

Before the West Virginia Board of Social Work

W. Va. Board of Social Work,

Complainant,

v.

Case No. 201822DW

Dwayne D. Willis,

Respondent.

Final Decision and Order

In order to carry out its regulatory duties, the West Virginia Board of Social Work (“Board”) is empowered to suspend, revoke, or otherwise discipline an individual’s social work license if the person engaged in unprofessional and/or unethical conduct in violation of applicable statutes, rules, or ethical principles or standards. See W. Va. Code § 30-30-5; See W. Va. Code R. § 25-6-4 *et seq.*

On February 20, 2020 the Board met and considered its designated Hearing Examiner’s Findings of Fact, Conclusions of Law and Recommended Decision Order submitted January 31, 2020. After considering the Hearing Examiner’s Findings of Fact, Conclusions of Law and Recommended Decision, and the underlying record adduced in this matter, the Board voted to adopt and accept the Hearing Examiner’s Findings of Fact, Conclusions of Law and Recommended Decision.

Wherefore, having adopted and accepted the Hearing Examiner’s Findings of Fact, Conclusions of Law and Recommended Decision, its contents are hereby incorporated in their entirety by reference in this Final Decision and Order. A copy of the same is attached to this Final Decision and Order. (See attached).

1. Accordingly, it is ORDERED the Hearing Examiner's Findings of Fact, Conclusions of Law and Recommended Decision submitted January 30, 2020, is adopted and accepted.

2. It is ORDERED the Board has lawful authority to take disciplinary action against the Respondent, Dwayne D. Willis, License No. BP009440530, insofar as the Hearing Examiner found that the Board proved by a preponderance of the evidence, through consistent, reliable, and credible witnesses, testimony, and documentation that Respondent crossed professional boundaries with a former client by having a personal, intimate and sexual relationship with the client after she was discharged from CAMC Behavioral Health.

3. The Hearing Examiner concluded that Respondent was timely and properly served with the Complaint and Notice of Hearing. The Board was within its authority to proceed with the disciplinary hearing despite Respondent's failure to appear.

4. The Hearing Examiner concluded that Respondent engaged in unprofessional or unethical practices and acts and failed to comply with applicable laws, rules, regulations or codes of conduct pertaining to licensed social workers in West Virginia.

5. The Hearing Examiner further concluded that the conduct of the Respondent constituted grounds for disciplinary action pursuant to W. Va. Code § 30-1-8; W. Va. Code § 30-30-26; W. Va. Code R. § 25-1-4.3; W. Va. Code R. § 25-6-1 *et seq.*; and the Code of Ethics of the National Association of Social Workers ("NASW Code of Ethics").

6. Therefore, it is ORDERED Respondent's social work license shall be revoked immediately.

7. Beginning on the date of execution of this Final Decision and Order, Respondent shall be prohibited from seeking reinstatement of his social work license for a period of (5) years.

8. The Respondent shall notify the Board in writing if he seeks to apply for reinstatement of his license at the end of the five-year period. This written notification must be submitted to the Board no later than 60 days prior to the expiration of the suspension period. Respondent shall be required to comply with all application requirements, including submitting a written self-reflective essay concerning why the Board should reinstate his license

9. Upon reinstatement and for a two-year period, Respondent shall be on probation and practice under the supervision of a Board-approved MSW-licensed social worker. This period of supervised practice will be at the Respondent's own expense. The supervising social worker shall submit semi-annual reports to the Board regarding Respondent's performance. The parties shall execute a supervisory agreement outlining the terms of supervision prior to initiation of such supervision.

10. The Board shall report this matter to the Disciplinary Action Reporting System (DARS) who is the agent for West Virginia in reporting matters to the Health Integrity Practitioner's Data Bank (HIPDB) as set forth in Federal Law; or other recognized national and state disciplinary action reporting organization, licensing agency, professional association or society, community organization, employers of social workers, the public, or other agencies, institutions, and organizations.

11. It is ORDERED Respondent shall reimburse the Board for administrative costs in the investigation and disposition of this matter, which includes the cost of the hearing examiner, court reporter, and hearing transcript. Such costs shall be paid to the Board within 90 days of the issuance of an invoice by the Board.

Pursuant to W. Va. Codes §§ 30-30-28 and 29A-5-4, any party adversely affected by this Final Decision and Order has the right to appeal it by a filing a petition for appeal in either the Circuit Court of Kanawha County or in the circuit court in the West Virginia county in which the party resides or does business. Such appeal must be filed within 30 days of the date the party receives this Final Decision and Order.

ENTERED THIS 26 DAY OF February, 2020.


Patricia O'Reilly, Chairperson
West Virginia Board of Social Work

BEFORE THE WEST VIRGINIA BOARD OF SOCIAL WORK

**WEST VIRGINIA BOARD OF SOCIAL WORK,
Complainant,**

v.

Case No. 201822DW

**DWAYNE D. WILLIS,
License No. BP009440530,
Respondent.**

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED DECISION

This is a matter involving a disciplinary proceeding filed by the Complainant, the West Virginia Board of Social Work ("the Board"), against the Respondent, Dwayne D. Willis, Licensee No. BP00940530. The Complainant alleged that the Respondent engaged in unprofessional or unethical conduct, behavior, practices or acts that constituted a willful departure from accepted professional standards and ethical practices relevant to social workers licensed in the State of West Virginia. Specifically, the Complainant alleged that the Respondent, in his capacity as a hospital social worker, reported that he crossed professional boundaries with a client or former client by developing a personal and social relationship with her. The Board alleged that the actions of the Respondent form a sufficient basis for disciplinary action pursuant to the provisions of *W.Va. Code* § 30-30-1, *et seq.*, the *W.Va. Code of State Rules* §25-1-4.3 and §25-6-4, and the Code of Ethics of the National Association of Social Workers.

PROCEDURAL HISTORY

On September 28, 2018, Davina Clay, Director of Behavioral Health at Charleston Area Medical Center, filed a complaint with the West Virginia Board of Social Work alleging that the Respondent, Dwayne D. Willis, had engaged in a personal relationship with a patient during and

after the time she was a patient in the Behavioral Health Services Unit of Charleston Area Medical Center. The Complaint included e-mails and text messages that documented her allegations.

After investigation of these allegations, the Board forwarded the Complaint to the Respondent on October 16, 2018, requesting a written response. By letter dated October 31, 2018, the Respondent admitted to the allegations against him and took full responsibility for the same. He acknowledged that he made a serious violation of the Social Work Code of Ethics and agreed to accept any sanctions the Board imposed upon him.

By letters dated May 8, 2019 and June 24, 2019, the West Virginia Board of Social Work informed the Respondent that it decided to proceed with disciplinary action against him for crossing professional boundaries with a client or former client. The Respondent did not respond to the letters.

By letter dated August 14, 2019, the Board again wrote to the Respondent advising him of the disciplinary action and offering him the opportunity to enter into a Consent Agreement and Order. The Board sent the letter to the Respondent by certified mail, return receipt requested. The Respondent refused to sign for the letter.

The Board issued a Statement of Charges and Notice of Hearing on September 5, 2019. The Board duly served the Respondent by certified mail and by regular mail. The Board scheduled the administrative hearing for October 28, 2019, before the undersigned Hearing Examiner. The Respondent again refused to sign for the certified mail letter.

The Complainant appeared at the hearing through Vickie James, Executive Director of the West Virginia Board of Social Work, and Mark S. Weiler, Deputy Attorney General, its counsel. The Respondent failed to appear.

Counsel for the Board submitted proposed findings of facts and conclusions of law on November 5, 2019. The Respondent did not file any further pleadings.

EXHIBITS

Complainant's Hearing Exhibits:

1. Statement of Charges, Notice of Hearing with Certified Mail documentation
2. Letter to Respondent dated September 14, 2019, with Certified Mail documentation
3. Notice of Complaint, October 16, 2018
4. Respondent Letter, October 31, 2018
5. Letter to Respondent dated May 8, 2019, with proposed Consent Order and Certified Mail documentation
6. Board Letter of March 11, 2019 to Respondent providing status report

Other Records Considered:

1. Transcript of Hearing of October 28, 2019, and exhibits.
2. *National Association of Social Workers (NASW) Code of Ethics.*
3. *W.Va. Code of State Rules §25-1-4, et. seq.*

WITNESSES

1. Vicki James, Executive Director, West Virginia Board of Social Work.
2. Davina Clay, Director of Behavioral Health, Charleston Area Medical Center

ISSUE

Whether the Respondent engaged in unprofessional or unethical behavior, practices or acts that constituted a willful departure from accepted standards of professional standards and ethical practices in violation of the provisions of *W.Va. Code* § 30-30-1, *et seq.*, *W.Va. Code of State Rules* §25-1-4.3 and §25-6-4, and the *National Association of Social Workers (NASW) Code of Ethics*.

After a review of the record and the exhibits admitted into evidence and the testimony of witnesses, and assessing the credibility of the witnesses and weighing the evidence in consideration of the same, the undersigned Hearing Examiner makes the following findings of fact and conclusions of law and recommendation to the Board:

FINDINGS OF FACT

1. The West Virginia Board of Social Work (“the Board”) is an administrative board created for the purpose of regulating the practice of social work in the State of West Virginia.
W.Va. Code §30-30-1, *et seq.*
2. The Board is empowered to suspend, revoke or otherwise discipline a social work licensee if the person engaged in unprofessional or unethical conduct in violation of the applicable statutes, rules or ethical or professional principles or standards. *W.Va. Code* §30-30-5.
3. If, after proper notice and opportunity for hearing, the Board finds that any licensee or permittee is guilty of unprofessional conduct which places the public at risk or intentionally violates legislative rules of the Board, the Board may take such disciplinary action as it deems reasonable. The Board may deny or refuse to renew, suspend, restrict

or revoke the license or permit of any licensee or permittee, or may impose probationary conditions upon the licensee or permittee.

4. The Respondent, Dwayne D. Willis, is a licensee of the Board, License No. BP00940530, and is a provisionally licensed social worker in the State of West Virginia. The Respondent is subject to the jurisdiction and authority of the Board and to the applicable licensing requirements.
5. At all times relevant herein, the Respondent was employed as a social worker with the Behavioral Health Unit at Charleston Area Medical Center ("CAMC"). He provided treatment and counseling to patients, including one-to-one individual therapy, intake assessments, discharge assessments and group therapy. The Respondent had been employed approximately two years at CAMC. [Davina Clay, Transcript p. 22.]
6. The Charleston Area Medical Center Behavioral Health Unit has an employee policy that forbids counselors, social workers and others from developing social relationships with patients outside the hospital setting. [Davina Clay, Transcript p. 25.]
7. On June 15, 2018, the CAMC Safety Line received a call that a Behavioral Health patient reported an inappropriate relationship with social worker Dwayne Willis, a counselor on the Behavioral Health Unit. The relationship started while the reporter was a patient on the Unit. The patient was part of the Respondent's group therapy counseling. [Davina Clay, Transcript p. 23; Hearing Exhibit No. 3.]
8. The patient reported that she obtained the Respondent's personal information while she was an inpatient at CAMC, namely his e-mail address and cell phone number. [Davina Clay, Transcript pp. 23-24; Exhibit No. 3.]

9. The Respondent began a personal relationship with the reporter after she was discharged from CAMC. [Davina Clay, Transcript p. 23; Exhibit No. 3.]
10. Davina Clay investigated the complaint, reviewed e-mails and text messages provided by the former patient and met personally with the Respondent to discuss the matter. [Davina Clay, Transcript, pp. 25-29.]
11. The Respondent admitted having a personal relationship with the former patient. The former patient stated that they had an intimate relationship. After investigation, Davina Clay determined that the relationship was a sexual relationship in violation of the CAMC employee policy. [Davina Clay, Transcript pp. 26 – 29.]
12. Based upon the complaint, the investigation and the admission of the Respondent that he did indeed have a relationship with a former patient, CAMC requested and received the Respondent's immediate resignation on June 19, 2018. [Davina Clay, Transcript, p. 29; Exhibit No. 3.]
13. On or about September 28, 2018, CAMC filed a Complaint against the Respondent with the Board alleging that the Respondent crossed professional boundaries with a former inpatient client, obtained the client's personal contact information while she was still a patient and engaged in an inappropriate relationship with a former patient. [Exhibit No. 3.]
14. On October 16, 2018, the Board forwarded the Complaint to the Respondent and requested a written response. [Exhibit No. 3.]

15. By letter dated October 31, 2018, the Respondent admitted to the allegations against him and took full responsibility for the same. He acknowledged that he made a serious violation of the Social Work Code of Ethics and agreed to accept any sanctions the Board imposed upon him. [Vicki James, Transcript pp. 13-16; Exhibit No. 4.]
16. The Board issued a status report to the Respondent on March 11, 2019 and included with the letter a proposed consent order. The Respondent signed for the certified mail letter on May 23, 2019. The Respondent did not reply or respond to the letter. [Vicki James, Transcript pp. 17-18; Exhibit No. 6.]
17. By letters dated May 8, 2019 and June 24, 2019, the West Virginia Board of Social Work informed the Respondent that it decided to proceed with disciplinary action against him for crossing professional boundaries with a client or former client. The Board included a proposed consent order with the letter. The certified mail documentation reflects that the Respondent received the letters, but he did not respond. [Vicki James, Transcript, pp. 16 – 17; Exhibit No. 2.]
18. By letter dated August 14, 2019, the Board again wrote to the Respondent advising him of the disciplinary action and offering him the opportunity to enter into a Consent Agreement and Order. The Board sent the letter to the Respondent by certified mail, return receipt requested. The Respondent refused to sign for the letter. [Vicki James, Transcript pp. 11-12; Exhibit No. 2.]
19. The Board issued a Statement of Charges and Notice of Hearing on September 5, 2019. The Board duly served the Respondent by certified mail and by regular mail. The Board scheduled the administrative hearing for October 28, 2019, before the undersigned

Hearing Examiner. The Respondent again refused to sign for the certified mail letter, which was returned to the sender. The Board presumed that the letter sent by regular mail was delivered and accepted. [Vicki James, Transcript pp. 7-9; Exhibit No. 1.]

20. The disciplinary hearing in this matter commenced on October 28, 2019, in Charleston, West Virginia. The Complainant appeared at the hearing through Vickie James, Executive Director of the West Virginia Board of Social Work, and Mark S. Weiler, Deputy Attorney General, its counsel. The Respondent failed to appear.
21. The Respondent was timely and properly served with the Board's Statement of Charges and Notice of Hearing. The Respondent had every opportunity to respond to the charges, appear at the hearing, present testimony and cross-examine the witnesses presented by the Board. The Respondent failed to respond, appear or protect his interests.

DISCUSSION

The provisions of *W.Va. Code* §30-30-1, *et seq.* and the *W.Va. Code of State Rules* §25-1-1, *et seq.* permit the West Virginia Board of Social Work to discipline any licensed social worker when it finds probable cause to believe that the licensee has engaged in unprofessional and/or unethical conduct in violation of applicable statutes, rules or ethical principles or standards. The Board may discipline a licensee only upon satisfactory proof that the social worker engaged in the questionable activity. Disciplinary action against a licensee of the Board must be predicated upon a preponderance of the evidence. *Orr v. Crowder*, 315 S.E.2d 593 (W.Va. 1983.)

The underlying facts that formed the basis for the initial investigation of this matter and the subsequent discharge of the Respondent are not in dispute. The Respondent, Dwayne D. Willis, was a social worker for the Behavioral Health Unit at Charleston Area Medical Center. As such, he provided counseling and services to inpatients at the Unit. He exchanged personal information with a patient while she was there, and thereafter engaged in a personal, intimate relationship with her. All of these acts were in violation of the internal policies of CAMC and in violation of the National Association of Social Workers Code of Ethics. When the former patient complained to CAMC, the Respondent admitted his actions and immediately resigned his employment. CAMC then submitted a formal complaint to the West Virginia Board of Social Work, alleging that the Respondent crossed professional boundaries with a former inpatient client and violated internal policies, NASW Code of Ethics and the applicable West Virginia statutes directing the behavior of licensed social workers in this state.

The witnesses presented by the Board at the administrative Hearing were credible and their testimony was detailed with regard to the underlying facts and the notices and other procedural safeguards afforded the Respondent in this matter. The Respondent clearly had notice of all proceedings and obviously did not respond to the same.

The uncontroverted evidence established by the Board shows that the Respondent did indeed engage in an intimate relationship with a former inpatient client; exchanged personal information while she was a client; and acknowledged his misdeeds to both the investigators at CAMC and the Board. The evidence also shows that the Respondent failed to respond to any further communications or pleadings filed by the Board after filing his initial response, and even went so far as to refuse certified mail notices and letters to him.

The Board gave the Respondent every opportunity to respond to the complaint made by the Department and to appear before the Board and defend himself. The Respondent did file an initial response, but thereafter failed to answer subsequent letters, notices and requests for his agreement to a proposed consent order. The Respondent also failed to appear at the administrative hearing and further failed to tender any evidence or documents that would contradict the evidence, testimony and documents submitted by the Board.

The Respondent's actions are clearly grounds for disciplinary action pursuant to the provisions of *W.Va. Code §30-30-1, et seq.*; are in violation of the provisions of the *National Association of Social Workers Code of Ethics*, *W.Va. Code of State Rules §25-1-4* and other applicable statutes, rules and policies.

CONCLUSIONS OF LAW

1. The West Virginia Board of Social Work ("the Board") is a state entity created pursuant to the provisions of *W.Va. Code §30-30-1, et seq.* and is charged with regulating the practice of social work in West Virginia.
2. The Board is empowered to suspend or revoke the license of a social worker, or to otherwise discipline a licensee if the person engaged in unprofessional and/or unethical conduct in violation of the applicable statutes, rules or ethical principles or standards related to social work. *W.Va. Code §30-30-5.*
3. At all times relevant to this matter, the Respondent, Dwayne D. Willis, was a provisionally licensed social worker in the State of West Virginia, holding License No.

BP00940530. As such, the Respondent is subject to the jurisdiction and authority of the board and all applicable licensing requirements.

4. Pursuant to the provisions of W.Va. Code §30-30-26(g), the Board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict or revoke the license or permit of any licensee or permittee who engages in unprofessional conduct which places the public at risk or intentionally violates legislative rules of the Board. The Board may also impose probationary conditions upon the licensee or permittee or take such disciplinary action as the Board deems necessary and reasonable.
5. The Board properly and timely served the Respondent with the Statement of Charges and Notice of Hearing by both certified mail and regular mail. As such, the Board was within its power to proceed with the administrative hearing despite the Respondent's failure to respond or appear.
6. Pursuant to the provisions of *W.Va. Code of Rules §25-1-4*, a social worker licensee or permittee is required to abide by the provisions of the *National Association of Social Workers (NASW) Code of Ethics*.
7. The ethical principles set forth in the *NASW Code of Ethics* state that a social worker is expected to behave in a trustworthy manner and elevate service to others above self-interest.
8. A social worker's primary responsibility is to promote the well-being of clients. (*NASW Code of Ethics*, Standard 1.01: Commitment to Clients.)

9. Social workers are expected to work toward the maintenance and promotion of high standards of practice. (*NASW Code of Ethics*, Standard 5.01(a): Integrity of the Profession.)
10. Social workers should not permit their private conduct to interfere with their ability to fulfill their professional responsibilities. (*NASW Code of Ethics*, Standard 4.03: Private Conduct.)
11. Social workers should be alert and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. Social workers should not take unfair advantage of any professional relationship or exploit others to further their personal interests. (*NASW Code of Ethics*, Standard 1.09: Sexual Relationships.)
12. The Board bears the burden of proving the allegations in its Complaint by a preponderance of the evidence. *Orr v. Crowder*, 315 S.E.2d 593 (W.Va. 1983.)
13. The Board has shown by a preponderance of the evidence through consistent, reliable and credible witnesses, testimony and documentation that the Respondent crossed professional boundaries with a former inpatient client by having a personal, intimate and sexual relationship with the client after she was discharged from CAMC Behavioral Health Unit.
14. The Board established by a preponderance of the evidence that the Respondent engaged in unprofessional or unethical conduct and failed to comply with the internal policies of CAMC, applicable laws, rules and codes of conduct pertaining to licensed social workers in West Virginia, all of which constitute grounds for disciplinary action

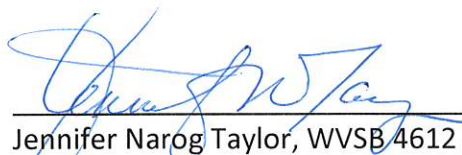
pursuant to the provisions of *W.Va. Code* § 30-1-8, §30-30-26, *W.V. Code R.* §25-1-4.3, *NASW Code of Ethics*, and *W.Va. Code R.* §25-6-1, *et seq.*

15. The Board established by a preponderance of the evidence that the Respondent failed and/or refused to respond to the notices, letters, complaints or other correspondence sent to him from the Board.
16. The Respondent had sufficient and proper notice of the Complaint and the Notice of Hearing and failed to respond or appear.
17. The evidence and testimony presented by the Board established by a preponderance of the evidence that the Respondent engaged in unprofessional or unethical conduct, practices and acts and has failed to comply with the applicable laws, rules, regulations or codes of conduct pertaining to licensed social workers in West Virginia.
18. The conduct of the Respondent constitutes grounds for disciplinary action pursuant to the provisions of *W.Va. Code* § 30-1-8, *W.Va. Code* § 30-30-26; *W.Va. Code R.* §25-1-4-3, *W.Va. Code R.* §25-6-1, *et seq.*, *W.Va. Code R.* §25-7-2 and *NASW Code of Ethics*.
19. The Board has met its burden of proof in this matter by a preponderance of the evidence and shall discipline the Respondent accordingly.
20. The Board may seek reimbursement for all administrative costs generated in the investigation and disposition of this matter, including, but not limited to, the cost of the Hearing Examiner, court reporter and Hearing transcript.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, and on the basis of the evidence, the undersigned Hearing Examiner recommends that the Board of Social Work take such disciplinary action against the Respondent, Dwayne D. Willis, and his license as is deemed reasonable and just under the circumstances. Such action may include the suspension, restriction or revocation of the license or permit; the imposition of probationary conditions upon the license of the Respondent; or such other disciplinary action permitted by law, and the imposition of costs.

Respectfully submitted this 29th day of January 2020.

A handwritten signature in blue ink, appearing to read "Jennifer Narog Taylor", is written over a horizontal line.

Jennifer Narog Taylor, WVSB 4612
Hearing Examiner
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