

IN THE MATTER OF	*	BEFORE THE STATE BOARD
LINDSEY S. DANIELS, PSY. D.	*	OF EXAMINERS OF
Respondent	*	PSYCHOLOGISTS
License Number: 03627	*	Case No. 2018-0009

CONSENT ORDER

On June 29, 2018, the Maryland State Board of Examiners of Psychologists (the “Board”) charged Lindsey S. Daniels, Psy. D., (the “Respondent”), License Number 03627, with violating the Maryland Psychologists Act (the “Act”), Md. Code Ann., Health Occ. § 18-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.).

The pertinent provisions of the Act provide the following:

Subject to the hearing provision of § 18-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or registration to any applicant, reprimand any licensee or registrant, place any licensee or registrant on probation, or suspend or revoke a license or registration of any licensee or registrant if the applicant, licensee, or registrant:

...

- (2) Fraudulently or deceptively uses a license or registration;
- (3) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

...

- (9) submits a false statement to collect a fee;
- (10) Willfully makes or files a false report or record in the practice of psychology;

...

(20) Does an act that is inconsistent with generally accepted professional standards in the practice of psychology[.]

On October 10, 2018, the parties convened before a committee of the Board for a Case Resolution Conference. As a result of negotiations, the Board and the parties agreed to the following Consent Order consisting of Findings of Fact, Conclusions of Law, Order, and Notarized Consent.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. Background

1. At all times relevant to the charges, the Respondent was and is licensed to practice psychology in the State of Maryland.
2. The Respondent initially obtained her license to practice psychology on June 8, 2001. The Respondent's current license will expire on March 31, 2019.
3. Since 2006, the Respondent has maintained an office at 711 W. 40th Street, Baltimore, Maryland, for the private practice of psychology, specializing in individual psychotherapy and psycho-educational assessment.

II. Complaint

4. On April 27, 2018, the Office of the Inspector General ("OIG") of the Maryland Department of Health, notified the Board that the Respondent pled guilty to felony Medicaid Fraud.
5. On May 4, 2018, the Board generated a complaint based on the information received from the OIG.

6. The Board obtained documents from OIG, the Circuit Court for Baltimore City, and conducted further investigation, including interview of the Respondent.

III. Criminal Case

7. On September 27, 2017, the Maryland Medicaid Fraud Control Unit of the Office of the Attorney General, in the Circuit Court for Baltimore City (the “Circuit Court”), in *State of Maryland v. Lindsey Daniels*, Case No. 117270002, charged the Respondent with 6 counts of felony Medicaid Fraud and two counts of theft in violation of Md. Code Ann., Criminal Law §§ 8-509 and 8-516(c).

8. On April 12, 2018, the Respondent signed a Plea Agreement, pleading guilty to Count 5 of Medicaid Fraud. In the plea agreement, the Respondent admitted that:

- a. The State would have had sufficient evidence to prove the facts of the case beyond a reasonable doubt.
- b. The Respondent saw Witness A’s son, Patient 1¹, a Medicaid recipient, initially once every two weeks, then once every three weeks, and then once every four weeks. The Respondent billed Medicaid as if she was seeing Patient 1 between two and five times per week. The Respondent billed Medicaid for a total of \$17,795.30 for services not rendered between January 3, 2011 and May 24, 2013.
- c. The Respondent saw Witness B’s children, the “Patient 2 and Patient 3,” whom are Medicaid recipients once per week. The Respondent billed Medicaid more than once per week for Patient 2 and Patient 3. The Respondent billed Medicaid \$2,809.20 for services not rendered to Patient 2 and \$2,598.51 for services not rendered to Patient 3 between January 17, 2011 and December 26, 2011.
- d. The Respondent never saw Patient 4, a Medicaid recipient, more than once per week, but the Respondent billed Medicaid twice or more per week. The Respondent billed Medicaid a total of \$5,899.32 for services not rendered between March 18, 2011 and May 2, 2012.

¹ Patient names are confidential and are not used in the Consent Order. The Respondent is aware of the identity of the individuals.

- e. The Respondent saw Patient 5, a Medicaid recipient, once per week or sometimes twice per week if there was an emergency. The Respondent continuously billed Medicaid more than once per week, up to five times per week. The Respondent billed Medicaid \$957.37 for services not rendered to Patient 5 between March 1, 2012 and October 17, 2014.
 - f. The Respondent voluntarily withdrew as a provider for Medicaid and agreed not to reapply to be a Medicaid provider for five years.
 - g. The Respondent agreed to pay restitution to Medicaid in the amount of \$30,029.70.²
9. On April 12, 2018, the Circuit Court sentenced the Respondent to six months incarceration with six months suspended based on the Respondent's conviction on Count 5 of Medicaid Fraud. The Respondent was placed on unsupervised probation for five years and as a condition of probation the Respondent is prohibited from participating in Medicaid.³

IV. Interview of the Respondent

10. On May 22, 2018, the Respondent was interviewed under oath by the Board's Investigator. The Respondent admitted the following:
- a. In May 2013, the Medicaid Administrative Services Contractor audited her records which is when she first became aware of the billing errors;
 - b. She purchased and is utilizing an electronic medical record system ("EMR") and used other methods to keep track of what she had done;
 - c. She did not intend to defraud Medicaid, but she made errors in billing due to "Executive Function Disorder," which was exacerbated in 2011 and for which

² On April 9, 2018, the Respondent paid the restitution, in full, prior to sentencing.

³ On June 21, 2018, the Respondent filed a Motion to Modify Sentence (the Motion"), petitioning the Circuit Court to convert Respondent's sentence to "probation before judgment." In the Motion, the Respondent noted that the Circuit Court had previously indicated a willingness to entertain the Motion "after sufficient time had passed for the Defendant to experience the full weight of her conviction." On October 2, 2018, the Respondent filed a Request for Hearing on Motion to Modify Sentence. To date, the Circuit Court has not acted on the Motion nor set a date for a hearing.

she sought professional help;

- d. Since 2014, she has been compliant with patient billing⁴; and
- e. She agreed she had made errors and was willing to accept fault for those mistakes.

V. Documents Submitted to Board by the Respondent

11. On May 25, 2018, the Respondent, submitted the following documents to the Board which had previously been submitted to the Circuit Court:

- a. Personal statement by the Respondent;
- b. Neuropsychological Evaluation and Summary of Respondent dated December 7, 2017⁵;
- c. Reports of an educational consultant, with a masters in education, specializing in “Executive Function Disorder”, dated, November 13, 2017, March 31, 2017, and March 26, 2018;
- d. List of training on EMR software conducted between August 11, 2015 and February 27, 2018; and
- e. Compliance Plan for the Respondent prepared by a certified professional medical compliance auditor (the “Compliance Auditor”)⁶, May 28, 2018.

VI. Summary of Findings

12. The above referenced facts are evidence that the Respondent is in violation of Health Occ. § 18-315(3) (is convicted of or pleads guilty to a felony or a crime involving moral turpitude); (Health Occ. § 18-315(9) (makes false report or record) and Health Occ.

⁴ The Respondent was not criminally charged until 2017.

⁵ The evaluator diagnosed the Respondent with Attention-Deficit/Hyperactivity Disorder- Predominately Inattentive Presentation, a Neurodevelopmental Disorder marked by deficits in visual processing speed, and a Specific Learning Disability with Impairment in Mathematics.

⁶ The Compliance Auditor is credentialed as a “CPMA” (Certified Professional Medical Auditor) and is trained in practice management, reimbursement and compliance consulting.

§ 18-315(20) (does an act that is inconsistent with professional standards) in that she:

- a. Pled guilty to and was convicted of felony Medicaid Fraud, a crime involving moral turpitude;
- b. Submitted false statements to collect a fee;
- c. Filed a false report to Medicaid regarding billing her patients for psychological services; and
- d. Submitted bills to Medicaid for psychological services not rendered for six patients for more than \$25,000, which is inconsistent with generally accepted professional standards.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Respondent violated Md. Health Occ., Code Ann. § 18-313 (3)(Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside); (9) (Submits a false statement to collect a fee); and (20) (Does an act that is inconsistent with generally accepted professional standards in the practice of psychology.)

Based on the foregoing Findings of Fact, the Board dismisses the charge under Md. Health Occ., Code Ann. § 18-313 (2)(Fraudulently or deceptively uses a license or registration).

ORDER

Based on the foregoing Findings of Fact and Conclusion of Law, on this **2nd** day of **November, 2018**, the Board, on the affirmative vote of a majority of its members then serving, hereby

ORDERED that Respondent's license to practice psychology is **SUSPENDED** for one (1) year with the full year **STAYED**; and it is further

ORDERED that the Respondent is placed on **PROBATION** for a minimum period of two (2) years. During the probationary period the Respondent shall comply with the following probationary terms and conditions:

1. The Respondent shall continue under the Compliance Plan of June 5, 2018, prepared by the Compliance Auditor to audit her billing records through May 31, 2019. The Respondent is responsible for ensuring that the Compliance Auditor provides the Board with quarterly audit reports, with the first quarterly report due on January 31, 2019 which detail the Respondent's billing practices, any deficiencies, concerns, or needed improvements, as well as any measures that have been taken to improve patient billing;
2. The Respondent shall continue to meet with the Educational Consultant at least monthly for the purpose of applying processing and organizational skills pertinent to the administrative tasks of the practice until the Educational Consultant determines that the Respondent is no longer vulnerable to errors in data entry and billing. The Respondent is responsible for ensuring that the Educational Consultant provides the Board with quarterly reports, with the first quarterly report due on January 31, 2019;
3. Within thirty (30) days, the Respondent shall obtain ongoing clinical supervision from a Board-approved psychologist supervisor for a minimum of three (3) months, with terms and conditions of the supervision, including the duration and frequency of supervision, to be determined by the supervisor, and ensure that her supervisor provides monthly reports to the Board;
4. The Respondent shall provide at least forty (40) hours of profession-related services to the community at no charge;
5. The Respondent shall comply with the Maryland Psychologists Act, Md. Code Ann., Health Occ. § 18-101 *et seq*, and all federal and state laws and regulations governing the practice of psychology in Maryland; and
6. The Respondent shall not apply for early termination of probation; and it is further

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

ORDERED that after the Respondent has complied with all terms and conditions of probation and the minimum period of probation imposed by the Consent Order has passed the Respondent may submit a written petition for termination of probation. After consideration of the petition, the Respondent's probation may be administratively terminated through an order of the Board if there are no pending complaints relating to the charges, and it is further

ORDERED that a violation of probation constitutes a violation of the Consent; and it is further

ORDERED that if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If there is a genuine dispute as to a material fact, an evidentiary hearing shall be before the Board; and if there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board; and it is further

ORDERED that after the appropriate hearing, if the Board determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the Board may lift the stay of the suspension, reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice psychology in Maryland. The Board may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

ORDERED that the effective date of the Consent Order is the date the Consent Order is signed by the Chair of the Board or her designee. The Chair signs the Consent Order on behalf of the Board which has imposed the terms and conditions of this Consent Order; and it is further

ORDERED that this Consent Order is a public document. *See* Md. Code Ann., Health Occ. §§ 1-607 and Gen. Prov. § 4-333(b)(6).

November 2, 2018
Date

Christopher Bishop, Psy.D.
Christopher Bishop, Psy.D., Chair
MD Board of Examiners of Psychologists

CONSENT

I, Lindsey S. Daniels, Psy.D., acknowledge that I have consulted with counsel before signing this document.

By this Consent, I agree to be bound by this Consent Order and all its terms and conditions and understand that the Board will not entertain any request for amendments or modifications to any condition.

I assert that I am aware of my right to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 18-315 and Md. Code Ann., State Gov't §§ 10-201 *et seq.* concerning the pending charges. I waive these rights and have elected to sign this Consent Order instead.

I acknowledge the validity and enforceability of this Consent Order as if entered 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 their behalf, and to

all other substantive and procedural protections as provided by law. I waive those procedural and substantive protections. I acknowledge the legal authority and the jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order.

I voluntarily enter and agree to comply with the terms and conditions set forth in the Consent Order as a resolution of the charges. I waive any right to contest the Findings of Fact and Conclusions of Law and Order set out in the Consent Order. I waive all rights to appeal this Consent Order.

I sign this Consent Order, without reservation, and fully understands the language and meaning of its terms.

11/20/2018
Date

Lindsey S. Daniels, Psy.D.
Lindsey S. Daniels, Psy.D., Respondent

NOTARY

STATE OF MD
CITY/COUNTY OF Harford

I HEREBY CERTIFY that on this 20 day of November, 2018 before me, a

Notary Public of the State and County aforesaid, personally appeared Lindsey S. Daniels, Psy.D., License number 3627, and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

My commission expires 04/04/21

[Signature]
Notary Public

