



STATE OF MARYLAND

DHMH Board of Professional Counselors and Therapists

Maryland Department of Health and Mental Hygiene

4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

December 24, 2008

VIA CERTIFIED AND FIRST CLASS MAIL

Stanley Benn
9204 Swiven Place
Apt. 1-D
Baltimore, MD 21237

Re: Final Order
Board Case Number: 2008-1

Dear Mr. Benn:

Enclosed please find the Board of Professional Counselors and Therapists' Final Decision and Order in the above-referenced case.

Sincerely,

Aileen Taylor
Administrator
Board of Professional Counselors and Therapists

Enclosure

cc: Sherrai V. Hamm, Assistant Attorney General and Administrative Prosecutor
Noreen M. Rubin, Assistant Attorney General and Board Counsel
Timothy J. Paulus, Deputy Counsel

IN THE MATTER OF
STANLEY J. BENN, LCPC
RESPONDENT

CERTIFICATE NUMBER: LC1218

* BEFORE THE STATE
* BOARD OF EXAMINERS
* OF PROFESSIONAL
* COUNSELORS AND THERAPISTS
* CASE NUMBER: 2008-1

* * * * *

FINAL ORDER TO REVOKE LICENSE TO PRACTICE PROFESSIONAL COUNSELING

The State Board of Examiners of Professional Counselors and Therapists (“the Board”) notified **Stanley J. Benn, LCPC (“the Respondent”)**, D.O.B. 10/08/62, License Number: **LC1218**, of the Board’s intent to **REVOKE** the Respondent’s license to practice professional counseling, under the Maryland Professional Counselors and Therapists Act (the “Act”), Md. Health Occ. Code Ann. (“H.O.”) §§ 17-101 *et seq.*, (Repl. Vol. 2005). This Final Order revoking Respondent’s license is based on the following:

FINDINGS OF FACT

The Board finds that:

BACKGROUND

1. The Respondent was originally issued a license to practice professional counseling in the State of Maryland on June 13, 2001.
2. The Respondent’s license expired on December 31, 2004. The Respondent’s license has remained non-renewed.
3. On or about July 12, 2004, the Respondent was indicted by the Grand Jury of the State of Maryland for the Baltimore County for one count of Felony Medicaid Fraud, in

violation of Md. Crim. L. § 8-509 and one count of Theft over \$300 in violation of Md. Crim. L. § 7-104.

4. On March 7, 2005, the Respondent pled guilty to one Count of Felony Medicaid Fraud, in violation of Md. Crim. L. § 8-509, before Baltimore County Circuit Court Judge Susan Souder.

5. On May 11, 2005, the Respondent was sentenced by Judge Souder to three years in prison and ordered to make restitution in the amount of \$249,406.

6. As a result of the Respondent's felony Medicaid fraud conviction, the Board, on September 16, 2005, issued to the Respondent, a Notice of Intent to Revoke License to Practice Professional Counseling and an unexecuted Order of Revocation. The Board charged the Respondent with violating the following provisions of the Act:

§ 17-3A-13. Denial, suspension, and revocation of license; other penalties.

- (a) The Board, on an affirmative vote of a majority of its members then serving, may deny a license to an applicant, suspend or revoke a license of a licensee, reprimand a licensee, or place a licensee on probation, if the applicant or licensee has committed any of the acts proscribed in § 17-313 of this title, subject to the provisions in §§ 17-314 and 17-315 of this title.

H.O. § 17-313. Denial, probation, suspension or revocation of certificate applicant or holder.

Subject to the hearing provisions of § 17-314 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a certificate to any applicant, place any certificate holder on probation, reprimand any certificate:

- (6) 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;

7. A hearing on the charges was held on March 17, 2006.

8. On October 20, 2006, the Board issued a Final Decision and Order suspending the Respondent's license to practice professional counseling, after finding that the Respondent violated H.O § 17-313 (6) of the Act.

9. Under the terms of the Board's Final Decision and Order ("Order"), the Board suspended Respondent's license for two (2) years. The Board further ordered that the suspension of Respondent's license remain active for a minimum of two years and until the Respondent satisfied certain conditions.

10. The Board's Order also required that the Respondent complete the following conditions, while his license was actively suspended:

(A) Individual Tutorial in Professional Ethics

(1) Within thirty (30) days of the date of this Order, Mr. Benn shall enroll in a Board-approved individual educational tutorial¹ in professional ethics, specifically focused on ethical financial standards, billing, documentation, record-keeping and administrative counseling responsibilities. Mr. Benn shall first submit to the Board a written description of the particular tutorial he proposes as fulfillment of this condition. The proposed tutor shall not be connected with Mr. Benn through any current or past personal, collegial, professional or academic affiliation. The Board reserves the right to require Mr. Benn to provide further information regarding the tutorial he proposes, and further reserves the right to reject his proposed tutorial and require submission of an alternative proposal. The Board will approve a tutorial only if it deems the curriculum and the duration of the tutorial adequate to fulfill the need. Mr. Benn shall be responsible for all costs incurred in fulfilling these tutorial requirements.

(B) Pro-Bono Hours in Community Service

Within one (1) year of the date of this Order, Mr. Benn shall perform two hundred and forty nine (249) *pro-bono* hours in community service of non-counseling related activities at a

¹ This tutorial shall consist of private instruction or study under the direction of a private tutor approved by the Board.

Board-approved agency or institution. Mr. Benn shall provide to the Board verification and documentation of the hours served.

The Board's Order also imposed the following condition, which provides:

"ORDERED that Mr. Benn shall practice in compliance with the Maryland Professional Counselors and Therapists Act and in accordance with all applicable laws, statutes, and regulations pertaining to the practice of counseling[.]"

FACTS PERTAINING TO RESPONDENT'S FAILURE TO COMPLY WITH THE BOARD'S OCTOBER 20, 2006 ORDER

A. Respondent's failure to comply with ethics tutorial requirement.

11. Under the terms of the Board's Order dated October 20, 2006, the Respondent was required to enroll in a Board-approved individual ethics tutorial, within thirty (30) days of the date of the Board's Order.

12. The Respondent did not enroll in an individual ethics tutorial, as required by **Condition A** of the Board's Order, until June 2007.

13. The Respondent also failed to complete an individual ethics tutorial. The Respondent's first and only meeting with the Board approved ethics tutor was on June 22, 2007. The Respondent was responsible for ensuring that the ethics tutor submit monthly reports to the Board detailing the Respondent's educational and ethical progress; for ensuring his own successful completion of the tutorial; and for ensuring that the tutor submit a report to the Board assessing the Respondent's performance, attendance, participation, and completion of assignments. The Respondent did not comply with these responsibilities.

B. Respondent's failure to comply with *pro-bono* community service requirement.

14. Under the terms of the Board's Order, the Respondent was required to **complete two hundred and forty nine (249) *Pro Bono*** hours in Community Service at an institution or agency approved by the Board, and provide documentation that he completed his *pro bono* community service, within one (1) year of the date of the Order.

15. Pursuant to his responsibility under the Board's Order, the Respondent failed to follow up with a Board-approved institution or agency to begin his *pro bono* community service.

16. As required by **Condition B** of the Board's Order, the Respondent failed to provide documentation to the Board within one (1) year of the date of the Board's Order, that he performed two hundred and forty nine (249) *pro-bono* hours in community service of non-counseling related activities.

C. Respondent's failure to comply with the Maryland Professional Counselors and Therapists Act.

17. Between October 2007 and March 2008, the Board received several reports that the Respondent was violating the Act.

18. Specifically, the Board received reports that the Respondent was attempting to practice professional counseling without a valid and active license, in violation of H.O. § 17-3A-11.

19. H.O. § 17-3A-11 states, in pertinent part, that:

(a) *Practice without a license: exceptions.*- (1) Except as otherwise provided in paragraph (2) of this subsection, an individual may not practice, attempt to practice, or offer to practice clinical alcohol and drug counseling, clinical marriage and family therapy, or clinical professional counseling in the State unless licensed by the Board.

20. On or about October 1, 2007, the Board received a complaint from the clinical director at Building Communities Today for Tomorrow, Inc. ("BCTT") located in Baltimore, Maryland.

21. BCTT provides a variety of services, including counseling, to at-risk children, adolescents, adults, and seniors.

22. The complaint alleged that in September 2007, the Respondent submitted an application for a therapist position and represented on his application that he held a current and active license to practice as a professional counselor in Maryland.

23. A Board investigation revealed that on or about September 26, 2007, the Respondent submitted a cover letter and curriculum vitae to BCTT for a therapist position.

24. BCTT required that applicants for the position that the Respondent applied for hold a current, active, and valid license.

25. In a cover letter and curriculum vitae that he submitted to BCTT, the Respondent indicated that he was a licensed professional counselor.

26. However, the Respondent did not inform BCTT that his license to practice professional counseling had been suspended in October 2006. The Respondent also failed to inform BCTT that his license had expired in December 2004.

27. After reviewing the Respondent's application for employment, BCTT verified on the Board's web site that the Respondent's license had been suspended.

28. The Respondent's application was subsequently withdrawn for consideration for the therapist position.

29. On or about January 16, 2008, the Board received a complaint from the Executive Director of Family & Children Services of Central Maryland ("Family and

Children's Services") alleging that when applying for the therapist position, the Respondent fraudulently represented himself.

30. A Board investigation revealed that on or about January 7, 2008, the Respondent submitted a cover letter, curriculum vitae, and a copy of his license to practice clinical professional counseling dated June 2001, to Family and Children's Services, for a position as a licensed therapist.

31. In his cover letter to Family and Children's Services, the Respondent indicated that he "was interested in applying for the Therapist position".

32. The position that the Respondent sought with Family and Children's Services required that the individual selected for the position, provide individual and family therapy and case management, for children attending Harford County public schools.

33. The position that the Respondent sought with Family and Children's Services also required a current and active license or certification to practice professional counseling in the State of Maryland.

34. In or around January 7, 2008, the Respondent interviewed for the therapist position at Family and Children's Services. During his interview, the Respondent failed to inform the interviewer that his license was suspended. The Respondent also failed to inform the interviewer that his license had expired in December 2004.

35. On January 11, 2008, the Respondent was contacted by Family and Children's Services and offered the therapist position. However, Family and Children's Service rescinded its job offer, when Family and Children Services discovered that the Respondent's license to practice professional counseling was suspended.

36. On or about March 6, 2008, the Board received a complaint from the Director of Human Resources at Anne Arundel County Department of Health.

37. The complaint alleged that the Respondent misrepresented himself when he applied for a therapist position with Anne Arundel County Department of Health.

38. Anne Arundel County Department of Health provides a range of health services, including mental health and counseling services to Anne Arundel County residents.

39. A Board investigation revealed that on or about February 21, 2008, the Respondent submitted a cover letter, curriculum vitae, and a copy of his license to practice clinical professional dated June 2001, for a position as a licensed therapist.

40. The Respondent indicated in his cover letter that he was a "Professional Counselor". The Respondent further stated in his cover letter that he was "interested in applying for the Professional Counselor position with your agency being advertised in the Sun Newspaper".

41. The therapist position that the Respondent sought with Anne Arundel County Department of Health required that the person selected for the position, provide clinical behavioral health services to children, adolescents, and their families.

42. The therapist position that the Respondent sought with the Anne Arundel County Department of Health also required that applicants for the position hold a valid and active license in professional counseling.

43. As part of the application process, Anne Arundel County Department of Health checked the status of the Respondent's license on the Board's website.



STATE OF MARYLAND

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Board of Professional Counselors and Therapists

Maryland Department of Health and Mental Hygiene
4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – S. Anthony McCann, Secretary

October 25, 2006

VIA FIRST CLASS MAIL

Stanley J. Benn
9204 Swiven Place, Apt. 1-D
Baltimore, MD 21237

**RE: Final Decision and Order
License Number LC 1218**

Dear Mr. Benn:

Enclosed, please find the Final Decision and Order approved and signed by the Board of Professional Counselors and Therapists on October 20, 2006.

Sincerely,

Aileen Taylor
Executive Director

Cc: Noreen Rubin, Board Counsel
Sherrai Hamm, Assistant Attorney General, Administrative Prosecutor
Timothy J. Paulus, Deputy Counsel
Sylvia Morgan, Legal Assistant
Sheryl McDonald, Legal Secretary

IN THE MATTER OF
STANLEY J. BENN, LCPC
License No. LC1218
Respondent.

* BEFORE THE MARYLAND
* STATE BOARD OF PROFESSIONAL
* COUNSELORS AND THERAPISTS
* Case Number: 2005-17

* * * * *

FINAL DECISION AND ORDER

PROCEDURAL HISTORY

On July 12, 2004, the Grand Jury of the State of Maryland for Baltimore County indicted Stanley J. Benn ("Mr. Benn") LCPC, License No. LC1218, for one count of felony Medicaid fraud, in violation of Md. Crim. L. § 8-509, and one count of felony theft over \$300 in violation of Md. Crim. L. § 7-104.

On March 7, 2005, Mr. Benn tendered an Alford plea to and was convicted of the first count of Medicaid fraud in the Circuit Court for Baltimore County. Count One stated that Mr. Benn "pursuant to one scheme and continuing course of conduct, . . . did knowingly defraud the Maryland Medical Assistance Program, . . . in that Mr. Benn submitted and caused to be submitted claims to the Medicaid program for payment, falsely representing that he had provided certain services to . . . recipients, when he knew that the services were not in fact provided . . ." Altogether, Mr. Benn pled guilty to submitting 3663 bills to the Medicaid program for which there were no contact notes or services to patients, and for which the State paid Mr. Benn \$249,406. On May 11, 2005, the court (Souder, J.) sentenced Mr. Benn to three years in prison and ordered him to make restitution in the amount of \$ 249,406 to the Medicaid program.

As a result of Mr. Benn's felony conviction, the Maryland State Board of Professional Counselors and Therapists (the "Board") issued to Mr. Benn a Notice of

Intent to Revoke License to Practice Professional Counseling and an unexecuted Order of Revocation on September 16, 2005. The Board's notification issued pursuant to its authority under § 17-3A-13 of the Maryland Professional Counselors and Therapists Act, (the "Act") which provides:

- (a) *In General.* – The Board, on an affirmative vote of a majority of its members then serving, may deny a license to an applicant, suspend or revoke a license of a licensee, reprimand a licensee, or place a licensee on probation, if the applicant or licensee has committed any of the acts proscribed in § 17-313 of this title, subject to the provisions in §§ 17-314 and 17-315 of this title.

Md. Health Occ. ("HO") Code Ann. § 17-3A-13(a)(Repl. Vol. 2000 and 2004 Supp.). The Board alleged that Mr. Benn had violated § 17-313 of the Act, which permits the Board to impose disciplinary action if a certificate holder:

- (6) 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;

Md. Health Occ. Code Ann. § 17-313 (2000 Repl. Vol.).

Pursuant to HO § 17-314 and the Administrative Procedure Act, Md. Code Ann., State Gov't ("SG") § 10-201 *et seq.*, the Board conducted a contested case hearing on March 17, 2006. The Administrative Prosecutor appeared on behalf of the State. Mr. Benn was present at the hearing¹ but was not represented by counsel. At the conclusion of the hearing, and with the consent of the State and Mr. Benn, the Board agreed to keep the proceedings open for submission of official court transcripts of (1) Mr. Benn's guilty plea proceedings before the Baltimore County Circuit Court on March 7, 2005; and (2) Mr. Benn's sentencing hearing before the court on May 11, 2005. Following receipt of these documents, the Board convened to deliberate and voted to uphold the

¹ Mr. Benn testified that he had served nine months at the Division of Corrections. (T. 24, 36)

charges against Mr. Benn, and to impose the sanctions contained in this Final Decision and Order.

SUMMARY OF EVIDENCE

A. Documents

The State and Mr. Benn submitted the following exhibits, which were admitted into evidence:

State's Exhibits A-D

- State's Exhibit A: Criminal Indictment Sheet from the Circuit Court for Baltimore County with Count One (Felony Medicaid Fraud) and Count Two (Felony Theft).
- State's Exhibit B: Docket Entries from the Circuit Court for Baltimore County from July 15, 2004 to May 26, 2005.
- State's Exhibit C: Baltimore County Circuit Court Clerk's Worksheet and Commitment Record for Stanley J. Benn.
- State's Exhibit D: Statement of Facts.
- State's Exhibit E: Transcript of Guilty Plea Proceedings before the Baltimore County Circuit Court (Souder, J.), March 7, 2005.
- State's Exhibit F: Transcript of Sentencing Hearing before The Baltimore County Circuit Court (Souder, J.), May 11, 2005.

Respondent's Exhibits A-B

- Resp.'s Exhibit A: Sentencing Memorandum filed in the Baltimore County Circuit Court on May 11, 2005, by James G. Pyne, defense attorney for Mr. Benn.
- Resp.'s Exhibit B: Letter dated October 17, 2005 from Carol L. Green, Administrative Chaplin, Division of Correction, to Judge Patrick Cavanaugh, Baltimore County Circuit Court.

B. Witness Testimony

The State did not present witnesses. Mr. Benn testified on his own behalf.

Evaluation of the Evidence

The Board reviewed all of the documentary evidence submitted by the State and Mr. Benn, including the transcripts of Mr. Benn's guilty plea and sentencing proceedings, and the statements and findings of the criminal court. The evidence confirmed that:

1. Throughout his criminal proceedings, Mr. Benn was represented by counsel. [St. Exhs. E, F; Resp's Exh. A]
2. On March 7, 2005, Mr. Benn pled guilty to felony Medicaid fraud, a violation of Md. Crim. L. § 8-509,² in the form of an Alford plea, and the State dropped the second criminal count of felony theft. [St. Exhs. A-C, E, pp. 4, 6, 25]
3. Pursuant to Maryland Rule 4-242, the criminal court accepted Mr. Benn's guilty plea only after determining that his plea was voluntary, that he understood the nature and elements of the charges and the consequences of the plea, and that there was a factual basis for the plea. [St. Exh. E, pp. 5-11, 25]
4. Mr. Benn agreed with the Statement of Facts presented by the State as the factual basis for his crimes, including the following facts:
 - (1) Over an 18-month period from May 30, 2002 through November 18, 2003, Mr. Benn billed the State Medicaid program on 3663 occasions for services that Mr. Benn knew had not been provided to clients; [St. Exh. E, pp. 19, 21]

² Section 8-509 provides:

A person may not:

- (1) knowingly and willfully defraud or attempt to defraud a State health plan in connection with the delivery of or payment for a health care service;
- (2) knowingly and willfully obtain or attempt to obtain by means of a false representation money, property, or any thing of value in connection with the delivery of or payment for a health care service that wholly or partly is reimbursed by or is a required benefit of a State health plan;
- (3) knowingly and willfully defraud or attempt to defraud a State health plan of the right to honest services;
- (4) with the intent to defraud make a false representation relating to a health care service or a State health plan.

Md. Crim. L. Code Ann. § 8-509 (2002).

- (2) There were no client contact notes that directly matched any of the 3663 bills that Mr. Benn submitted to the Medicaid program; [St. Exh. E, pp. 19, 21]
- (3) Mr. Benn received \$249,406 in payments from the Medicaid program as payment for those services never provided; [St. Exh. E, pp. 19, 21]
- (4) There were an additional 1039 contact notes for which Mr. Benn did not bill Medicaid during this period. [St. Exh. E, pp. 23-24]

Based on these facts, the Honorable Susan Souder found Mr. Benn guilty of felony Medicaid fraud. [St. Exh. E, p. 25]

At Mr. Benn's sentencing hearing on May 11, 2005, the evidence presented by the State showed that Mr. Benn demanded timesheets and contact notes from his employees so that he could accurately bill Medicaid and determine how much to pay his employees for the counseling services they rendered to clients. [St. Exh. F, p. 5] At no time did Mr. Benn overpay his employees or reimburse them for work not performed. [*Id.*, p. 6] Yet he billed Medicaid thousands of times for services that he knew had not been performed, and for which he had no matching contact notes from his employees. [*Id.*, pp. 7-8] Mr. Benn admitted to the court that he "overbilled" Medicaid "in anticipation of business," [*Id.*, pp. 13, 15] but blamed his deficiencies as a businessman and his "flawed" billing system for his felonious criminal violations over an 18-month period. [*Id.*, pp. 12-23]

Based on the "undisputed" facts in the record, however, the circuit court found that Mr. Benn was "appropriately convicted of Medicaid fraud." [St. Exh. F, p. 23] Noting that "some of the most vulnerable citizens" of the "chronically under-funded" Medicaid program did not receive services because of the money taken by Mr. Benn [*Id.*, p. 26],

the court sentenced Mr. Benn to three years in prison and ordered him to make restitution in the amount of \$ 249,406 to the program. [*Id.*, p. 23]

At his evidentiary hearing before the Board, Mr. Benn testified on his own behalf about the circumstances that led to his imprisonment for Medicaid fraud. [T. 18-59] In response to questions from Board members, he denied the accusations underlying his guilty plea and felony conviction. [T. 37-66] Mr. Benn further characterized his entire 18-month billing scheme as mismanagement of his company [T. 28, 48], "a huge mistake" and an "accounting error." [T. 27] He admitted that he billed Medicaid 3663 times without any evidence that the services had been provided, but denied any misconduct on his part, and simply attributed his billing decisions to a "flaw in the system." [T. 50-53] Mr. Benn claimed that he did not steal money from the program. [T.28] He further argued that he "did nothing wrong" and that his character "can't be questioned." [T. 46-47] Mr. Benn presented no evidence or witnesses to support his claims. In addition, Mr. Benn stated that he "was confused" when he accepted his plea deal. [T. 28]

The Board disagrees. The documentary evidence submitted by the State and by Mr. Benn utterly refutes all of Mr. Benn's claims. First, on the morning of the plea agreement proceedings, Mr. Benn stated before the circuit court that his mind was clear, that he was "thinking clearly" and that he fully understood the proceedings. [St. Exh. E, pp. 5, 7-8] His testimony before the Board, therefore, contradicts his statements to the circuit court. Moreover, Mr. Benn received the benefits of his bargain with the State. In exchange for his guilty plea, Mr. Benn avoided a trial, and the State dropped the serious count of felony theft against him, a violation that theoretically could have led to an additional penalty of 15 years incarceration. [St. Exh. E, p. 6]

Second, the plain language of § 8-509 of the criminal law article and the count to which Mr. Benn pleaded guilty shows that fraud was an element of his crime and that he knowingly defrauded the Medicaid program. [St. Exhs. A-C]

Third, based on the statement of facts to which he agreed on March 7, 2005, Mr. Benn made 3663 decisions to steal from the program over an 18-month period, fraudulently submitted \$249,406 in bills to the program, and falsely represented that he had provided services, when he knew that the services were not in fact provided. [St. Exh. E, pp. 11-21, 25] The undisputed statement of facts also showed that Mr. Benn exercised strict control over the counselors he employed to provide services, requiring them to turn in their client contact notes to him before paying them any salary. [St. Exh. E, p. 15; St. Exh. F, pp. 5-6] Mr. Benn, however, didn't hesitate to bill Medicaid on 3663 occasions without any contact notes from his counselors, and profited financially by receiving \$249,406 to which he was not entitled.

The evidence in this case and the facts to which Mr. Benn pleaded guilty, therefore, belie his excuses. The circuit court did not find his justifications persuasive. Neither does the Board. Under Maryland law, Mr. Benn "cannot now collaterally attack the conclusive final judgment" of the circuit court in his case. *Attorney Grievance Comm'n of Md. v. Sabghir*, 350 Md. 67 (1998). That court's final judgment is "conclusive proof of [his] guilt of the crime . . ." *Bar Ass'n of Balt. City v. Siegel*, 275 Md. 521, 528 (1975). The crime at issue is Mr. Benn's conviction for felony Medicaid fraud.

More significantly, Mr. Benn's testimony before the circuit court and the Board demonstrated a lack of candor and accountability that deeply troubles the Board. Mr. Benn's excuses were inherently implausible. He blamed everyone and everything but himself for the events leading to his conviction, and gave no assurance to the Board

that he has accepted responsibility for his crimes. At no time did Mr. Benn express concern about the impact of this type of massive monetary fraud on the Medicaid program or its recipients. His ongoing justifications also showed a complete disregard for the unique nature of his profession and an unwillingness to come to terms with his actions.

The Board has considered the mitigating statements presented by Mr. Benn during his plea agreement proceedings and sentencing hearing before the circuit court, [Resp's Exh. A] but finds them to be without merit. The Board has also considered the character evidence and mitigating facts presented by Mr. Benn at his evidentiary hearing before the Board. [Resp's Exh. B; T. 18-59] These facts do not lessen Mr. Benn's culpability. The circumstances of his case do not diminish the seriousness of his repeated criminal violations or his violation of the Professional Counselors and Therapists Act. Mr. Benn's crimes constitute moral turpitude. Moreover, Mr. Benn's readiness to exploit the Medicaid program to this extent, as well as the long-standing and repetitive nature of his criminal conduct, undermine public confidence in the integrity of the counseling profession.

FINDINGS OF FACT

Having reviewed and considered the entire record, including the documentary and testimonial evidence presented by the State and Mr. Benn at the hearing, and the arguments of the Administrative Prosecutor and Mr. Benn, the Board finds the following facts by a preponderance of the evidence:

1. At all times relevant to the charges in this case, Mr. Benn was licensed to practice as a clinical professional counselor in the state of Maryland.
2. Mr. Benn was originally licensed in Maryland under license number LC1218 on June 13, 2001. Mr. Benn last renewed his license on December 31, 2002.

3. Mr. Benn owned and operated Resolutions Unlimited, Inc. ("RUI"), and through RUI, provided mental health services to adults and children in the Baltimore area from May 30, 2002 through November 18, 2003. [St. Exh. D, p. 1; Exh. E, pp. 12-13]
4. RUI clientele was made up solely of Medicaid patients, and Medicaid was RUI's only source of revenue. [St. Exh. D, p. 2; St. Exh. E, p. 13]
5. RUI enrolled as a Medicaid provider effective May, 2002, at which time Mr. Benn signed the Medicaid provider application on behalf of RUI requiring that he comply with all applicable regulations. Mr. Benn stated that he was the person who completed all the invoices requesting payment from Medicaid, and was the only person involved in the billing process. [St. Exh. D, p. 2; St. Exh. E, p. 14]
6. Once enrolled as a Medicaid provider, RUI could initiate services for a Medicaid client only after submitting documents to Medicaid describing why the person was in need of psychiatric rehabilitation services. Medicaid then determined how many services it would pay RUI to provide the person per week. [St. Exh. D, p. 2; St. Exh. E, p. 14]
7. Medicaid regulations require that a provider bill only for services actually rendered and document each service with a form called a contact note, which must include the date the service was provided, the length of the service, and the signature of the counselor who provided the service. [St. Exh. D, pp. 2-3; St. Exh. E, p. 14] Providers must have the contact notes in front of them when billing for services, because invoices cannot be completed without knowing the date on which the service to be billed was actually provided. (St. Exh. D, p. 3; St. Exh. E, p. 14-15;]
8. Counselors employed by Mr. Benn at RUI were paid between \$15 - \$20 an hour based on their qualifications and the length of their visits with clients as reflected in their contact notes. Mr. Benn refused to pay them unless they turned in their contact notes for the services provided, and told them that the reason he needed the contact notes was to prove that the counseling services took place. [St. Exh. D, pp. 3, 4; St. Exh. E, pp. 15, 17, 20]
9. Mr. Benn billed for services based on the number of times that Medicaid had authorized RUI to provide services to each client, repeatedly billed for services without regard to whether his counselors were actually providing them, and in most cases despite knowing for certain that the service had not been provided. [St. Exh. D, p. 4; St. Exh. E, pp. 16-17]
10. For example, one counselor saw a client 31 times from March to November, 2003, was paid by Mr. Benn only for those visits, and told Mr. Benn that the client need only be seen once a week during that period. Between March and

November, 2003, however, Mr. Benn billed Medicaid 166 times and received a total of \$11,288 from the program for this particular client. [St. Exh. D, p. 5. St. Exh. E, pp. 17-18]

11. Another counselor provided services to a juvenile client on only three occasions, until the client's mother told him not to provide any more services to her son. The counselor informed Mr. Benn of this fact verbally, and never submitted any more than three contact notes for the services provided. Mr. Benn, however, billed Medicaid for over 150 more dates of service subsequent to the counselor's last visit with the client and received over \$10,000 for this juvenile client. [St. Exh. D, p. 5; St. Exh. E, pp. 18-19]
12. Between May, 2002 and November, 2003, Mr. Benn submitted 3663 invoices to the Medicaid program for which he received \$249, 406 in payments; There were no contact notes that directly matched any of the 3663 bills submitted by Mr. Benn, and Mr. Benn was aware that his company had not provided to patients the services for which he billed Medicaid on those 3663 occasions. [St. Exh. D, p. 6; St. Exh. E, pp. 19, 21]
13. There were an additional 1039 contact notes for which Mr. Benn did not bill Medicaid during this period. [St. Exh. E. pp. 23-24]
14. On March 7, 2005, Mr. Benn pled guilty to one count of felony Medicaid fraud, in violation of Md. Crim. L. § 8-509, in the Baltimore County Circuit Court. The Honorable Susan Souder accepted Mr. Benn's plea and found him guilty of Felony Medicaid Fraud. [St. Exh. E]
15. On May 11, 2005, the court sentenced Mr. Benn to three years in prison and ordered him to make restitution in the amount of \$ 249,406 to the Medicaid program. [St. Exh. F]
16. A licensee who is found guilty of Medicaid fraud, a felony, is guilty of committing a crime of moral turpitude, and is in violation of the Maryland Professional Counselors and Therapists Act.

CONCLUSIONS OF LAW

Based on the foregoing evaluation of the evidence and Findings of Fact, and after considering the entire record in this case, the Board concludes that Mr. Benn pled guilty to and was convicted of felony Medicaid fraud, a crime of moral turpitude, in violation of Md. Health Occ. Code Ann. § 17-313(6).

SANCTION

A license to practice clinical counseling is a privilege, not an absolute right. As a professional counselor licensed by the Board, Mr. Benn is subject to the standards and policies adopted by the Board and embodied in the law and regulations. The Board's compelling interest in the integrity of the counseling profession in Maryland mandates that the Board discourage (1) the perpetuation of fraudulent schemes that jeopardize the financial health of the Medicaid program; and (2) Mr. Benn's flagrant abuse of his professional counseling license for his own financial gain.

Through his criminal conviction for felony Medicaid fraud, Mr. Benn has demonstrated his inability to operate in accordance with Maryland law. His lack of honesty and perpetration of this fraud over a long period of time not only constitutes moral turpitude but disparages professional principles, and dishonors the reputation of the great majority of counselors in the State who practice with integrity.

The Board will impose a three-year suspension of Mr. Benn's professional counseling license, with one year stayed. The Board's two-year active suspension will include appropriate educational components. Mr. Benn shall also comply with one year of probation to run concurrently with his stayed suspension, with terms and conditions to include supervision of his counseling practice and any other terms that the Board deems necessary at the time the Board grants his petition for termination of his active suspension, if the Board grants his petition.

ORDER

It is this 20th day of October, 2006, by a majority of the members of the Board:

ORDERED that the Board's charges against Stanley J. Benn, LCPC, License Number LC1218, under Md. Code Ann., HO §§ 17-3A-13 and 17-313 (6) be **UPHELD**; and it is further

ORDERED that the license of Stanley J. Benn, LCPC, be **SUSPENDED** for **THREE (3) YEARS** under Md. Health Occ. Code Ann. § 17-313, beginning **ten (10) days** from the execution of this Final Order, and that the suspension shall remain active for a minimum of **two (2) years** from the effective date of suspension **AND** until all of the following conditions are met:

A. Individual Tutorial in Professional Ethics

- (1) Within **thirty (30) days** of the date of this Order, Mr. Benn shall enroll in a Board-approved individual educational tutorial³ in professional ethics, specifically focused on ethical financial standards, billing, documentation, record-keeping and administrative counseling responsibilities. Mr. Benn shall first submit to the Board a written description of the particular tutorial he proposes as fulfillment of this condition. The proposed tutor shall not be connected with Mr. Benn through any current or past personal, collegial, professional or academic affiliation. The Board reserves the right to require Mr. Benn to provide further information regarding the tutorial he proposes, and further reserves the right to reject his proposed tutorial and require submission of an alternative proposal. The Board will approve a tutorial only if it deems the curriculum and the duration of the tutorial adequate to fulfill the need. Mr. Benn shall be responsible for all costs incurred in fulfilling these tutorial requirements.
- (2) The tutor shall receive a copy of the entire investigative file in this case, including the plea agreement and sentencing transcripts received from the criminal court, the Board's disciplinary charges, the Board's Final Order, and whatever other written materials the Board deems appropriate.
- (3) While Mr. Benn is enrolled in the tutorial, the tutor shall submit **MONTHLY** reports to the Board detailing Mr. Benn's educational and ethical progress. The report shall include, but not be limited to,

³ This tutorial shall consist of private instruction or study under the direction of a private tutor approved by the Board.

a report of attendance, a report of participation in the tutorial process, and completion of assigned coursework. The tutor shall communicate at any time with the Board, if, in the discretion of the tutor, such communication is indicated.

- (4) Mr. Benn has responsibility for ensuring that the tutor submits the monthly reports to the Board in a timely manner.
- (5) Mr. Benn shall follow through with any recommendations made by the tutor.
- (6) No later than **fifteen (15) days** after his successful completion of this tutorial, Mr. Benn shall ensure that the tutor submits to the Board a report assessing Mr. Benn's performance. The assessment shall include, but not be limited to, a report of attendance, a report of participation in the process, and completion of assignments, including a copy of any essay or other written assignment, if any, that Mr. Benn would be required to write.

B. Pro-Bono Hours in Community Service

Within **one (1) year** of the date of this Order, Mr. Benn shall perform **two hundred and forty nine (249) pro-bono hours** in community service of **non-counseling** related activities at a Board-approved agency or institution. Mr. Benn shall provide to the Board verification and documentation of the hours served; and it is further

ORDERED, that at the end of the two-year period of active suspension, Mr. Benn may submit a written petition to the Board requesting that the active suspension of his license be lifted and terminated; and it is further

ORDERED that before the Board makes a decision on Mr. Benn's petition for termination of the active suspension of his license, Mr. Benn must appear before a panel of the Board subsequent to the two-year active suspension period and demonstrate his compliance with the above conditions, and his fitness to resume the practice of counseling; and it is further

ORDERED that if the tutor's report and assessment of Mr. Benn's performance are unfavorable, in the judgment of the Board, or if Mr. Benn has not successfully

completed the required *pro-bono* hours in community service, the Board will not consider a stay of Mr. Benn's active suspension; and it is further

ORDERED that regardless of when Mr. Benn submits a written petition to the Board requesting termination of the active suspension of his license, the active suspension shall not be lifted any earlier than October 20, 2008; and it is further

ORDERED that if a panel of the Board recommends, and the full Board grants a stay of his active suspension and permits Dr. Benn to resume his counseling practice, Mr. Benn shall be placed on **PROBATION** simultaneously by further Order of the Board for **ONE (1) YEAR**; and it is further

ORDERED that Mr. Benn shall comply with the following terms and conditions of probation, which also constitute conditions of the stay of suspension:

- (1) Mr. Benn shall not work in a private practice setting as a sole practitioner, and shall obtain approval from the Board or a panel of the Board regarding any proposed practice setting.
- (2) If the Board approves work in a practice setting other than as a sole practitioner, Mr. Benn's billing shall be supervised by a Board-approved Maryland-licensed clinical professional counselor for the entire one-year probationary period.
- (3) The supervising counselor shall notify the Board in writing of his/her acceptance of the supervisory role of Mr. Benn.
- (4) Mr. Benn shall be responsible for ensuring that the counselor-supervisor's curriculum vitae and letter of commitment are submitted for Board approval, and that the Board approves the proposed counselor-supervisor before beginning the supervisory arrangement. Mr. Benn shall not resume the practice of counseling unless and until the billing supervisory arrangement is in place.
- (5) The supervision must include particular attention to administrative counseling responsibilities, billing, documentation, and ethical business and financial practices.
- (6) Mr. Benn shall ensure that the billing supervisor submits written **MONTHLY** reports to the Board stating his or her assessment of Mr. Benn's compliance with appropriate billing practices. Mr. Benn has responsibility for ensuring that the

supervising counselor submits the monthly reports to the Board in a timely manner.

- (7) Mr. Benn shall provide a copy of the Board's Final Order to the counselor who supervises his billing practices, his employer, and to all counselors with whom he works, including all members of a group practice to which Mr. Benn may belong. Mr. Benn shall submit written proof to the Board that he has disclosed this Final Order as required in this paragraph.
- (8) The billing supervisory arrangement shall continue for **one (1) year** and until Mr. Benn submits a written petition to the Board requesting that the billing supervisory arrangement be terminated and until the Board approves termination of the billing supervision of Mr. Benn's practice. Such a petition shall not be submitted until completion of **one (1) year** of billing supervision.
- (9) The Board has sole authority over any changes in supervision and must approve and ratify any changes in supervision; and it is further

ORDERED that Mr. Benn shall comply with any other probationary terms and conditions the Board deems necessary, given the facts of this case; the nature of Mr. Benn's violations of the Professional Counselors and Therapists Act; and his course of conduct since the date of this Order; such terms and conditions, during the one year of probation, to be also conditions of the stay of suspension; and it is further

ORDERED that Mr. Benn shall not petition the Board for an early termination of the period of suspension or for an early termination of the period of probation; and it is further

ORDERED that at the end of the one-year probationary period, Mr. Benn may petition the Board in writing for the termination of probation, and shall appear before a panel of the Board, provided that at that time, Mr. Benn has complied with all conditions of the probation, and the supervising counselor's reports are satisfactory, in the judgment of the Board; and it is further

ORDERED that if Mr. Benn violates any of the terms and conditions of suspension or of probation, the Board may impose any sanction that the Board may

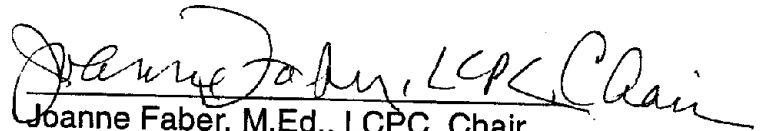
have imposed in this case under §§ 17-3A-13, 17-313 and 17-313.1 of the Professional Counselors and Therapists Act, including additional probation, suspension, revocation and/or a monetary fine. If the Board has reasonable cause to believe that Mr. Benn has violated any of the conditions of suspension or probation or of this Order, Mr. Benn will have the burden of demonstrating his compliance with the conditions; and it is further

ORDERED that Mr. Benn shall be responsible for all costs necessary to comply with this Final Order; and it is further

ORDERED that Mr. Benn shall practice in compliance with the Maryland Professional Counselors and Therapists Act and in accordance with all applicable laws, statutes, and regulations pertaining to the practice of counseling; and it is further

ORDERED that this is a Final Order and as such is a **PUBLIC** document pursuant to Md. State Gov't Code Ann. §§ 10-611 et seq. (2004)

October 20, 2006
Date


Joanne Faber, M.Ed., LCPC, Chair
Maryland State Board of Professional
Counselors and Therapists

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 17-315, Mr. Benn has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann., § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Mr. Benn files an appeal, the Board is a party and must be served with the court's process. In addition, Mr. Benn is requested to send a copy to the Board's counsel, Noreen M. Rubin, Esq., at the Office of the Attorney General, 300 W. Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is no longer a party to these proceedings at this point and need not be served or copied.

44. Once Anne Arundel County Department of Health discovered that the Respondent's license was suspended, the Respondent's application was removed from consideration for the therapist position.

Conclusion

45. The Respondent violated the Board's Order when he failed to comply with the ethics tutorial requirements.

46. The Respondent violated the Board's Order when he failed to comply with the *pro bono* hours community service requirements.

47. The Respondent violated the Board's Order that he complied with H.O. § 17-3A-11 as set forth in paragraphs 18 through 44.

48. At a hearing before the Board on December 19, 2008, the Respondent admitted to Board members that he (1) failed to comply with the ethics tutorial requirements and; (2) failed to comply with the *pro bono* hours community service requirements, as these requirements are set forth in the Board's Oct. 20, 2006 Final Decision and Order. In response to questions from Board members, the Respondent further conceded that he had misrepresented his licensure status on employment application documents after the Board's suspension of his LCPC license.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, and having considered Mr. Benn's arguments and written submissions at the December 19, 2008 hearing, as well as the arguments submitted by the Administrative Prosecutor for the State, the Board concludes that the Respondent violated the Board's Order dated October 20, 2006.

ORDER

It is this 19 day of December, 2008, by a majority of the members of the Board:

ORDERED that the license of Stanley J. Benn to practice clinical professional counseling in the State of Maryland, License No. LC 1218, is hereby **REVOKED** for a minimum of **FIVE (5) YEARS**, commencing on the date that the Board executes this Final Order; and it is further

ORDERED that the Board will not entertain a petition for reinstatement from Mr. Benn any earlier than **FIVE (5) YEARS** from the date of this Final Order, which petition may be granted or denied by the Board at its sole discretion; and it is further

ORDERED that after **FIVE (5) YEARS**, Mr. Benn may petition the Board in writing for reinstatement of his license, and shall appear before a reinstatement panel of the Board to establish that he has fully complied with the terms and conditions of the Board's Final Decision and Order dated October 20, 2006, as determined by the Board. Mr. Benn shall also have the burden of providing satisfactory evidence to the Board that he has gained significant insights into his ethical shortcomings and that he is competent to practice clinical professional counseling safely, as determined by the Board; and it is further

ORDERED that if the Board reinstates his license, the Board may place Mr. Benn on probation, and impose specific terms and conditions of probation; and it is further

ORDERED that Mr. Benn shall not petition the Board for early termination of his revocation; and it is further

ORDERED that Mr. Benn is prohibited from practicing, attempting to practice, or offering to practice clinical professional counseling in the State of Maryland; and it is further

ORDERED that Mr. Benn is prohibited from representing to the public by title, by description of services, methods, or procedures, or otherwise, that he is licensed by the Board as a clinical professional counselor in the State of Maryland; and it is further

ORDERED that Mr. Benn is prohibited from using any title, abbreviation, sign, card, or other representation that he is licensed by the Board as a clinical professional counselor in the State of Maryland; and it is further

ORDERED that Mr. Benn is prohibited from using the title "L.C.P.C." or "LCPC," or the words "licensed clinical professional counselor" with the intent to represent that he is licensed to practice clinical professional counseling; and it is further

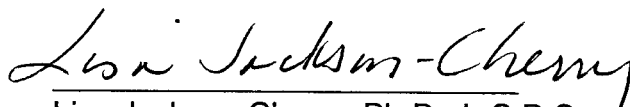
ORDERED that Mr. Benn shall immediately surrender to the Board his original license and any display and/or pocket licenses; and it is further

ORDERED that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617 (Repl. Vol. 2004), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Order, and that the Board may also disclose to any national reporting bank or other to whom the Board is mandated to report; and it is further

ORDERED that this is a Final Order of the Maryland Board of Professional Counselors and Therapists and as such is a **PUBLIC DOCUMENT** pursuant to Md. State Gov't Code Ann. §§ 10-611 *et seq.*(Repl. Vol. 2004).

12/23/08

Date



Lisa Jackson-Cherry, Ph.D., L.C.P.C.
Chairperson

Maryland Board of Professional Counselors
And Therapists

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 17-512, Mr. Benn has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann., § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Mr. Benn files an appeal, the Board is a party and must be served with the court's process at the following address:

**Maryland State Board of Professional Counselors & Therapists
4201 Patterson Avenue
Baltimore, Maryland 21215**

In addition, Mr. Benn should send a copy to the Board's counsel:

**Noreen M. Rubin, Esquire
Office of the Attorney General,
300 W. Preston Street, Suite 302,
Baltimore, Maryland 21201.**

The Administrative Prosecutor is no longer a party to these proceedings at this point and need not be served or copied.