so on occasion. He does not possess a letter of recommendation for medicinal cannabis under the Compassionate Use Act (Health & Saf. Code, § 11352.5 et seq.). Respondent acknowledged that smoking marijuana is illegal and would be potentially harmful to patients if a licensed clinical social worker were on duty while under its influence. However, he denies ever having worked with patients while under the influence of marijuana. Respondent's credibility is called into question due to his failed memory

¹ Respondent claims the year of his arrest was 2009. The court records (Exhibit 4) and the police report (Exhibit 5) indicate it was 2008.

on several matters that should have been easy to recall or verify. He was wrong about the year of his arrest, and he could not remember the name of his last full-time employer.

8. The Board incurred costs, including attorney fees, in the total sum of \$5,895, in connection with the prosecution of this action. The costs are unreasonable in the following particulars:

a. The Deputy Attorney General billed 6.25 hours at an hourly rate of \$170 for "pleading preparation." A paralegal billed 4.0 hours at an hourly rate of \$120 for "pleading preparation." The only pleading in the record is the Accusation. The Accusation is four and one-half pages long, approximately one-half of which is standard, boilerplate language. It is not reasonable that 10.5 hours would be necessary to draft the Accusation. Further, 1.5 hours of Deputy Attorney General time was billed for "pleading preparation" two days after the Accusation was signed. A more reasonable time for pleading preparation in this case would be 3.0 hours. That time will be allowed at the Deputy Attorney General's hourly rate.

b. The Deputy Attorney General billed 7.25 for "case management." Although that term is not defined, it is extremely unlikely that such a large amount of time would be necessary to manage a file that involved a single criminal act that did not result in a conviction. That task should have taken no more than 3.5 hours.

c. A paralegal billed 7.75 hours for "case eval/assessment." This case involved a single arrest that resulted in a guilty plea and a deferred entry of judgment. It should have taken no more than 1.75 to evaluate and assess the case.

9. Based on the above, the Deputy Attorney General's billing is reduced by seven hours at the \$170 hourly rate. The paralegal's billing is reduced by 10 hours at the \$120 hourly rate. Accordingly, the cost bill is reduced by \$2,390. Although Complainant prevailed on only one of the three alleged causes for discipline, all three causes for discipline arose out of the same act. Therefore, the costs will not be prorated. Accordingly, prosecution costs are allowed in the total sum of \$3,505.

LEGAL CONCLUSIONS

1. Cause does not exist to discipline Respondent's licensed clinical social worker license pursuant to Business and Professions Code² section 4992.3, subdivision (c), for dangerous use of alcohol and/or drugs, as set forth in Finding 5. Respondent was never in possession of rock cocaine. He was in possession of only candy disguised as rock cocaine at the time of his arrest, and he was charged with attempted possession of rock cocaine. Further, section 4992.3, subdivision (c), refers to the administration of a controlled substance, dangerous

² All statutory references are to the Business and Professions Code unless otherwise indicated.

drug, or alcohol, not mere possession. There was no evidence offered to show that Respondent administered any such substance to himself or anyone else, except for Respondent's admission that he did, and occasionally continues to smoke marijuana. Respondent's marijuana use was not a charging allegation in the Accusation, and it serves solely as a factor in aggravation.

2. Cause exists to discipline Respondent's licensed clinical social worker license pursuant to section 4992.3, subdivision (k), for commission of a corrupt act, as set forth in Finding 5.

3. Cause does not exist to discipline Respondent's licensed clinical social worker license pursuant to section 4992.3, subdivision (f), for violation of the Licensed Clinical Social Worker License Act (Act), as set forth in Findings 3, 4, and 5. In the third cause for discipline, Complainant alleges that the act committed by Respondent in December 2008 violated the Clinical Social Worker License Act. However, the portion(s) of the Act allegedly violated is/are not specified. Further, no evidence on the issue was offered at the hearing other than that concerning Respondent's actions on the night in question. That evidence was offered without reference to how it related to a specific section or sections of the Act. This constitutes both a failure of pleading and a failure of proof.

4. Cause exists to order Respondent to pay costs claimed under section 125.3, as set forth in Findings 8 and 9.

5. The actions that resulted in the Accusation against Respondent are temporally remote and were, at least arguably, done out of compassion for his dying cousin. However, Respondent's solicitation to purchase rock cocaine, even if for a compassionate reason, constitutes a corrupt act. The fact that he continues to smoke marijuana despite his knowledge of its illegality and the potential adverse effect his use could have on patients serves as a factor in aggravation.

6. Overall, Respondent has shown little by way of rehabilitation, and though he claims his actions in attempting to purchase illegal drugs were wrong, he still claims doing so was justified because he was helping a dying loved one.

7. Complainant did not seek license revocation in this case. A properly-conditioned probationary order to address Respondent's illegal use of controlled substances, and his reasoning for engaging in illegal activities knowing they were wrong, detrimental to his clients and to himself is warranted for adequate protection of the public health, safety, welfare and interest.

ORDER

Licensed Clinical Social Worker License No. LCS 9788 issued to Respondent, Sterling Reginald Harris, is revoked. However, the revocation is stayed and Respondent is placed on probation for three years on the following terms and conditions. Probation shall continue on the same terms and conditions if respondent is granted another registration or license regulated by the Board.

1. Psychological / Psychiatric Evaluation

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall complete a psychological or psychiatric evaluation by such licensed psychologists or psychiatrists as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such evaluator shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a counselor and whether and what level of psychotherapy is indicated. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

Note: If supervised practice is not part of the order, and the evaluator finds the need for supervised practice, then the following term shall be added to the disciplinary order. If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the respondent's practice will be supervised.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

2. Education

Respondent shall take and successfully complete the equivalency of two (2) semester units in the area of substance abuse. All course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, or professional clinical counselor or through a course approved by the Board. Classroom attendance must be

specifically required. Course content shall be pertinent to the violation and all course work must be completed within one year from the effective date of this Decision.

Within 90 days of the effective date of the decision respondent shall submit a plan for prior Board approval for meeting these educational requirements. All costs of the course work shall be paid by the respondent. Units obtained for an approved course shall not be used for continuing education units required for renewal of licensure.

3. Abstain from Controlled Substances / Submit to Biological Fluid Testing and Samples

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to respondent's current employer and shall be a violation of probation.

4. Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples

Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.

Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the respondent's current employer and shall be a violation of probation.

5. Attend Dependency Support Program

Respondent shall attend a dependency support program approved by the Board no less than two (2) times per week. Respondent shall provide proof of attendance at said program with each quarterly report that Respondent submits during the period of probation. Failure to attend, or to show proof of such attendance, shall constitute a violation of probation.

6. Obey All Laws

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board or its designee in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, Respondent shall submit fingerprints through

the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

7. File Quarterly Reports

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether he has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice, Respondent shall continue to submit quarterly reports under penalty of perjury.

8. Comply with Probation Program

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the program.

9. Interviews with the Board

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

10. Failure to Practice

In the event Respondent stops practicing in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 4980.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license shall be automatically cancelled if his period of non-practice totals two years.

11. Change of Place of Employment or Place of Residence

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

12. Supervision of Unlicensed Persons

While on probation, Respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this Decision.

13. Notification to Clients

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

14. Notification to Employer

Respondent shall provide each of his current or future employers, when performing services that fall within the scope of practice of his license, a copy of this Decision and the Accusation before commencing employment. Notification to Respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

15. Violation of Probation

If Respondent violates the conditions of his probation, the Board, after giving Respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation) of Respondent's license provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against Respondent's license, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the Board. Upon successful completion of probation, Respondent's license shall be fully restored.

16. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should Respondent's license, by operation of law or otherwise, expire, upon renewal, Respondent's license shall be subject to any and all terms of this probation not previously satisfied.

17. License Surrender

Following the effective date of this decision, if Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily request the surrender of his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall, within 30 calendar days, deliver his license and certificate, and if applicable, wall certificate to the Board or its designee and Respondent shall no longer engage in any practice for which a License is required. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of Respondent's license shall be considered to be a disciplinary action and shall become a part of Respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should Respondent, at any time after voluntary surrender, ever reapply to the Board for licensure, Respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

18. Instruction of Coursework Qualifying for Continuing Education

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

19. Notification to Referral Services

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which Respondent is a participant. While on probation, Respondent shall send a copy of this decision to all referral services registered with the Board that Respondent seeks to join.

20. Reimbursement of Probation Program

Respondent shall reimburse the Board for the costs it incurs in monitoring probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$1,200 per year.

21. Cost Recovery

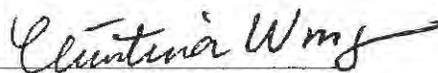
Respondent shall pay the Board \$3,505 as and for the reasonable cost of prosecution of Case No. LC-2010-1167. Respondent shall make such payments as outlined by the Board. Respondent shall make the check or money order payable to the Board of Behavioral Sciences

and shall indicate on the check or money order that it is the cost recovery payment for Case No. LC-2010-1167. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, Respondent shall be considered to be in violation of probation. A period of non-practice by Respondent shall not relieve Respondent of his obligation to reimburse the Board for its costs.

Cost recovery must be completed six months prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

This Decision shall become effective on **March 20, 2015**.

It is so ordered on this **18th** day of **February 2015**.


CHRISTINA WONG, Chair
Board of Behavioral Sciences

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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF BEHAVIORAL SCIENCES**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **STERLING REGINALD HARRIS**
2722 Vanderbilt Ln.
13 Redondo Beach, CA 90278

Case No. LC-2010-1167

14 **ACCUSATION**

14 Licensed Clinical Social Worker License No.
15 LCS 9788

16 Respondent.

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 (Board).

23 2. On or about November 12, 1982, the Board of Behavioral Sciences issued Licensed
24 Clinical Social Worker License Number LCS 9788 to Sterling Reginald Harris (Respondent).

25 The Licensed Clinical Social Worker License was in full force and effect at all times relevant to
26 the charges brought herein and will expire on February 28, 2014, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board, under the authority of the following

1 laws. All section references are to the Business and Professions Code unless otherwise indicated.

2 **STATUTORY PROVISIONS**

3 4. Section 118, subdivision (b), states, in pertinent part, that the suspension, expiration,
4 surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a
5 disciplinary action during the period within which the license may be renewed, restored, reissued
6 or reinstated.

7 5. Section 492 states:

8 "Notwithstanding any other provision of law, successful completion of any diversion
9 program under the Penal Code, or successful completion of an alcohol and drug problem
10 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
11 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
12 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
13 division, from taking disciplinary action against a licensee or from denying a license for
14 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
15 record pertaining to an arrest.

16 "This section shall not be construed to apply to any drug diversion program operated by any
17 agency established under Division 2 (commencing with Section 500) of this code, or any
18 initiative act referred to in that division."

19 6. Section 4992.3 states, in pertinent part:

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

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

23

24 "(c) Administering to himself or herself any controlled substance or using any of the
25 dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner,
26 as to be dangerous or injurious to the person applying for a registration or license or holding a
27 registration or license under this chapter, or to any other person, or to the public, or, to the extent
28 that the use impairs the ability of the person applying for or holding a registration or license to

1 conduct with safety to the public the practice authorized by the registration or license. The board
2 shall deny an application for a registration or license or revoke the license or registration of any
3 person who uses or offers to use drugs in the course of performing clinical social work. This
4 provision does not apply to any person also licensed as a physician and surgeon under Chapter 5
5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a
6 patient under his or her care.

7

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

10

11 "(k) The commission of any dishonest, corrupt, or fraudulent act substantially related to
12 the qualifications, functions, or duties of a licensee or registrant."

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

18 **COST RECOVERY**

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

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Dangerous Use of Alcohol and / or Drugs)**

25 9. Respondent is subject to disciplinary action under section 4992.3, subdivision (c) on
26 the grounds of unprofessional conduct, in that on or about December 1, 2008, Respondent was
27 found to be in possession of a dangerous drug, to the extent, or in a manner, as to be dangerous or
28 injurious to the person applying for a registration, or to any other person, or to the public as

1 follows:

2 a. On or about December 11, 2008, after pleading *guilty*, the court placed Respondent
3 on deferred entry of judgment for a period of 36 months, in the criminal proceeding entitled *The*
4 *People of the State of California v. Sterling Reginald Harris* (Super. Ct. Los Angeles County,
5 2008, No. SA069678). The deferred entry of judgment was successfully completed on June 14,
6 2010. The circumstances surrounding the arrest are that on or about December 1, 2008, Pacific
7 Division Officers assigned to the Narcotics Squad, were assigned to investigate illegal use and
8 sales of narcotics in the Oakwood area in Venice, California. During the undercover
9 investigation, the Respondent drove up to the location, made eye contact with one of the officers,
10 waved him down with a nod and stated, "Can I get some rock?" The officer responded, "I need
11 fifty dollars." The officer conducted the narcotic transaction with the Respondent, using altered
12 mints closely resembling pieces of rock cocaine, in exchange for \$50.00 from Respondent. The
13 Respondent was subsequently arrested for violating Health and Safety Code section 664-11350,
14 subdivision (a).

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct-Commission of Dishonest and/or Corrupt Act)**

17 10. Respondent is subject to disciplinary action under section 4992.3, subdivision (k), on
18 the grounds of unprofessional conduct, in that on or about December 1, 2008, Respondent
19 committed a dishonest, corrupt, or fraudulent act substantially related to the qualifications,
20 functions, or duties of a licensee. Complainant refers to, and by this reference incorporates, the
21 allegations set forth above in paragraph 9, subparagraph (a), inclusive, as though set forth fully.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct-Violate Licensed Clinical Social Worker License Act)**

24 11. Respondent is subject to disciplinary action under section 4992.3, subdivision (f), in
25 that Respondent committed an act that violated the Clinical Social Worker License Act on
26 December 1, 2008. Complainant refers to, and by this reference incorporates, the allegations set
27 forth above in paragraphs 9 through 10, inclusive, as though set forth fully.

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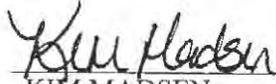
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PRAYER

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 No. LCS 9788, issued to Sterling Reginald Harris;
2. Ordering Sterling Reginald Harris 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: January 22, 2013


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

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PROPOSED DECISION

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¹ Respondent claims the year of his arrest was 2009. The court records (Exhibit 4) and the police report (Exhibit 5) indicate it was 2008.

8. The Board incurred costs, including attorney fees, in the total sum of \$5,895, in connection with the prosecution of this action. The costs are unreasonable in the following particulars:

a. The Deputy Attorney General billed 6.25 hours at an hourly rate of \$170 for “pleading preparation.” A paralegal billed 4.0 hours at an hourly rate of \$120 for “pleading preparation.” The only pleading in the record is the Accusation. The Accusation is four and one-half pages long, approximately one-half of which is standard, boilerplate language. It is not reasonable that 10.5 hours would be necessary to draft the Accusation. Further, 1.5 hours of Deputy Attorney General time was billed for “pleading preparation” two days after the Accusation was signed. A more reasonable time for pleading preparation in this case would be 3.0 hours. That time will be allowed at the Deputy Attorney General’s hourly rate.

b. The Deputy Attorney General billed 7.25 for “case management.” Although that term is not defined, it is extremely unlikely that such a large amount of time would be necessary to manage a file that involved a single criminal act that did not result in a conviction. That task should have taken no more than 3.5 hours.

c. A paralegal billed 7.75 hours for “case eval/assessment.” This case involved a single arrest that resulted in a guilty plea and a deferred entry of judgment. It should have taken no more than 1.75 to evaluate and assess the case.

9. Based on the above, the Deputy Attorney General’s billing is reduced by seven hours at the \$170 hourly rate. The paralegal’s billing is reduced by 10 hours at the \$120 hourly rate. Accordingly, the cost bill is reduced by \$2,390. Although Complainant prevailed on only one of the three alleged causes for discipline, all three causes for discipline arose out of the same act. Therefore, the costs will not be prorated. Accordingly, prosecution costs are allowed in the total sum of \$3,505.

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LEGAL CONCLUSIONS

1. Cause does not exist to discipline Respondent's licensed clinical social worker license pursuant to Business and Professions Code² section 4992.3, subdivision (c), for dangerous use of alcohol and/or drugs, as set forth in Finding 5. Respondent was never in possession of rock cocaine. He was in possession of only candy disguised as rock cocaine at the time of his arrest, and he was charged with attempted possession of rock cocaine. Further, section 4992.3, subdivision (c), refers to the administration of a controlled substance, dangerous drug, or alcohol, not mere possession. There was no evidence offered to show that Respondent administered any such substance to himself or anyone else, except for Respondent's admission that he did, and occasionally continues to, smoke marijuana. Respondent's marijuana use was not a charging allegation in the Accusation, and it serves solely as a factor in aggravation.

2. Cause exists to discipline Respondent's licensed clinical social worker license pursuant to section 4992.3, subdivision (k), for commission of a corrupt act, as set forth in Finding 5.

3. Cause does not exist to discipline Respondent's licensed clinical social worker license pursuant to section 4992.3, subdivision (f), for violation of the Licensed Clinical Social Worker License Act (Act), as set forth in Findings 3, 4, and 5. In the third cause for discipline, Complainant alleges that the act committed by Respondent in December 2008 violated the Clinical Social Worker License Act. However, the portion(s) of the Act allegedly violated is/are not specified. Further, no evidence on the issue was offered at the hearing other than that concerning Respondent's actions on the night in question. That evidence was offered without reference to how it related to a specific section or sections of the Act. This constitutes both a failure of pleading and a failure of proof.

4. Cause exists to order Respondent to pay costs claimed under section 125.3, as set forth in Findings 8 and 9.

5. The actions that resulted in the Accusation against Respondent are temporally remote and were, at least arguably, done out of compassion for his dying cousin. However, Respondent's solicitation to purchase rock cocaine, even if for a compassionate reason, constitutes a corrupt act. The fact that he continues to smoke marijuana despite his knowledge of its illegality and the potential adverse effect his use could have on patients serves as a factor in aggravation.

6. Overall, Respondent has shown little by way of rehabilitation.

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² All statutory references are to the Business and Professions Code unless otherwise indicated.

7. Complainant did not seek license revocation in this case. A properly-conditioned probationary order should adequately protect the public health, safety, welfare and interest.

ORDER

Licensed Clinical Social Worker License No. LCS 9788 issued to Respondent, Sterling Reginald Harris, is revoked. However, the revocation is stayed and Respondent is placed on probation for three years on the following terms and conditions.

1. Obey All Laws

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board or its designee in writing within 72 hours of occurrence. To permit monitoring of compliance with this term, Respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

2. File Quarterly Reports

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether he has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice, Respondent shall continue to submit quarterly reports under penalty of perjury.

3. Comply with Probation Program

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the program.

4. Interviews with the Board

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

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5. Failure to Practice

In the event Respondent stops practicing in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not engaging in any activities defined in sections 4908.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license shall be automatically cancelled if his period of non-practice totals two years.

6. Change of Place of Employment or Place of Residence

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

7. Supervision of Unlicensed Persons

While on probation, Respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisory relationship in existence on the effective date of this Decision.

8. Notification to Clients

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

9. Notification to Employer

Respondent shall provide each of his current or future employers, when performing services that fall within the scope of practice of his license, a copy of this Decision and the Accusation before commencing employment. Notification to Respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

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10. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should Respondent's license, by operation of law or otherwise, expire, upon renewal, Respondent's license shall be subject to any and all terms of this probation not previously satisfied.

11. License Surrender

Following the effective date of this decision, if Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily request the surrender of his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall, within 30 calendar days, deliver his license and certificate, and if applicable, wall certificate to the Board or its designee and Respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of Respondent's license shall be considered to be a disciplinary action and shall become a part of Respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should Respondent, at any time after voluntary surrender, ever reapply to the Board for licensure, Respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

12. Instruction of Coursework Qualifying for Continuing Education

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

13. Notification to Referral Services

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which Respondent is a participant. While on probation, Respondent shall send a copy of this decision to all referral services registered with the Board that Respondent seeks to join.

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14. Reimbursement of Probation Program

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be at the discretion of the Board.

15. Cost Recovery

Respondent shall pay the Board \$3,505 as and for the reasonable costs of the prosecution of Case No. LC-2010-1167. Respondent shall make such payments as acceptable to the Board. Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the cost recovery payment for Case No. LC-2010-1167. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, Respondent shall be considered to be in violation of probation. A period of non-practice by Respondent shall not relieve Respondent of his obligation to reimburse the Board for its costs.

Cost recovery must be completed six months prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

16. Abstain from Controlled Substances / Submit to Biological Fluid Testing and Samples

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to Respondent's current employer and shall be a violation of probation.

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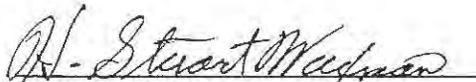
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17. Violation of Probation

If Respondent violates the conditions of his probation, the Board, after giving Respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation) of Respondent's license provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against Respondent's license, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the Board. Upon successful completion of probation, Respondent's license shall be fully restored.

Dated: August 13, 2014


H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

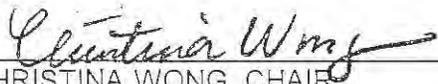
BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	CASE No. LC-2010-1167
Sterling Reginald Harris)	
)	
Licensed Clinical Social Worker)	OAH No. 2013110623
License No. LCS 9788)	
)	
Respondent.)	
_____)	

ORDER OF NON-ADOPTION OF PROPOSED DECISION

Pursuant to Section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above entitled matter is not adopted. The Board will decide the case upon the record, including the transcript of the hearing held on March 4, 2014, and upon such written argument as the parties may wish to submit, including, in particular, argument directed to the appropriateness of the penalty. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

IT IS SO ORDERED THIS 27th day of October, 2014.



CHRISTINA WONG, CHAIR
FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

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

In the Matter of the Accusation Against:

Sterling Reginald Harris

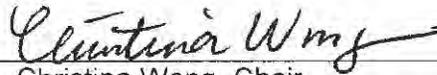
Respondent.

Case No.: LC-2010-1167

ORDER FIXING DATE FOR SUBMISSION OF WRITTEN ARGUMENT

The transcript in the above-captioned matter having become available, the parties hereto are notified that any written argument they may wish to present, including in particular argument directed to the appropriateness of the penalty shall be filed with the Board of Behavioral Sciences on or before December 21, 2014.

Dated: November 21, 2014



Christina Wong, Chair
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
State of California

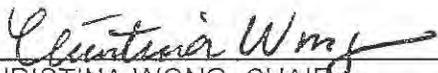
BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	CASE No. LC-2010-1167
Sterling Reginald Harris)	
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Licensed Clinical Social Worker)	OAH No. 2013110623
License No. LCS 9788)	
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Respondent,)	
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CHRISTINA WONG, CHAIR
FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS