

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

In the Matter of the Accusation Against:

ERIC F. ONTIVEROS
P.O. Box 13013
San Bernardino, CA 92423

Associate Clinical Social Worker
Registration No. ASW 34342

Respondent.

Case No. 200-2014-000257

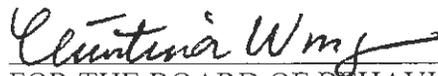
OAH No. 2015040905

DECISION AND ORDER

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

This Decision shall become effective on September 4, 2015.

It is so ORDERED August 5, 2015.



FOR THE BOARD OF BEHAVIORAL SCIENCES,
DEPARTMENT OF CONSUMER AFFAIRS.

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 ELYSE M. DAVIDSON
Deputy Attorney General
4 State Bar No. 285842
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2533
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

12 **ERIC F. ONTIVEROS**
13 **P.O. Box 13013**
San Bernardino, CA 92423

14 **Associate Clinical Social Worker**
15 **Registration No. ASW 34342**

16 Respondent.

Case No. 200-2014-000257

OAH No. 2015040905

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kim Madsen ("Complainant") is the Executive Officer of the Board of Behavioral
22 Sciences ("Board"). She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Elyse M.
24 Davidson, Deputy Attorney General.

25 2. Respondent Eric F. Ontiveros ("Respondent") is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that the Associate Clinical Social Worker Registration No.
3 ASW 34342 issued to Respondent Eric F. Ontiveros, is revoked. However, the revocation is stayed
4 and Respondent is placed on probation for five (5) years on the following terms and conditions.
5 Probation shall continue on the same terms and conditions if respondent is granted a subsequent
6 registration, becomes licensed, or is granted another registration or license regulated by the Board
7 during the probationary period.

8 1. **Psychotherapy**

9 Respondent shall participate in ongoing psychotherapy with a California licensed mental
10 health professional who has been approved by the Board. Within 15 days of the effective date of
11 this decision, respondent shall submit to the Board or its designee for its prior approval the name
12 and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a
13 valid California license to practice and shall have had no prior business, professional, or personal
14 relationship with respondent, and shall not be the respondent's supervisor. Counseling shall be at
15 least once a week unless otherwise determined by the Board. Respondent shall continue in such
16 therapy at the Board's discretion. Cost of such therapy is to be borne by respondent.

17 Respondent may, after receiving the Board's written permission, receive therapy via
18 videoconferencing if respondent's good faith attempts to secure face-to-face counseling are
19 unsuccessful due to the unavailability of qualified mental health care professionals in the area.
20 The Board may require that respondent provide written documentation of his good faith attempts
21 to secure counseling via videoconferencing.

22 Respondent shall provide the therapist with a copy of the Board's decision no later than the
23 first counseling session. Upon approval by the Board, respondent shall undergo and continue
24 treatment until the Board or its designee determines that no further psychotherapy is necessary.

25 Respondent shall take all necessary steps to ensure that the treating psychotherapist submits
26 quarterly written reports to the Board concerning respondent's fitness to practice, progress in
27 treatment, and to provide such other information as may be required by the Board. Respondent
28 shall execute a Release of Information authorizing the therapist to divulge information to the

1 Board.

2 If the treating psychotherapist finds that respondent cannot practice safely or independently,
3 the psychotherapist shall notify the Board within three (3) working days. Upon notification by
4 the Board, respondent shall immediately cease practice and shall not resume practice until
5 notified by the Board or its designee that respondent may do so. Respondent shall not thereafter
6 engage in any practice for which a registration issued by the Board is required until the Board or
7 its designee has notified respondent that he may resume practice. Respondent shall document
8 compliance with this condition in the manner required by the Board.

9 **2. Relapse Prevention Program**

10 Within fifteen (15) days from the effective date of the decision, respondent shall submit to
11 the Board or its designee for prior approval the name of one or more program(s) for relapse
12 prevention. Respondent shall enter a relapse prevention program within fifteen (15) days after
13 notification of the board's approval of such program. Respondent shall successfully complete
14 such treatment contract as may be recommended by the program and approved by the Board or its
15 designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance
16 with this term of probation. Respondent shall sign a release allowing the program to release to
17 the Board all information the Board deems relevant. The respondent shall take all necessary steps
18 to ensure that the relapse prevention program submits quarterly written reports to the Board
19 addressing the respondent's treatment and progress in the program.

20 Components of the treatment contract shall be relevant to the violation and to the
21 respondent's current status in recovery or rehabilitation. The components may include, but are
22 not limited to: restrictions on practice and work setting, random biological fluid testing,
23 abstention from drugs and alcohol, use of worksite monitors, participation in chemical
24 dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric
25 evaluations, and other appropriate relapse prevention program(s). All costs of participating in the
26 program(s) shall be borne by the respondent.

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1 **3. Attend Dependency Support Program**

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

6 **4. Abstain from Controlled Substances / Submit to Biological Fluid Testing and**
7 **Samples**

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

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

14 **5. Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples**

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

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

21 **6. Obey All Laws**

22 Respondent shall obey all federal, state and local laws, all statutes and regulations
23 governing the licensee, and remain in full compliance with any court ordered criminal probation,
24 payments and other orders. A full and detailed account of any and all violations of law shall be
25 reported by the respondent to the Board or its designee in writing within seventy-two (72) hours
26 of occurrence. To permit monitoring of compliance with this term, respondent shall submit
27 fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days
28 of the effective date of the decision, unless previously submitted as part of the licensure

1 application process. Respondent shall pay the cost associated with the fingerprint process.

2 **7. File Quarterly Reports**

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

8 **8. Comply with Probation Program**

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

12 **9. Interviews with the Board**

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

15 **10. Failure to Practice**

16 In the event respondent stops practicing in California, respondent shall notify the Board or
17 its designee in writing within 30 calendar days prior to the dates of non-practice and return to
18 practice. Non-practice is defined as any period of time exceeding thirty calendar days in which
19 respondent is not engaging in any activities defined in Sections 4980.02, 4989.14, 4996.9, or
20 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this
21 condition, will not apply to the reduction of the probationary term and will relieve respondent of
22 the responsibility to comply with the probationary terms and conditions with the exception of this
23 condition and the following terms and conditions of probation: Obey All Laws; File Quarterly
24 Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost
25 Recovery. Respondent's license/registration shall be automatically cancelled if respondent's
26 period of non-practice total two years.

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1 **11. Change of Place of Employment or Place of Residence**

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

5 **12. Supervision of Unlicensed Persons**

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

9 **13. Notification to Clients**

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

15 **14. Notification to Employer**

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

22 **15. Violation of Probation**

23 If respondent violates the conditions of his probation, the Board, after giving respondent
24 notice and the opportunity to be heard, may set aside the stay order and impose the discipline
25 (revocation/suspension) of respondent's registration provided in the decision.

26 If during the period of probation, an accusation, petition to revoke probation, or statement
27 of issues has been filed against respondent's registration or application for licensure, or the
28 Attorney General's office has been requested to prepare such an accusation, petition to revoke

1 probation, or statement of issues, the probation period set forth in this decision shall be
2 automatically extended and shall not expire until the accusation, petition to revoke probation, or
3 statement of issues has been acted upon by the board. Upon successful completion of probation,
4 respondent's registration/license shall be fully restored.

5 **16. Maintain Valid Registration/License**

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

11 **17. Registration/License Surrender**

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

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

1 **18. Instruction of Coursework Qualifying for Continuing Education**

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

4 **19. Notification to Referral Services**

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

9 **20. Reimbursement of Probation Program**

10 Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to
11 ensure compliance for the duration of the probation period. Reimbursement costs shall be
12 \$1,200.00 per year.

13 **21. Cost Recovery**

14 Respondent shall pay the Board \$2,405.00 as and for the reasonable costs of the
15 investigation and prosecution of Case No. 200-2014-000257. Respondent shall make payments
16 pursuant to a payment plan outlined by the Board. Respondent shall make the check or money
17 order payable to the Board of Behavioral Sciences and shall indicate on the check or money order
18 that it is the cost recovery payment for Case No. 200-2014-000257. Any order for payment of
19 cost recovery shall remain in effect whether or not probation is tolled. Probation shall not
20 terminate until full payment has been made. Should any part of cost recovery not be paid in
21 accordance with the outlined payment schedule, respondent shall be considered to be in violation
22 of probation. A period of non-practice by respondent shall not relieve respondent of his
23 obligation to reimburse the board for its costs.

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

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Behavioral Science.

Dated: 06/22/2015

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General


ELYSE M. DAVIDSON
Deputy Attorney General
Attorneys for Complainant

LA2015500001
Proposed Stipulated Settlement and Disciplinary Order.docx
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Exhibit A

Accusation No. 200-2014-000257

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 ELYSE M. DAVIDSON
Deputy Attorney General
4 State Bar No. 285842
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2533
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 200-2014-000257

12 **ERIC FRANCISCO ONTIVEROS**
13 P.O. Box 13013
San Bernardino, CA 92423

A C C U S A T I O N

14 Associate Clinical Social Worker Registration
15 No. ASW 34342

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 ("Board"), Department of Consumer
22 Affairs.

23 2. On or about October 10, 2012, the Board issued Associate Clinical Social Worker
24 Registration No. ASW 34342 to Eric Francisco Ontiveros ("Respondent"). The Associate
25 Clinical Social Worker Registration was in full force and effect at all times relevant to the charges
26 brought herein and will expire on October 31, 2015, unless renewed.

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

7. Section 4996.11 states:

"The 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."

COST RECOVERY

8. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Convictions of Substantially Related Crimes)

3 9. Respondent is subject to disciplinary action under sections 4992.3, subdivision (a)
4 and 490, in that Respondent was convicted of a crimes substantially related to the qualifications,
5 functions, or duties of an associate clinical social worker, as follows:

6 a. On or about August 27, 2014, Respondent was convicted of one misdemeanor count
7 of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by
8 weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the State of*
9 *California v. Eric Francisco Ontiveros* (Super. Ct. San Bernardino County, 2014, No.
10 TSB1400772). The Court sentenced Respondent to serve two days in San Bernardino County Jail
11 and placed him on 36 months probation, with terms and conditions.

12 b. The circumstances surrounding the conviction are that on or about November 22,
13 2013, San Bernardino Police and fire personnel responded to a call of a traffic collision involving
14 a possible drunk driver. Respondent informed the fire personnel at the scene that he was not in
15 possession of his driver's license because he had been arrested the previous night in the County of
16 San Diego and that all he had was a booking sheet. While speaking to Respondent, the officer
17 could smell a strong odor of an alcoholic beverage coming from his breath and person. When
18 asked if he had been drinking he replied, "A few." When asked "A few of what?" he said,
19 "beers." Respondent was observed to have droopy eyelids and was slightly lethargic in answering
20 the questions. Respondent was asked to exit the vehicle, and when he did, Respondent was not
21 wearing any pants. The officer asked Respondent what he had done with his pants and
22 Respondent indicated that they were in his vehicle. The officer was unable to locate the pants in
23 the vehicle. While the officer was retrieving the paperwork from inside the vehicle, Respondent
24 attempted to drink another alcoholic beverage form a container that was inside the vehicle.
25 Respondent submitted to a series of field sobriety test which he was unable to successfully
26 perform. During the booking procedure, Respondent submitted to a blood test that resulted in a
27 blood alcohol content level of 0.22%.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Convictions of Substantially Related Crimes)

3 10. Respondent is subject to disciplinary action under sections 4992.3, subdivision (a)
4 and 490, in that Respondent was convicted of a crimes substantially related to the qualifications,
5 functions, or duties of an associate clinical social worker, as follows:

6 a. On or about June 20, 2014, after pleading guilty, Respondent was convicted of one
7 misdemeanor count of violating Penal Code section 647, subdivision (f) [public intoxication] in
8 the criminal proceeding entitled *The People of the State of California v. Eric Francisco*
9 *Ontiveros* (Super. Ct. San Diego County, 2014, No. M181816). The Court placed Respondent on
10 three years probation, with terms and conditions.

11 b. The circumstances surrounding the conviction are that on or about November 21,
12 2013, a California Highway Patrol Officer responded to a call of a traffic collision. When the
13 officer arrived on the scene, Respondent was identified as the pedestrian who had caused one of
14 the vehicles in the collision to stop on the freeway. When asked if he knew where he was,
15 Respondent replied that he was on his way from Riverside for a concert in San Bernardino.
16 Respondent admitted to consuming some alcohol earlier in the evening. When asked why he was
17 walking in the traffic lanes of the freeway, Respondent denied walking in the traffic lanes. He
18 told the officer he was driving a black car. Respondent stated he had pulled over and that his car
19 was further down the road. The officer was unable to locate Respondent's vehicle. Respondent
20 was observed to have an unsteady gait when he walked, an odor of an alcoholic beverage emitting
21 from his breath, red and watery eyes, and slurred speech. Based on the observations made by the
22 officer it was determined that Respondent was unable to properly take care of himself.

23 THIRD CAUSE FOR DISCIPLINE

24 (Dangerous Use of Alcohol)

25 11. Respondent is subject to disciplinary action under section 4992.3, subdivision (c), on
26 the grounds of unprofessional conduct, in that on or about November 21, 2013 and November 22,
27 2013, Respondent used alcohol to an extent or in a manner dangerous or injurious to himself, any

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1 person, or the public. Complainant refers to, and by this reference incorporates, the allegations set
2 forth above in paragraphs 9 and 10, inclusive, as though set forth fully.

3 PRAYER

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

- 6 1. Revoking or suspending Associate Clinical Social Worker Registration No. ASW
7 34342, issued to Eric Francisco Ontiveros;
- 8 2. Ordering Eric Francisco Ontiveros to pay the Board the reasonable costs of the
9 investigation and enforcement of this case, pursuant to section 125.3; and
- 10 3. Taking such other and further action as deemed necessary and proper.

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13 DATED: March 27, 2015



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

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