

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

In the Matter of the Accusation Against:

DIANA ACEVEDO SELOVER,

Licensed Clinical Social Worker License
No. LCS 9578,

Respondent.

Case No. LC-2010-1512

OAH Case No. 2014030952

DECISION AFTER REJECTION

Laurie R. Pearlman, Administrative Law Judge (ALJ), Office of Administrative Hearings, heard this matter on September 18, 2014, at Los Angeles, California.

Susan Melton Wilson, Deputy Attorney General, represented Kim Madsen (Complainant), Executive Officer of the Board of Behavioral Sciences.

Diana Acevedo Selover (Respondent) was present at the hearing and represented herself.

At the hearing, Complainant's motion to amend the Accusation in order to correct the date on page 9, lines 16 and 17, of the Accusation, from 2001 to 2007, was granted.

Oral and documentary evidence was received. The record was left open until October 24, 2014, to allow Respondent to submit mitigation documents, and to allow Complainant to submit a response. On October 8 and 9, 2014, Respondent timely submitted mitigation documents, which were marked collectively as Exhibit F for identification, and admitted into evidence. Complainant filed a timely response, which was marked as Exhibit 16 for identification, but was not admitted into evidence. The matter was submitted for decision on October 24, 2014.

The proposed decision of the administrative law judge was submitted to the Board of Behavioral Sciences on November 24, 2014. After due consideration thereof, the Board declined to adopt said proposed decision and thereafter on January 12, 2015 issued an Order of Non-adoption and subsequently issued an Order Fixing Date for Submission of Written Argument on January 22, 2015. The time for filing written argument in this matter having expired, written argument having been filed by both parties and such written arguments, together with the entire record, including the transcript and exhibits of said hearing, having been read and considered, pursuant to Government Code Section 11517, the Board hereby makes the following decision and order:

FACTUAL FINDINGS

1. On April 11, 2013, Complainant filed the Accusation in her official capacity as the Executive Officer of the Board of Behavioral Sciences (Board). On October 8, 2013, Respondent filed a Notice of Defense, and thereafter this matter ensued.

2. The Board issued Licensed Clinical Social Worker License number LCS 9578 to Respondent on April 28, 1982. The license will expire on December 31, 2015, unless renewed by the Board.

Respondent's Criminal Convictions

Driving With a Suspended License -November 23, 2000

3a. On March 7, 2001, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) (driving while license suspended), in the Superior Court of California, County of Los Angeles, case number 0JM11114. The court placed Respondent on probation for a period of two years, and ordered her to pay a fine.

3b. The facts and circumstances surrounding the March 7, 2001 conviction are that, on November 23, 2000, Respondent drove a motor vehicle upon a highway at a time when her driving privilege was suspended and revoked.

Driving Under the Influence-June 19, 2005

4a. On June 20, 2005, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) (driving while having 0.08% or more, by weight, of alcohol in her blood), in the Superior Court of California, County of Los Angeles, case number 5PA46652. The court placed Respondent on probation for a period of three years, and ordered her to complete a three-month First-Offender Alcohol and Other Drug Education and Counseling Program, and to pay a fine.

4b. The facts and circumstances surrounding the June 20, 2005 conviction are that on or about June 19, 2005, Arcadia police officers were dispatched to a residential intersection in the City of Arcadia, to investigate a female driver who was being detained by a witness who believed the driver to be under the influence of alcohol and/or drugs. The female driver, later identified as Respondent, had been observed by a witness driving her vehicle over a curb, and onto the lawn of a private residence. The witness had taken the keys out of the ignition of Respondent's vehicle. The officer contacted Respondent and smelled a strong odor of an alcoholic beverage on her person, and observed Respondent to have bloodshot eyes. Respondent admitted to the officers that she had consumed "approximately five glasses of wine at home."

Respondent repeatedly stated to the officers, "I'm a stupid shit head." Respondent stated, that she "drank too much because she was upset with [her] ex-husband." She agreed to a series of field sobriety tests, which she failed to complete satisfactorily. Respondent was subsequently given two Preliminary Alcohol Screening (PAS) Device Tests, with results of .28% and .29% blood alcohol content (BAC). Respondent was arrested for violating Vehicle Code section 23152, subdivision (b) and also charged with having an outstanding warrant and driving while having a suspended license, in violation of Vehicle Code section 14601.1, subdivision (a).

Driving With a Suspended License-February 21, 2004

5a. On or about July 13, 2005, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) (driving while license suspended), in the Superior Court of California, County of Los Angeles, case number 4PM02037. The court sentenced Respondent to serve five days in jail, placed her on probation for a period of three years, and ordered her to pay a fine.

5b. The facts and circumstances surrounding the July 13, 2005 conviction are that on February 21, 2004, Respondent drove a vehicle while her driving privilege was suspended or revoked, in violation of Vehicle Code section 14601.1, subdivision (a). On February 2, 2006, Respondent failed to appear in court in violation of Penal Code section 853.7. On April 20, 2010, in the Los Angeles Superior Court, West Covina, in connection with case number 6JB02202, the court sentenced Respondent to serve seven days in jail.

Driving With a Suspended License-January 27, 2006

6a. On May 8, 2007, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) (driving while license suspended), in the Superior Court, County of Los Angeles, Case No. 6JB02202. The court sentenced Respondent to serve five days in jail, placed her on probation for a period of three years, and fined her.

6b. The facts and circumstances surrounding the May 8, 2007 conviction are that on January 27, 2006, during a routine traffic stop, a Glendora police department officer stopped Respondent for driving a vehicle with an expired registration. Respondent admitted to the officer that her license was suspended. Respondent handed the officer an expired California driver's license with her name on it. The officer further conducted a computer check, which revealed that Respondent had two outstanding warrants for her arrest. Respondent was subsequently placed into custody for the warrants, and was convicted of violating Vehicle Code section 14601.1, subdivision (a).

6c. When Respondent was arrested on April 20, 2010 for driving with a suspended license, a violation of Vehicle Code §14601.1, subdivision (a), the court determined that Respondent had violated her probation order in case number 4PM02037 in that Respondent had

failed to pay her fine and/or perform fifteen days of Cal Trans service, and Respondent was sentenced to serve seven additional days in jail.

Driving Under the Influence-May 2, 2007

7a. On May 11, 2007, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) (driving while having 0.08% or more, by weight, of alcohol in her blood), in the Superior Court, County of Los Angeles, Case No. 7PS02434. The court sentenced Respondent to serve 120 days in jail, placed her on probation for a period of five years, and fined her.

7b. The facts and circumstances surrounding the May 11, 2007 conviction are that on or about May 2, 2007, a Pasadena police officer was dispatched to investigate a female suspected of driving under the influence of an alcoholic beverage or drug. The officer arrived at the scene and found Respondent asleep in the driver's seat of her car, with the motor running. The officer turned off the engine and smelled an odor of an alcoholic beverage emitting from Respondent's person. Respondent admitted to the officer that she had consumed "four little bottles of wine." The officer observed four bottles of wine in the front passenger floor area, along with one empty pint can of "Busch" Ice Beer on the rear passenger floor of the vehicle. Respondent agreed to a series of field sobriety tests which she failed to complete satisfactorily. She was subsequently given two PAS Device Tests, with results of .26% BAC and .28% BAC.

Driving Under the Influence-February 5, 2007

8a. On May 11, 2007, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) (driving while having 0.08% or more, by weight, of alcohol in her blood), in the Superior Court for the County of Los Angeles, Case Number 7PS01510. The court sentenced Respondent to serve 120 days in jail, placed her on probation for a period of five years, and fined her.

8b. The facts and circumstances surrounding the May 11, 2007 conviction are that on February 5, 2007, Pasadena Police Department officers were dispatched to investigate a traffic collision that occurred in the city of Pasadena. At the scene, the officers made contact with Respondent who had rear-ended another vehicle. Respondent was observed to be confused and, when questioned by police, she could not remember the date, time, or what had transpired. Respondent did not know how she arrived in Pasadena, and stated that she had "blacked out." Respondent admitted to the officers that she had "two small bottles of gin." Respondent also stated that she had a "disease" and was "an alcoholic in recovery." She went on to state, "I know I shouldn't be driving." The officers smelled a strong odor of an alcoholic beverage on her breath and person and observed Respondent to have bloodshot and watery eyes. Respondent subsequently agreed to give a blood test with results of a blood alcohol level of 0.08% or more, by weight.

Failure to Disclose or Notify Board of Convictions

9a. In three applications for renewal of her licensed clinical social worker license, which Respondent filed with the Board on November 10, 2007, December 1, 2005, and March 28, 2001, Respondent failed to disclose or make reference to her criminal convictions of May 11, 2007; May 8, 2007; July 13, 2005; June 20, 2005; and March 7, 2001, described in Factual Findings 3a-8b, above.

9b. The renewal application form includes the question: Have you been convicted of or pled nolo contendere to a misdemeanor or felony, or have you had any disciplinary action ... in this or any other state subsequent to your last renewal. The form has boxes allowing the applicant to check "YES" or "NO" to the question.

9c. The conviction question is included in a section of the renewal form which concludes with the statement "I certify under penalty of perjury under the laws of the state of California that the foregoing information is true and correct." This phrase appears above a space for the renewal applicant to execute the certification.

9d. In the renewal application executed by Respondent on November 10, 2007, Respondent checked "No" in response to the question whether she had any convictions.

9e. In the renewal application executed by Respondent on December 1, 2005, Respondent checked "No" in response to the conviction question.

9f. In the renewal application executed by Respondent on March 28, 2001, Respondent did not check either "yes" or "no" in response to the conviction question.

10. The Board learned of Respondent's criminal convictions in April 2010 when it received notification of the convictions from the Department of Justice.

Respondent's Testimony

11. Respondent testified at the hearing and was respectful of the proceedings. She has worked as a licensed clinical social worker since 1982. Over the course of 35 years, she has worked in private practice, in consulting and clinical positions, and at Huntington Memorial Hospital and Good Samaritan Hospital. For more than 20 years, she has been a field instructor for students obtaining their Master of Social Work degrees. Since 1999, Respondent has been employed as a licensed clinical social worker at the Veterans' Administration Medical Center. In 2001, Respondent was chosen to be the Clinic Coordinator of the Spinal Cord Injury Clinic, where she is in charge of 200 patients with spinal cord injuries, Multiple Sclerosis, and ALS.

12. In 2000, Respondent's husband left her, after 23 years of marriage. She went through a very difficult divorce. As a single mother raising three children, she had serious financial problems, battled severe depression, and "was not prioritizing well" at that time. Her

driver's license was initially suspended in 2001 because she had failed to pay automobile registration fees in 2000 and 2001.

13. From June through August 2007, Respondent successfully completed a three-month, court-ordered rehabilitation program. Respondent testified that she lived in a sober living facility from August 2007 until March 2009, at which time she moved in with the man whom she married in 2010. Respondent provided no documentary evidence to support her claim of successful completion of the sober living program though she testified that those documents were previously provided to the criminal court.

14. Although she is eligible to renew her driver's license, since May 11, 2007, Respondent has chosen not to drive. Her husband does not drive, due to a medical condition, and she has learned how to utilize public transportation.

15. Respondent testified that she failed to disclose her convictions to the Board because she was under the mistaken belief that she was not required to disclose non-felony traffic violations. Her assertion is not credible in light of the fact that the renewal form includes the question: "Have you been convicted of or pled nolo contendere to a misdemeanor or felony?"

16. In the past, Respondent was in therapy, on several occasions, for depression. She takes Effexor (a prescription drug used to treat depression), but is not currently being treated for depression and is not in therapy. Her last therapist told her "there was no need to continue" her therapy sessions.

17. Respondent testified that she "rarely" drinks alcohol now, but sometimes drinks "recreationally" with friends. She maintained sobriety for one year when she was at the sober living program, but other than that she has always drunk alcohol. She last consumed alcohol three weeks prior to the hearing. At that time, she had one margarita with her girlfriends, during a tailgate party at a football game. She explained that she is a USC band alumnus and that they have tailgaters. She considers herself to be "an alcoholic under good control, but "not a good member of Alcoholics Anonymous" and stated that she has not gone to a meeting in the past two years. On cross-examination she described herself as a binger with the ability to go for months and weeks, and then she would go on a "small binge" where she would have several drinks, and may fall asleep earlier with her husband, or give him a hard time. She testified that she is now in a stable marriage, with a husband who "docs not drink at all" and "is a good influence." She noted that at the time of her criminal convictions, she was also "a binge drinker" who might not drink for weeks or months, and was always sober at work. She experienced blackouts on ten occasions in the past, but the last one occurred "years ago."

18. Respondent provided letters from a current and former supervisor, both of whom are licensed clinical social workers who are aware of her criminal convictions for driving while intoxicated, of her history of alcohol abuse, and of this license revocation proceeding. These

letters were admitted into evidence as "administrative hearsay."¹ Respondent's supervisors describe her as an excellent social worker who is conscientious in serving her patients, and in carrying out her administrative and managerial duties. Respondent did not demonstrate any evidence of an alcohol problem at work, and is held in high regard by her patients, and by the other professionals with whom she works.

19. The record was held open for Respondent to provide mitigation evidence. Respondent provided approximately 99 pages of documents which were poorly organized in that there was no logical organization of the documents, and included documents with questionable relevance and with no explanation. There was no performance appraisal provided for the year 2005 when she received her first DUI, yet appraisals were provided for as early back as 2002. Additionally, there was curiously no mention of any of her convictions in any of the performance appraisals. Respondent provided no documentary proof that she informed her employer of her DUI convictions prior to completion of the evaluations, and provided no testimonial evidence on the same.

Costs

20. The Board incurred \$8,655 in prosecution costs in this matter. The costs are reasonable. No evidence of costs of investigation was presented.

LEGAL CONCLUSIONS

1. Business and Professions Code² section 490 states in pertinent part:

(a) A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

¹ The term "administrative hearsay" is a shorthand reference to the provisions of Government Code section 11513, subdivision (d), to the effect that hearsay evidence that is objected to, and is not otherwise admissible, may be used to supplement or explain other evidence but may not, by itself, support a finding. It may be combined with other evidence to provide substantial evidence sufficient to support a finding. (*Komizu v. Gourley* (2002) 103 Cal.App.4th 1001.)

² All further statutory references are to the Business and Professions Code, unless otherwise specified.

2. Section 4992.3 states in pertinent part:

The board may ... suspend or revoke the license ... of a licensee . . . if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes...

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter.

[¶] ... [¶]

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license.

[¶] ... [¶]

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

[¶] ... [¶]

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

3. Section 4996.6, subdivision (b)(4) states:

(b) To renew an unexpired license, the licensee shall, on or before the expiration date of the license, complete the following actions:

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

4. 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.

5. California Code of Regulations, title 16, section 1812, states in part:

For purposes of ... suspension, or revocation of a license ... a crime ... shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license ... if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare.

6. Cause exists to suspend or revoke Respondent's licensed clinical social worker license under sections 490 and 4992.3, on the grounds of unprofessional conduct as defined in Section 4992.3, subdivision (a), in that, on or about May 11, 2007, May 8, 2007, July 13, 2005, June 20, 2005, and March 7, 2001, Respondent was convicted of crimes which are substantially related to the qualifications, functions or duties of a licensed clinical social worker, based upon Factual Findings 1-18.

7. Respondent's convictions were for "substantially related" crimes because the crimes to a substantial degree evidence "present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare." (Cal. Code Regs., tit. 16, § 1812.) Convictions of crimes involving the consumption of alcoholic beverages are generally found to be substantially related to the health care profession. (See *Griffiths v. Superior Court* (2002) 96 CaJ.App.4th 757.)

8. Cause exists to suspend or revoke Respondent's licensed clinical social worker license under section 4992.3, subdivision (c), in that Respondent was convicted of crimes on May 11, 2007 and June 20, 2005, that involved use of an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to herself, or to any other person, or to the public, to the extent that the use impaired the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, as set forth in Factual Findings 1-18.

9. Cause exists to suspend or revoke Respondent's licensed clinical social worker license under section 4992.3, subdivision (k), in that Respondent knowingly made false statements in three renewal applications filed with the Board for renewal of her license, in which she failed to disclose or make reference to her multiple convictions on May 11, 2007, May 8, 2007, July 13, 2005, June 20, 2005, and March 7, 2001, as set forth in Factual Findings 1-19.

10. Cause exists to suspend or revoke Respondent's licensed clinical social worker license under section 4992.3, subdivision (f), in that Respondent committed acts and was convicted of crimes that violated the Licensed Clinical Social Worker License Act on May 11, 2007; May 8, 2007; July 13, 2005; June 20, 2005; and March 7, 2001, as set forth in Factual Findings 1-18 and Conclusions of Law 6-9.

11. The Board has the authority under section 125.3 to recover its costs of investigation and prosecution of license discipline cases. The Board's reasonable costs of prosecution amounted to \$8,655. No evidence of inability to pay costs was presented. (Factual Finding 20.)

DISCUSSION

1. The Board publishes Disciplinary Guidelines (revised December 2012) that are designed to offer guidance on possible outcomes in license discipline cases such as this matter. These guidelines are incorporated by reference in California Code of Regulations, title 16, section 1888. The guidelines identify various violation categories and set forth recommended minimum and maximum penalties; they state that "[t]he Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances." (Guidelines, p. 4.) Relevant criteria for evaluating a licensee's rehabilitation when considering license discipline include the nature and severity of the acts or crimes under consideration as grounds for suspension or revocation, the time that has elapsed since commission of the acts or crimes, whether the licensee has complied with the terms of probation, and other evidence of rehabilitation. (Cal. Code Regs., tit. 16, § 1814.)

2. Respondent provided little evidence of rehabilitation, and though the record was held open for her to do so, the information provided was of little use, and tends to support her active concealment of her alcohol abuse problem from the board and her employer.

3. The acts which led to Respondent's criminal convictions are serious and endangered Respondent and the public. While the incident underlying her most recent criminal conviction occurred in February 2007, nearly eight years ago, and while Respondent's life circumstances have changed, her repeated patterns of dishonesty and efforts to conceal her actions persists. Respondent provided no evidence of continued sobriety or of her appreciation for the seriousness of her behavior as a result of her abuse of alcohol. She admits that she was a binge drinker during the time of her DUI convictions, and that she still binge drinks today.

Though Respondent appears to be in a stable marriage to a man who does not consume alcoholic beverages, her continued use of alcohol suggests continued abuse given her statement that “I don’t stay drunk for days at a time. I’ll have several drinks. And I may fall asleep early with my husband or give him a hard time...” Under these circumstances, her decision to give up her drivers’ license strongly suggests a choice by her to choose alcohol over the privilege of driving.

3. Respondent admitted to committing perjury in the filing of her renewal applications. She additionally testified that she repeatedly allowed her license to lapse in part because she knew that her employer would not check. Respondent’s claim of ignorance in submitting false renewal applications is not credible and she has made no effort to correct her lies with the board or with her employer.

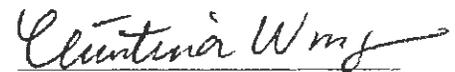
4. Though Respondent has held her license for a considerable amount of time, with what appears to be a good employment record, the level of dishonesty in this case, coupled with Respondent’s repeated efforts to hide her true condition from both the board and her employer when coupled with her multiple convictions, and dishonest acts more strongly suggests that a period of probation would be futile in this case, and therefore the Board’s mandate of consumer protection compels revocation of her license.

ORDER

Licensed Clinical Social Worker License Number LCS 9578, issued to Respondent Diana Acevedo Selover, is hereby revoked. Respondent is ordered to reimburse the Board for the cost of investigation and enforcement in the amount of \$8,655.

This Decision shall become effective on April 23, 2015.

IT IS SO ORDERED: March 24, 2015.


Christina Wong, Chair
Board of Behavioral Sciences

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PROPOSED DECISION

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She agreed to a series of field sobriety tests, which she failed to complete satisfactorily. Respondent was subsequently given two Preliminary Alcohol Screening (PAS) Device Tests, with results of .28% and .29% blood alcohol content (BAC). Respondent was arrested for violating Vehicle Code section 23152, subdivision (b) and also charged with having an outstanding warrant and driving while having a suspended license, in violation of Vehicle Code section 14601.1, subdivision (a).

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Driving Under the Influence- February 5, 2007

8a. On May 11, 2007, after pleading *nolo contendere*, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) (driving while having 0.08% or more, by weight, of alcohol in her blood), in the Superior Court for the County of Los Angeles, Case Number 7PS01510. The court sentenced Respondent to serve 120 days in jail, placed her on probation for a period of five years, and fined her.

8b. The facts and circumstances surrounding the May 11, 2007 conviction are that on February 5, 2007, Pasadena Police Department officers were dispatched to investigate a traffic collision that occurred in the city of Pasadena. At the scene, the officers made contact with Respondent who had rear-ended another vehicle. Respondent was observed to be confused and, when questioned by police, she could not remember the date, time, or what had transpired. Respondent did not know how she arrived in Pasadena, and stated that she had "blacked out." Respondent admitted to the officers that she had "two small bottles of gin." Respondent also stated that she had a "disease" and was "an alcoholic in recovery." She went on to state, "I know I shouldn't be driving." The officers smelled a strong odor of an alcoholic beverage on her breath and person and observed Respondent to have bloodshot and watery eyes. Respondent subsequently agreed to give a blood test with results of a blood alcohol level of 0.08% or more, by weight.

Failure to Disclose or Notify Board of Convictions

9a. In three applications for renewal of her licensed clinical social worker license, which Respondent filed with the Board on November 10, 2007, December 1, 2005, and March 28, 2001, Respondent failed to disclose or make reference to her criminal convictions

of May 11, 2007; May 8, 2007; July 13, 2005; June 20, 2005; and March 7, 2001, described in Factual Findings 3a-8b, above.

9b. The renewal application form includes the question: Have you been convicted of or pled nolo contendere to a misdemeanor or felony, or have you had any disciplinary action . . . in this or any other state subsequent to your last renewal. The form has boxes allowing the applicant to check "YES" or "NO" to the question.

9c. The conviction question is included in a section of the renewal form which concludes with the statement "I certify under penalty of perjury under the laws of the state of California that the foregoing information is true and correct." This phrase appears above a space for the renewal applicant to execute the certification.

9d. In the renewal application executed by Respondent on November 10, 2007, Respondent checked "No" in response to the question whether she had any convictions.

9e. In the renewal application executed by Respondent on December 1, 2005, Respondent checked "No" in response to the conviction question.

9f. In the renewal application executed by Respondent on March 28, 2001, Respondent did not check either "yes" or "no" in response to the conviction question.

10. The Board learned of Respondent's criminal convictions in April 2010 when it received notification of the convictions from the Department of Justice.

Respondent's Testimony

11. Respondent testified at the hearing and was respectful of the proceedings. She has worked as a licensed clinical social worker since 1982. Over the course of 35 years, she has worked in private practice, in consulting and clinical positions, and at Huntington Memorial Hospital and Good Samaritan Hospital. For more than 20 years, she has been a field instructor for students obtaining their Master of Social Work degrees. Since 1999, Respondent has been employed as a licensed clinical social worker at the Veterans' Administration Medical Center. In 2001, Respondent was chosen to be the Clinic Coordinator of the Spinal Cord Injury Clinic, where she is in charge of 200 patients with spinal cord injuries, Multiple Sclerosis, and ALS.

12. In 2000, Respondent's husband left her after 23 years of marriage. She went through a very difficult divorce. As a single mother raising three children, she had serious financial problems, battled severe depression, and "was not prioritizing well" at that time. Her driver's license was initially suspended in 2001 because she had failed to pay automobile registration fees in 2000 and 2001.

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13. From June through August 2007, Respondent successfully completed a three-month, court-ordered rehabilitation program. Respondent lived in a sober living facility from August 2007 until March 2009, at which time she moved in with the man whom she married in 2010.

14. Although she is eligible to renew her driver's license, since May 11, 2007, Respondent has chosen not to drive. Her husband does not drive, due to a medical condition, and she has learned how to utilize public transportation.

15. Respondent testified that she failed to disclose her convictions to the Board because she was under the mistaken belief that she was not required to disclose non-felony traffic violations. Her assertion is not credible in light of the fact that the renewal form includes the question: "Have you been convicted of or pled nolo contendere to a misdemeanor or felony . . .?"

16. In the past, Respondent was in therapy, on several occasions, for depression. She takes Effexor (a prescription drug used to treat depression), but is not currently being treated for depression and is not in therapy. Her last therapist told her "there was no need to continue" her therapy sessions.

17. Respondent "rarely" drinks alcohol now, but sometimes drinks "recreationally" with friends. She last consumed alcohol three weeks prior to the hearing. At that time, she had one margarita with her girlfriends, during a tailgate party at a football game. She considers herself to be "an alcoholic under good control." Respondent is "not a good member of Alcoholics Anonymous" and has not gone to a meeting in the past two years. She is now in a stable marriage, with a husband who "does not drink at all" and "is a good influence." At the time of her criminal convictions, Respondent was "a binge drinker" who might not drink for weeks or months, and was always sober at work. She experienced blackouts on ten occasions in the past, but the last one occurred "years ago."

18. Respondent provided letters from a current and former supervisor, both of whom are licensed clinical social workers who are aware of her criminal convictions for driving while intoxicated, of her history of alcohol abuse, and of this license revocation proceeding. These letters were admitted into evidence as "administrative hearsay."¹ Respondent's supervisors describe her as an excellent social worker who is conscientious in

¹ The term "administrative hearsay" is a shorthand reference to the provisions of Government Code section 11513, subdivision (d), to the effect that hearsay evidence that is objected to, and is not otherwise admissible, may be used to supplement or explain other evidence but may not, by itself, support a finding. It may be combined with other evidence to provide substantial evidence sufficient to support a finding. (*Komizu v. Gourley* (2002) 103 Cal.App.4th 1001.)

serving her patients, and in carrying out her administrative and managerial duties. Respondent did not demonstrate any evidence of an alcohol problem at work, and is held in high regard by her patients, and by the other professionals with whom she works.

Costs

19. The Board incurred \$8,655 in prosecution costs in this matter. The costs are reasonable. No evidence of costs of investigation was presented.

LEGAL CONCLUSIONS

1. Business and Professions Code² section 490 states in pertinent part:

(a) A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

2. Section 4992.3 states in pertinent part:

The board may . . . suspend or revoke the license . . . of a licensee . . . if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes . . .

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter.

[¶] . . . [¶]

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

² All further statutory references are to the Business and Professions Code, unless otherwise specified.

the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license.

[¶] . . . [¶]

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

[¶] . . . [¶]

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

3. Section 4996.6, subdivision (b)(4) states:

(b) To renew an unexpired license, the licensee shall, on or before the expiration date of the license, complete the following actions:

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

4. 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.

5. California Code of Regulations, title 16, section 1812, states in part:

For purposes of . . . suspension, or revocation of a license . . . a crime . . . shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license . . . if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare.

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6. Cause exists to suspend or revoke Respondent's licensed clinical social worker license under sections 490 and 4992.3, on the grounds of unprofessional conduct as defined in Section 4992.3, subdivision (a), in that, on or about May 11, 2007, May 8, 2007, July 13, 2005, June 20, 2005, and March 7, 2001, Respondent was convicted of crimes which are substantially related to the qualifications, functions or duties of a licensed clinical social worker, based upon Factual Findings 1-18.

7. Respondent's convictions were for "substantially related" crimes because the crimes to a substantial degree evidence "present or potential unfitness of a person holding a license to perform the functions authorized by his or her license in a manner consistent with the public health, safety or welfare." (Cal. Code Regs., tit. 16, § 1812.) Convictions of crimes involving the consumption of alcoholic beverages are generally found to be substantially related to the health care profession. (See *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757.)

8. Cause exists to suspend or revoke Respondent's licensed clinical social worker license under section 4992.3, subdivision (c), in that Respondent was convicted of crimes on May 11, 2007 and June 20, 2005, that involved use of an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to herself, or to any other person, or to the public, to the extent that the use impaired the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, as set forth in Factual Findings 1-18.

9. Cause exists to suspend or revoke Respondent's licensed clinical social worker license under section 4992.3, subdivision (k), that Respondent knowingly made false statements in three renewal applications filed with the Board for renewal of her license, in which she failed to disclose or make reference to her multiple convictions on May 11, 2007, May 8, 2007, July 13, 2005, June 20, 2005, and March 7, 2001, as set forth in Factual Findings 1-18.

10. Cause exists to suspend or revoke Respondent's licensed clinical social worker license under section 4992.3, subdivision (f), in that Respondent committed acts and was convicted of crimes that violated the Licensed Clinical Social Worker License Act on May 11, 2007; May 8, 2007; July 13, 2005; June 20, 2005; and March 7, 2001, as set forth in Factual Findings 1-18 and Conclusions of Law 6-9.

11. The Board publishes Disciplinary Guidelines (revised December 2012) that are designed to offer guidance on possible outcomes in license discipline cases such as this matter. These guidelines are incorporated by reference in California Code of Regulations, title 16, section 1888. The guidelines identify various violation categories and set forth recommended minimum and maximum penalties; they state that "[t]he Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances." (Guidelines, p. 4.) Relevant criteria for evaluating a licensee's rehabilitation when considering license discipline include the nature and severity of the acts or crimes under consideration as

grounds for suspension or revocation, the time that has elapsed since commission of the acts or crimes, whether the licensee has complied with the terms of probation, and other evidence of rehabilitation. (Cal. Code Regs., tit. 16, § 1814.)

12. While cause exists to discipline Respondent's license, a stay of revocation is warranted considering all the relevant criteria in the guidelines. The acts which led to Respondent's criminal convictions are serious and endangered Respondent and the public. However, the incident underlying her most recent criminal conviction occurred in February 2007, nearly eight years ago. A good deal of time has passed since the 2007 incident, and Respondent's life circumstances have changed considerably since the time of her convictions. She is in a stable marriage to a man who does not consume alcoholic beverages. She does not have a license to drive. She no longer suffers from severe depression. No evidence was presented to establish that her alcohol abuse negatively impacted the performance of her job duties or endangered her patients. A period of probation, including a provision requiring Respondent to completely abstain from the use of alcoholic beverages during the period of probation, and to submit to biological fluid testing, upon request by the Board, should insure that the public health, safety, and welfare will be protected.

13. The Board has the authority under section 125.3 to recover its costs of investigation and prosecution of license discipline cases. The Board's reasonable costs of prosecution amounted to \$8,655. No evidence of inability to pay costs was presented. (Factual Finding 19.)

ORDER

Licensed Clinical Social Worker License Number LCS 9578, issued to Respondent Diana Acevedo Selover, is revoked provided, however, that the revocation shall be stayed and Respondent shall be placed on probation for five 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 the respondent to the Board or its designee in writing within seventy-two (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.

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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 she 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 the 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.

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 thirty 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 respondent's period of non-practice total 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. Respondent shall seek guidance from Board staff regarding appropriate application of this condition.

9. Notification to Employer

Respondent shall provide each of her current or future employers, when performing services that fall within the scope of practice of her license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the 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.

10. Violation of Probation

If respondent violates the conditions of her 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 application for licensure, 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.

11. 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.

12. 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 her license to the Board. The Board reserves the right to evaluate the 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 respondent's 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.

13. 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.

14. 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.

15. 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 determined by the Board and shall not exceed respondent's ability to pay.

16. Cost Recovery

Respondent shall pay the Board \$8,655 as and for the reasonable costs of the investigation and prosecution of Case No. LC-2010-1512 (OAH Case No. 2014030952). Respondent shall make such payments as follows: Respondent shall pay the costs in equal monthly payments over the term of probation. 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-2010-1512 (OAH Case No. 2014030952). 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 her 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.

17. 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.

Dated: November 24, 2014



LAURIE R. PEARLMAN
Administrative Law Judge
Office of Administrative Hearings

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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:

Case No. LC-2010-1512

12 **DIANA ACEVEDO SELOVER**
13 9810 Reseda Blvd, #319
Northridge, CA 91324

ACCUSATION

14 Licensed Clinical Social Worker License No.
15 LCS 9578

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 April 28, 1982, the Board of Behavioral Sciences issued Licensed
24 Clinical Social Worker License No. LCS 9578 to Diana Acevedo Selover (Respondent). The
25 Licensed Clinical Social Worker License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on December 31, 2013, unless renewed.

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28 ///

1 duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive
2 evidence only of the fact that the conviction occurred. The board may inquire into the
3 circumstances surrounding the commission of the crime in order to fix the degree of discipline or
4 to determine if the conviction is substantially related to the qualifications, functions, or duties of a
5 licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a
6 plea of nolo contendere made to a charge substantially related to the qualifications, functions, or
7 duties of a licensee or registrant under this chapter is a conviction within the meaning of this
8 section. The board may order any license or registration suspended or revoked, or may decline to
9 issue a license or registration when the time for appeal has elapsed, or the judgment of conviction
10 has been affirmed on appeal, or, when an order granting probation is made suspending the
11 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code
12 allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the
13 verdict of guilty, or dismissing the accusation, information, or indictment.

14

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

26

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

1 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
2 [driving while having 0.08% or more, by weight, of alcohol in her blood], in the criminal
3 proceeding entitled *The People of the State of California v. Diana Acevedo Selover* (Super. Ct.
4 Los Angeles County, 2007, No. **7PS01510**). The court sentenced Respondent to serve 120 days
5 in jail, placed her on probation for a period of 5 years, and fined her.

6 b. The circumstances surrounding the conviction are that on or about February 5, 2007,
7 Pasadena Police Department Officers were dispatched to investigate a traffic collision that
8 occurred in the city of Pasadena, California. At the scene, the officers made contact with
9 Respondent who had rear-ended another vehicle. Respondent was observed to be confused and
10 could not remember the date, time, or what happened when questioned by the officers.
11 Respondent did not know how she arrived in Pasadena, and stated, "I blacked out." Respondent
12 admitted to the officers that she had, "two small bottles of gin." Respondent also stated that she
13 had a "disease" and was "an alcoholic in recovery. She went on to state, "I know I shouldn't be
14 driving." The officers smelled a strong odor of an alcoholic beverage emitting from her breath
15 and person. The officers further observed Respondent to have bloodshot and watery eyes.
16 Respondent subsequently agreed to give a blood test with results of a blood alcohol level of
17 0.08% or more, by weight which was booked into evidence into the property room as Item No. 1.

18 **DRIVING UNDER THE INFLUENCE OF ALCOHOL (2007)**

19 c. On or about May 11, 2007, after pleading *nolo contendere*, Respondent was
20 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
21 [driving while having 0.08% or more, by weight, of alcohol in her blood], in the criminal
22 proceeding entitled *The People of the State of California v. Diana Acevedo Selover* (Super. Ct.
23 Los Angeles County, 2007, No. **7PS02434**). The court sentenced Respondent to serve 120 days
24 in jail, placed her on probation for a period of 5 years, and fined her.

25 d. The circumstances surrounding the conviction are that on or about May 2, 2007, a
26 Pasadena Police Officer was dispatched to investigate a possible female driving under the
27 influence of an alcoholic beverage or drug. The officer arrived at the scene and found
28 Respondent asleep in the driver's seat, with the motor running. The officer turned off the engine

1 and smelled an odor of an alcoholic beverage emitting from Respondent's person. Respondent
2 admitted to the officer that she had consumed "4 little bottles of wine." The officer observed 4
3 bottles of wine in the front passenger floor area along with one empty pint can of "Busch" Ice
4 Beer on the rear passenger floor of the vehicle. Respondent agreed to a series of field sobriety
5 tests which she failed to complete satisfactorily. Respondent was subsequently given two (PAS)
6 Preliminary Alcohol Screening Device Tests with results of .26% BAC and .28% BAC.

7 **DRIVING WITH SUSPENDED LICENSE (2007)**

8 e. On or about May 8, 2007, after pleading *nolo contendere*, Respondent was convicted
9 of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving
10 while license suspended], in the criminal proceeding entitled *The People of the State of California*
11 *v. Diana Acevedo Selover* (Super. Ct. Los Angeles County, 2006, No. **6JB02202**). The court
12 sentenced Respondent to serve 5 days in jail, placed her on probation for a period of 3 years, and
13 fined her.

14 f. The circumstances surrounding the conviction are that on or about January 27, 2006,
15 a Glendora Police Department Officer, while on duty, during a routine traffic stop, stopped
16 Respondent for driving a vehicle with expired registration. Respondent admitted to the officer
17 that her license was suspended. Respondent handed the officer an expired California Driver's
18 License with her name on it. The officer further conducted a computer check which revealed that
19 Respondent had two outstanding warrants for her arrest. Respondent was subsequently placed
20 into custody for the warrants and convicted of violating Vehicle Code section 14601.1,
21 subdivision (a).

22 g. On April 20, 2010, Respondent was arrested for driving with a suspended license (a
23 violation of Vehicle Code §14601.1(A)) following a routine traffic stop. On or about April 20,
24 2010, the court determined that Respondent had violated her probation order, that Respondent had
25 failed to pay her fine and/or perform 15 days of Cal Trans service, and Respondent was sentenced
26 to serve 7 additional days in jail.

27 **DRIVING WITH SUSPENDED LICENSE (2005)**

28 h. On or about July 13, 2005, after pleading *guilty*, Respondent was convicted of one

1 misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving while
2 license suspended], in the criminal proceeding entitled *The People of the State of California v.*
3 *Diana Acevedo Selover* (Super. Ct. Los Angeles County, 2004, No. **4PM02037**). The court
4 sentenced Respondent to serve 5 days in jail, placed her on probation for a period of 3 years, and
5 fined her.

6 i. The circumstances surrounding the conviction are that on or about February 21, 2004,
7 Respondent drove a vehicle while her driving privilege was suspended or revoked in violation of
8 Vehicle Code section 14601.1, subdivision (a). On or about February 2, 2006, Respondent failed
9 to appear in court after written promise in violation of Penal Code section 853.7 and on April 20,
10 2010, in the West Covina Superior Court with Case No. 6JB02202, the court sentenced
11 Respondent to serve 7 days in jail.

12 **DRIVING UNDER THE INFLUENCE OF ALCOHOL (2005)**

13 j. On or about June 20, 2005, after pleading *nolo contendere*, Respondent was
14 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
15 [driving while having 0.08% or more, by weight, of alcohol in her blood], in the criminal
16 proceeding entitled *The People of the State of California v. Diana Acevedo Selover* (Super. Ct.
17 Los Angeles County, 2005, No. **5PA46652**). The court placed Respondent on probation for a
18 period of 3 years, and ordered her to complete a 3-month First-Offender Alcohol and Other Drug
19 Education and Counseling Program, and fined her.

20 k. The circumstances surrounding the conviction are that on or about June 19, 2005,
21 Arcadia Police Officers were dispatched to a residential intersection in the City of Arcadia, to
22 investigate a possible female driver under the influence of alcohol and/or drugs and being
23 detained by a witness. The female driver, later identified as Respondent, had been observed by a
24 witness driving her vehicle over a curb, and onto the lawn of a private residence. The witness had
25 taken the keys out of the ignition of Respondent's vehicle. The officer who contacted Respondent,
26 smelled a strong odor of an alcoholic beverage on her person, and observed Respondent to have
27 bloodshot eyes. Respondent admitted to the officers that she had consumed, "approximately 5
28 glasses of wine at home." Respondent repeatedly stated to the officers, "I'm a stupid sh_t head."

1 Respondent stated, that she “drank too much because she was upset with her ex-husband.”
2 Respondent agreed to a series of field sobriety tests which she failed to complete satisfactorily.
3 Respondent was subsequently given two (PAS) Preliminary Alcohol Screening Device Test with
4 results of .28% BAC and .29% BAC. Respondent was arrested for violating Vehicle Code
5 section 23152, subdivision (b) and charged with outstanding warrant and driving while having a
6 suspended license in violation of Vehicle Code section 14601.1, subdivision (a).

7 **DRIVING WITH SUSPENDED LICENSE (2001)**

8 l. On or about March 7, 2001, after pleading *guilty*, Respondent was convicted of one
9 misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving while
10 license suspended], in the criminal proceeding entitled *The People of the State of California v.*
11 *Diana Acevedo Selover* (Super. Ct. Los Angeles County, 2000, No. **0JM11114**). The court
12 placed Respondent on probation for a period of 2 years, and fined her.

13 m. The circumstances surrounding the conviction are that on or about November 23,
14 2000, Respondent did willfully and unlawfully drive a motor vehicle upon a highway at a time
15 when her driving privilege was suspended and revoked. Respondent was subsequently convicted
16 of violating Vehicle Code section 23152, subdivision (b).

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Self-Administration of Alcohol and/or Dangerous Drugs)**

19 11. Respondent is subject to disciplinary action under section 4992.3, subdivision (c), in
20 that Respondent was convicted of crimes on May 11, 2007 and June 20, 2005, that involved use
21 of an alcoholic beverage and/or drug to the extent, or in a manner, as to be dangerous or injurious
22 to herself, or to any other person, or to the public, to the extent that the use impairs the ability of
23 the person applying for or holding a registration or license to conduct with safety to the public the
24 practice authorized by the license. Complainant refers to, and by this reference incorporates, the
25 allegations set forth above in paragraph 10, above, as though set forth fully.

26 **THIRD CAUSE FOR DISCIPLINE**

27 **(Dishonest Acts)**

28 12. Respondent is subject to disciplinary action under section 4992.3, subdivision (k), in

1 that Respondent knowingly made false statements in at least three (3) renewal applications filed
2 with the Board for renewal of her Licensed Clinical Social Worker License, in which she failed to
3 disclose or make reference to her multiple convictions on May 11, 2007, May 8, 2007, July 13,
4 2005, June 20, 2005, and March 7, 2001, described in paragraph 10 above, as follows:

5 a. **Conviction Question** - The renewal form includes the question: Have you been
6 convicted of or pled nolo contendere to a misdemeanor or felony, or have you had any
7 disciplinary action ...in this or any other state subsequent to your last renewal. The form has
8 boxes allowing the applicant to check "YES" or "NO" to the question.

9 b. **Penalty of Perjury** – The conviction question is included in a section of the renewal
10 form which concludes with the statement "I certify under penalty of perjury under the laws of the
11 state of California that the foregoing information is true and correct." – above a space for the
12 renewal applicant to sign and date (execute) the certification.

13 c. **Renewal application – November 10, 2007**

14 In the renewal application executed by Respondent 11/10/2007, Respondent checked "No"
15 in response to the conviction question.

16 d. **Renewal application – March 28, 2007**

17 In the renewal application executed by Respondent 3/28/07, Respondent did not check
18 either "yes" or "no" in response to the conviction question.

19 e. **Renewal application – December 1, 2005**

20 In the renewal application, executed by Respondent 12/1/05, Respondent checked "No" in
21 response to the conviction question.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct-Failure to Notify Board of Convictions on Renewal)**

24 13. Respondent is subject to disciplinary action under section 4992.3, subdivision (f), in
25 that Respondent committed acts and was convicted of crimes that violated the Licensed Clinical
26 Social Worker License Act on May 11, 2007, May 8, 2007, July 13, 2005, June 20, 2005, and
27 March 7, 2001. Complainant refers to, and by this reference incorporates, the allegations set
28 forth above in paragraphs 10 through 12 above as though set forth fully.

1 FIFTH CAUSE FOR DISCIPLINE

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

3 14. Respondent is subject to disciplinary action under section 4992.3, subdivision (f), in
4 conjunction with section 4996.6 subdivision "(b)", section "(4)", in that for renewal applications
5 filed November 10, 2007, March 28, 2007 and December 1, 2005, Respondent failed to comply
6 with statutory notice requirements set forth in section 4996.6 (b)(4) in that she failed to disclose
7 criminal convictions occurring since the last prior license renewal. Complainant refers to, and by
8 this reference incorporates, the allegations set forth above in paragraphs 10 and 12 above, as
9 though set forth fully.

10 PRAYER

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

- 13 1. Revoking or suspending Licensed Clinical Social Worker License No. LCS 9578,
14 issued to Diana Acevedo Selover;
- 15 2. Ordering Diana Acevedo Selover to pay the Board the reasonable costs of the
16 investigation and enforcement of this case, pursuant to Business and Professions Code section
17 125.3; and
- 18 3. Taking such other and further action as deemed necessary and proper.

19
20 DATED: April 11, 2013



21 KIM MADSEN
22 Executive Officer
23 Board of Behavioral Sciences
24 Department of Consumer Affairs
25 State of California
26 Complainant

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