

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

In the Matter of the Accusation Against:

DAVID ALOYSIUS MCGUIRE
11340 W. Olympic Blvd. (STE 207)
Los Angeles, CA 90064-1612
Marriage and Family Therapist License No.
MFC 45136

Respondent.

Case No. MF-2013-1929

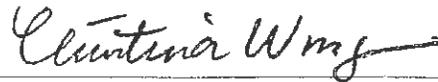
OAH No. 2014090602

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 July 15, 2015.

It is so ORDERED June 15, 2015.



FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 MARC GREENBAUM
Supervising Deputy Attorney General
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Attorneys for Complainant
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8 **BEFORE THE**
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

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11 **DAVID ALOYSIUS MCGUIRE**
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13 **Marriage and Family Therapist License No.**
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Respondent.

Case No. MF-2013-1929

OAH No. 2014090602

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15
16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

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

24 2. Respondent David Aloysius McGuire ("Respondent") is represented in this
25 proceeding by attorney Scott J. Harris, Esq., whose address is: 8383 Wilshire Blvd., Suite 830
26 Beverly Hills, CA 90211.

27 3. On or about November 30, 2007, the Board of Behavioral Sciences issued Marriage
28 and Family Therapist License No. MFC 45136 to Respondent. The Marriage and Family

1 Therapist License was in full force and effect at all times relevant to the charges brought in
2 Accusation No. MF-2013-1929 and will expire on October 31, 2015, unless renewed.

3 JURISDICTION

4 4. Accusation No. MF-2013-1929 was filed before the Board of Behavioral Sciences
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 July 14, 2015. Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. MF-2013-1929 is attached as exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. MF-2013-1929. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 his own expense; the right to confront and cross-examine the witnesses against him; the right to
18 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
19 the attendance of witnesses and the production of documents; the right to reconsideration and
20 court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 9. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. MF-2013-1929.

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Marriage and Family Therapist License No. MFC 45136 issued to Respondent David Aloysius McGuire (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted another registration or license regulated by the Board.

1. Psychological / Psychiatric Evaluation

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

Such evaluator shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a counselor and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

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

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

1 2. **Psychotherapy**

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

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

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

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

24 If the treating psychotherapist finds that respondent cannot practice safely or independently,
25 the psychotherapist shall notify the Board within three (3) working days. Upon notification by
26 the Board, respondent shall immediately cease practice and shall not resume practice until
27 notified by the Board or its designee that respondent may do so. Respondent shall not thereafter
28 engage in any practice for which a license issued by the Board is required until the Board or its

1 designee has notified respondent that he may resume practice. Respondent shall document
2 compliance with this condition in the manner required by the Board.

3 **3. Education**

4 Respondent shall take and successfully complete the equivalency of two semester units in:
5 domestic violence. All course work shall be taken at the graduate level at an accredited or
6 approved educational institution that offers a qualifying degree for licensure as a marriage and
7 family therapist, clinical social worker, educational psychologist, or professional clinical
8 counselor or through a course approved by the Board. Classroom attendance must be specifically
9 required. Course content shall be pertinent to the violation and all course work must be completed
10 within one year from the effective date of this Decision.

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

15 **4. Obey All Laws**

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

24 **5. File Quarterly Reports**

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

1 shall continue to submit quarterly reports under penalty of perjury.

2 **6. Comply with Probation Program**

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

6 **7. Interviews with the Board**

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

9 **8. Failure to Practice**

10 In the event respondent stops practicing in California, respondent shall notify the Board or
11 its designee in writing within 30 calendar days prior to the dates of non-practice and return to
12 practice. Non-practice is defined as any period of time exceeding thirty calendar days in which
13 respondent is not engaging in any activities defined in Sections 4980.02, 4989.14, 4996.9, or
14 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this
15 condition, will not apply to the reduction of the probationary term and will relieve respondent of
16 the responsibility to comply with the probationary terms and conditions with the exception of this
17 condition and the following terms and conditions of probation: Obey All Laws; File Quarterly
18 Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost
19 Recovery. Respondent's license/registration shall be automatically cancelled if respondent's
20 period of non-practice total two years.

21 **9. Change of Place of Employment or Place of Residence**

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

25 **10. Supervision of Unlicensed Persons**

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

1 **11. Notification to Clients**

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

7 **12. Notification to Employer**

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

14 **13. Violation of Probation**

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

18 If during the period of probation, an accusation, petition to revoke probation, or statement
19 of issues has been filed against respondent's license or application for licensure, or the Attorney
20 General's office has been requested to prepare such an accusation, petition to revoke probation, or
21 statement of issues, the probation period set forth in this decision shall be automatically extended
22 and shall not expire until the accusation, petition to revoke probation, or statement of issues has
23 been acted upon by the board. Upon successful completion of probation, respondent's license
24 shall be fully restored.

25 **14. Maintain Valid License**

26 Respondent shall, at all times while on probation, maintain a current and active license with
27 the Board, including any period during which suspension or probation is tolled. Should
28 respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license

1 shall be subject to any and all terms of this probation not previously satisfied.

2 **15. License Surrender**

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

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

20 **16. Instruction of Coursework Qualifying for Continuing Education**

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

23 **17. Notification to Referral Services**

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

28

1 18. Reimbursement of Probation Program

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

5 19. Cost Recovery

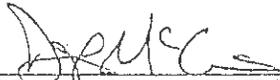
6 Respondent shall pay the Board \$1,992 as and for the reasonable costs of the investigation
7 and prosecution of Case No. MF-2013-1929. Respondent shall make payments pursuant to a
8 payment plan approved by the Board. Respondent shall make the check or money order payable
9 to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the
10 cost recovery payment for Case No. MF-2013-1929. Any order for payment of cost recovery
11 shall remain in effect whether or not probation is tolled. Probation shall not terminate until full
12 payment has been made. Should any part of cost recovery not be paid in accordance with the
13 outlined payment schedule, respondent shall be considered to be in violation of probation. A
14 period of non-practice by respondent shall not relieve respondent of his obligation to reimburse
15 the board for its costs.

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

19 ACCEPTANCE

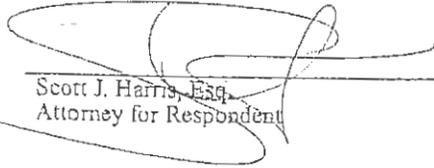
20 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
21 discussed it with my attorney, Scott J. Harris, Esq.. I understand the stipulation and the effect it
22 will have on my Marriage and Family Therapist License. I enter into this Stipulated Settlement
23 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
24 Decision and Order of the Board of Behavioral Sciences.

25
26 DATED: March 17, 2015


27 DAVID ALOYSIUS MCGUIRE
Respondent

1 I have read and fully discussed with Respondent David Aloysius McGuire the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I agree to its form and content.

4 DATE: 3.23.15


5 Scott J. Harris, Esq.
6 Attorney for Respondent

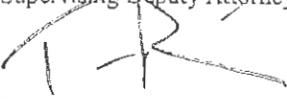
7 ENDORSEMENT

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

10 Date: 5-4-2015

11 Respectfully submitted,

12 KAMALA D. HARRIS
13 Attorney General of California
14 MARC GREENBAUM
15 Supervising Deputy Attorney General


16 THOMAS L. RINALDI
17 Supervising Deputy Attorney General
18 Attorneys for Complainant

19 LA201491.000
20 5/7/15/MS/tee

Exhibit A

Accusation No. MF-2013-1929

1 KAMALA D. HARRIS
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2 LINDA L. SUN
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8 **BEFORE THE**
9 **BOARD OF BEHAVIORAL SCIENCES**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. MF-2013-1929

13 **DAVID ALOYSIUS MCGUIRE**
11340 W. Olympic Blvd., Suite 207
Los Angeles, CA 90064-1612

A C C U S A T I O N

14 Marriage and Family Therapist License No.
MFC 45136

15 Respondent.
16

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On November 30, 2007, the Board issued Marriage and Family Therapist License No.
24 MFC 45136 to David Aloysius McGuire (Respondent). The Marriage and Family Therapist
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on October 31, 2015, unless renewed.

27 ///

28 ///

1 JURISDICTION

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

4 STATUTORY PROVISIONS

5 4. Business and Professions Code section 118, subdivision (b),¹ provides that the
6 suspension, expiration, surrender or cancellation of a license shall not deprive the Board of
7 jurisdiction to proceed with a disciplinary action during the period within which the license may
8 be renewed, restored, reissued or reinstated.

9 5. Section 490 provides that a board may suspend or revoke a license on the ground that
10 the licensee has been convicted of a crime substantially related to the qualifications, functions, or
11 duties of the business or profession for which the license was issued.

12 6. Section 4982 states, in pertinent part:

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

16 (a) The conviction of a crime substantially related to the qualifications,
17 functions, or duties of a licensee or registrant under this chapter. The record of
18 conviction shall be conclusive evidence only of the fact that the conviction occurred.
19 The board may inquire into the circumstances surrounding the commission of the
20 crime in order to fix the degree of discipline or to determine if the conviction is
21 substantially related to the qualifications, functions, or duties of a licensee or
22 registrant under this chapter. A plea or verdict of guilty or a conviction following a
23 plea of nolo contendere made to a charge substantially related to the qualifications,
24 functions, or duties of a licensee or registrant under this chapter shall be deemed to be
25 a conviction within the meaning of this section. The board may order any license or
26 registration suspended or revoked, or may decline to issue a license or registration
27 when the time for appeal has elapsed, or the judgment of conviction has been affirmed
28 on appeal, or, when an order granting probation is made suspending the imposition of
sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code
allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or
setting aside the verdict of guilty, or dismissing the accusation, information, or
indictment.

25 ///

27 ¹ All further statutory references are to the Business and Professions Code unless
28 otherwise indicated.

1 **REGULATORY PROVISION**

2 7. California Code of Regulations, title 16, section 1812, provides:

3 For purposes of denial, suspension, or revocation of a license or
4 registration pursuant to Division 1.5 (commencing with Section 475) of the Code, a
5 crime or act shall be considered to be substantially related to the qualifications,
6 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.

7 **COST RECOVERY**

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

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of a Substantially Related Crime)**

13 9. Respondent is subject to disciplinary action under Sections 490 and 4982,
14 subdivision (a), in conjunction with California Code of Regulations, title 16, section 1812, in that
15 Respondent was convicted of a crime substantially related to the qualifications, functions, or
16 duties of a licensee, as follows: On June 4, 2013, in *People v. David Aloysius McGuire* (Super.
17 Ct., Torrance Dist., L.A. County, 2013, No. 3SY02001), Respondent was convicted of one count
18 of battery (Pen. Code, § 242), a misdemeanor. The court placed Respondent on three years
19 probation with standard terms and conditions of domestic violence probation and also ordered
20 Respondent to complete eight hours of community service. The conviction was based on the
21 allegation that on or about March 8, 2013, during an argument with his girlfriend, Respondent
22 threw or shoved his girlfriend into a wall causing her to hit the wall and fall. Respondent pushed
23 his girlfriend onto the bed and began to choke her. Respondent released his grip for a short time
24 before choking her again. Respondent released his grip then left the residence. An officer from
25 the Torrance Police Department responded to the scene and observed slight bruising and redness
26 to the girlfriend's neck.

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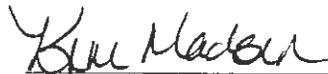
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PRAYER

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

1. Revoking or suspending Marriage and Family Therapist License No. MFC 45136, issued to David Aloysius McGuire;
2. Ordering David Aloysius McGuire to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: June 25, 2014



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

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