

IN THE MATTER OF	*	BEFORE THE MARYLAND
BETH ANNE HARDY, LDN	*	STATE BOARD OF
Respondent	*	DIETETIC PRACTICE
License Number: DX2644	*	Case Number: 14-013

* * * * *

CONSENT ORDER

On August 14, 2014, the Maryland State Board of Dietetic Practice (the "Board") charged **BETH ANNE HARDY, LDN** (the "Respondent"), License Number DX2644, with violating the Maryland Licensed Dietetic-Nutritionists Act (the "Act"), Md. Code Ann., Health Occ. ("Health Occ."), §§ 5-101 *et seq.* (2009 Repl. Vol.).

Specifically, the Board charged the Respondent with violating the following provisions of the Act under Health Occ. § 5-311:

Subject to the hearing provisions of § 5-312 of this subtitle, the Board on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

- (3) Violates any provision of this title or any regulations adopted under this title;
- (10) Commits any act of unprofessional conduct, as defined by the rules and regulations of the Board, or violates the code of ethics adopted by the Board; [and]
- (11) Provide professional services while: (i) under the influence of alcohol.

The underlying grounds for violation under Health Occ. § 5-311(3) and (10) included violation of Md. Code Regs. ("COMAR") 10.56.03.04 which states:

.04 Professional Representation and Responsibilities.

- A. A LD or LN may not:

- (6) Abuse alcohol or drugs in any manner which detrimentally affects the provision of dietetic services.

On October 21, 2014, a Case Resolution Conference was held before a panel of the Board. At the conclusion of the conference, the Respondent agreed to enter into this public Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

BACKGROUND

1. At all times relevant hereto, the Respondent was and is licensed to practice dietetics in the State of Maryland. The Respondent was originally licensed to practice dietetics in Maryland on November 16, 2006, under License Number DX2644. The Respondent's license is current until October 31, 2014.

2. At all times relevant hereto, the Respondent was employed as a licensed dietitian-nutritionist at an assisted living and long/short term care facility ("Facility A")¹ in Maryland. Facility A terminated the Respondent's employment on or about March 27, 2014.

3. The Board initiated an investigation of the Respondent after receiving information from Facility A on or about April 16, 2014, that the Respondent's employment was terminated for reporting to work under the influence of alcohol.

4. The results of the Board's investigation are set forth below.

¹ To ensure confidentiality, the names of individuals, patients and facilities involved in this case are not disclosed in this document.

BOARD'S INVESTIGATION

5. On or about March 17, 2014, the Respondent reported for work at Facility A, during which she accompanied an intern to the human resources department ("HR") at Facility A so that the intern could obtain an identification badge.

6. While at the HR Department, the Respondent spoke to an HR staff member, who smelled alcohol emitting from the Respondent's breath. As a result, the Respondent was referred to Facility A's employee health division for an urine test and subsequently to an affiliated clinic ("Clinic A") for blood alcohol testing.

7. On or about March 27, 2014, Clinic A reported to Facility A that the Respondent's blood alcohol test result was positive, at which time Facility A terminated the Respondent's employment.

8. In a letter to the Board, which it received on April 21, 2014, and during a Board interview on or about June 10, 2014, the Respondent admitted that she reported to work at Facility A on March 17, 2014, while under the influence of alcohol. She stated that the night before the incident, she woke up in a panic and drank half a glass of wine to help her sleep.

9. The Respondent's use of alcohol was apparently related to her increased anxiety and depression arising from the Respondent's father's untimely death and matters relating thereto.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's actions, including reporting to work as a dietitian-nutritionist at Facility A on or about March 17, 2014, while under the influence of alcohol, constitute:

violating any provision of Title 5 of the Health Occupations Article or any regulations adopted under that title, in violation of Health Occ. § 5-311(3), e.g. COMAR 10.56.03.04A(6); committing any act of unprofessional conduct as defined by the rules and regulations of the Board, or violating the code of ethics adopted by the Board, in violation of Health Occ. § 5-311(10); and providing professional services while under the influence of alcohol, in violation of Health Occ. § 5-311(11).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by a majority of the Board considering this case:

ORDERED that the Respondent be and hereby is **REPRIMANDED**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum period of **TWO (2) YEARS**, to commence on the date the Board executes this Consent Order, and continuing until such time as she has completed the following terms and conditions:

- 1) Board Dietetic Rehabilitation Committee
 - a) Within **fifteen (15) days** of the date the Board executes this Consent Order, the Respondent shall enroll with and fully, timely and satisfactorily cooperate and comply with all recommendations and requirements from the Board Dietetic Rehabilitation Committee ("DRC"), which enrollment shall be effective for the entire duration of the probationary period and must include at the very least the following requirements:
 - i) The Respondent shall totally abstain from alcohol and the abusive use of any drug;
 - ii) The Respondent shall be subject to periodic alcohol and substance abuse evaluations by a Board-approved licensed professional in behavioral health at the Respondent's own expense;

- iii) The Respondent shall be subject to periodic randomized alcohol and drug screening at the Respondent's own expense, the frequency of which to be approved by the Board;
- iv) The Respondent shall enroll in a Board-approved alcohol and drug treatment program or counseling sessions with a Board-approved licensed professional in behavioral health;
- v) The Respondent's treatment provider or counselor shall submit quarterly reports to the Board/DRC summarizing the Respondent's treatment sessions, including but not limited to, his or her assessment of the Respondent's progress and the results of any alcohol or drug screens. The Respondent is solely responsible for ensuring that the treatment provider or counselor submits the required quarterly reports to the Board/DRC in a timely manner;
- vi) The Board retains sole authority to implement or approve any changes in the Respondent's treatment; and
- vii) The Respondent's failure to comply with the recommendations or requirements of the DRC shall be deemed a violation of this Consent Order.

2) Release

- a) The Respondent shall sign a release to ensure that the Board has the ability to receive any and all treatment records from any alcohol or substance abuse treatment program(s) she attended or may attend and all medical records.
- 3) The Respondent shall comply with the Maryland Licensed Dietetic-Nutritionists Act and all laws, statutes and regulations pertaining thereof.
- 4) Any non-compliance with the recommendations and requirements of the DRC shall be deemed a violation of her probation and of this Consent Order.

AND IT IS FURTHER ORDERED that after the conclusion of the **TWO (2) YEAR** probationary period, the Respondent may submit a written petition to the Board requesting termination of probation. After consideration of the petition, the probation may be terminated, through an order of the Board, or a designated Board committee.


The Board, or designated Board committee, will grant the termination if the Respondent has fully and satisfactorily complied with all of the probationary terms and conditions and there are no pending complaints related to the charges; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing if there is a genuine dispute as to the underlying facts, or an opportunity for a show cause hearing, before the Board otherwise, may impose any sanction which the Board may have imposed in this case, including probationary terms and conditions, a reprimand, suspension, revocation and/or a monetary penalty; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., State Gov't, §§ 10-611 *et seq.* (2009 Repl. Vol.).

11/20/14
Date _____



Melanie A. Brooks, R.D., L.D.N.
Board Chair
Maryland State Board of Dietetic Practice

CONSENT

I, Beth Anne Hardy, LDN, acknowledge that I am represented by counsel and have consulted with counsel before entering into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions. I acknowledge the violations as set forth above and accept personal responsibility for my behavior.

I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by the law. I agree to forego my opportunity to challenge these allegations. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I affirm that I am waiving my right to appeal any adverse ruling of the Board that might have followed after any such hearing.

I sign this Consent Order, voluntarily and without reservation, after having an opportunity to consult with counsel, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

11/13/14
Date

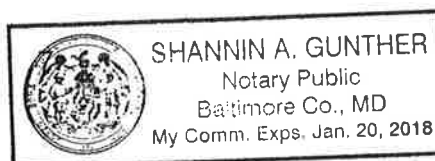
Beth Hardy
Beth Anne Hardy, LDN

NOTARY

STATE OF Maryland
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 13th day of November, 2014, before me, a Notary Public of the foregoing State and City/County personally appear Beth Anne Hardy, LDN, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed.

AS WITNESSETH my hand and notary seal.



Shannin Guther
Notary Public

My commission expires: 1/20/2018