

BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD

Eisenhower State Office Building
700 SW Harrison, Suite 420
Topeka, Kansas 66603-3240

In the Matter of)
)
Steven E. Burkhart)
)
Applicant for Licensure as a)
Master Social Worker)

Case No. 2022-MS-018

SUMMARY PROCEEDING ORDER

Pursuant to K.S.A. 77-537

The above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board) for consideration of the application filed by Steven E. Burkhart for licensure as a master social worker. After reviewing its administrative records, the Board makes the following findings of fact, conclusions of law, and orders.

Findings of Fact

1. The Board received an application for licensure as master social worker from Steven E. Burkhart (Applicant). In his application, he answered “Yes” to the following question: “Have you ever been convicted of a misdemeanor crime against persons?” On November 4, 2019, Applicant entered a plea of no contest to a battery offense, a person misdemeanor. The court accepted his plea and found him guilty of battery.

2. Applicant provided the following information regarding his conviction. In September 2018, his [REDACTED] wanted to sleep in [REDACTED] parent’s bed. Applicant and his wife allowed their [REDACTED] to do this because they regularly worked nights, but Applicant wanted his [REDACTED] [REDACTED] own bed. Applicant picked up his [REDACTED] from the bed and told [REDACTED] to go to [REDACTED] room. Applicant then “squeezed [REDACTED] upper arm with slight pressure on the nerve in [REDACTED] inner arm to get [REDACTED] attention so [REDACTED] would go to [REDACTED] own bed.” When Applicant gave his phone to his [REDACTED] so that [REDACTED] could tell [REDACTED] mother good night, [REDACTED] told her Applicant was being mean to [REDACTED]. Applicant’s wife came home and left the house with her [REDACTED]. Applicant acknowledged he had drank too much alcohol on the night of the incident, but had not drank as much as his wife claimed. He denied being out of control or confrontational.

3. At that time, Applicant was a police officer; the police department placed him on suspension during its investigation of the incident. During that time, Applicant felt burnt out and decided to make a career change. He entered a no contest plea to the battery offense knowing his 16-year career in law enforcement would end. Applicant stated he entered the plea so that his [REDACTED] would not have to testify in court, as his [REDACTED] was shy and would have been terrified to talk in the courtroom. However, Applicant

claimed he never hit his [REDACTED] did anything out of anger, or touched any areas that could cause injury. Applicant believed applying pressure to his [REDACTED] arm was parental discipline and a lesser level of discipline than spanking.

4. Applicant advised he and his wife had discussed a divorce several times before this incident and she commented that she would get custody of their [REDACTED]. She had also stated she could get him in trouble by telling his supervisor that he had hit her. Applicant felt "this incident was her way of ending the marriage and getting [custody of their] [REDACTED] 100% of the time."

5. The court imposed a jail term of 180 days, but suspended it and placed Applicant on supervised probation for 12 months. The probation conditions included remaining in Kansas unless his probation officer gave a written travel permit; not to possess or consume any alcohol; completing an alcohol and drug evaluation and complying with all recommendations; and obtaining a psychiatric evaluation to address [REDACTED]. Contact with his [REDACTED] was to be in coordination with the Protection from Abuse Order and the domestic case.

6. The court revoked Applicant's probation on three occasions. The first revocation occurred in February 2021 for not completing his [REDACTED]. The court revoked Applicant's probation, but reinstated it with an additional six months. Applicant claims he misunderstood what he was to do and did not start [REDACTED] early enough to finish it on time. His last required session was the day after the revocation hearing. Applicant completed [REDACTED] and continued to see his [REDACTED].

7. The second revocation occurred in April 2021 for drinking alcohol and missing probation meetings. The court reinstated Applicant's probation and ordered [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. Applicant advises he has not drunk alcohol since [REDACTED].

8. The third probation revocation occurred in March 2022 for not [REDACTED]. Applicant stated he was screened for [REDACTED]. Applicant also left the state without permission from his probation officer. Applicant advised he forgot to obtain permission prior to going to a concert in Oklahoma with his fiancé the weekend before [REDACTED]. Applicant's probation ends on September 3, 2022.

9. Applicant stated on the Criminal Conviction Disclosure Form that he did not take full responsibility for his battery conviction. He explained that he felt partially responsible because Applicant believed his conduct was parental discipline, rather than the crime of battery. He admits he could have handled the situation better and states it will never happen again.

10. Applicant stated he continued his [REDACTED], [REDACTED] [REDACTED]. However, he has not provided any progress report [REDACTED]. He also did not provide any information on the steps he has taken to [REDACTED]. Applicant worked at a substance abuse treatment center and became a case manager in May 2022. He has not had any further issues with anyone since the incident with his [REDACTED]. Applicant is now energized and ready to begin his career in mental health and substance abuse. Applicant stated he is working to learn as much as he can about substance abuse and mental health so that he can help others who find themselves in unfortunate situations.

11. In support of his application, Applicant provided five professional reference forms. One reference was a co-worker and licensed by the Board as master social worker. She had known Applicant for one year and opined that he possessed the moral standards and fitness required for a licensed social worker. She answered "No" to the question was she aware of any significant facts concerning Applicant's background that reflected unfavorably on his character and fitness to practice social work.

12. Another reference was a co-worker and licensed by the Board as a clinical professional counselor and a clinical addiction counselor. He had known Applicant for more than six months and opined Applicant possessed the moral standards and fitness required for a licensed social worker. He stated Applicant had a "good moral code." He also answered "No" to the question whether he was aware of any significant facts concerning Applicant's background that reflected unfavorably on his character and fitness to practice social work.

13. The third reference was Applicant's supervisor and licensed by the Board as a clinical addiction counselor. She had known Applicant for 1-1/2 years and opined that he possessed the moral standards and fitness required for a licensed social worker. She also answered "No" to the question whether she was aware of any significant facts concerning Applicant's background that reflected unfavorably on his character and fitness to practice social work.

14. The next reference was the Director of Field Practicum at the University where Applicant received his master's degree in social work. She did not know Applicant but reviewed his practicum evaluation. She stated his evaluation showed he met the expectations of a practicum student in the 12 areas evaluated and exceeded expectations in a few areas at the end of the school year. She opined that Applicant possessed the moral standards and fitness required for a licensed social worker. She also was not aware of any significant facts concerning Applicant's background that reflected unfavorably on his character and fitness to practice social work.

15. The last reference held a master social worker license issued by the Board, but worked as a school counselor. He had known Applicant for 24 years, but based his reference solely on his work-related encounters with Applicant while he was a police officer. This reference stated he was aware of significant facts that were unfavorable on Applicant's character and fitness to practice social work. He knew of Applicant's misdemeanor domestic battery conviction. "Per documents available online, [Applicant]

was under the influence of alcohol at the time of the incident” and it led to Applicant losing his job with the police department and his professional interaction with Applicant. The reference recommended Applicant for licensure, but acknowledged Applicant’s legal issues were significant in nature; however, there had been no issues before or after the incident. During his professional interactions with him, Applicant exhibited respect for individuals who were at their lowest point, cared about his community, showed integrity as an officer of the law, and understood and believed in the role of social work.

16. The Kansas Commission on Peace Officer’s Standards and Training (CPOST) issued a summary proceeding order revoking Applicant’s certification as a law enforcement officer. That order contained the following factual findings.

On September 3, 2018, Respondent’s wife received a phone call from her [REDACTED] child. The child was hysterical and reported that Respondent was hitting [REDACTED] and using pressure points on [REDACTED]. The child had locked [REDACTED] in the bathroom. While on the phone with her child, the wife could hear Respondent yelling in the background. The wife was able to speak with Respondent and told him she was coming to pick up the child and was bring Respondent’s father. Respondent stated that if anyone came on the property, he would shoot then in the face. Upon their arrival, the wife and Respondent’s father found Respondent “passed out.” Once Respondent was awoken, he became belligerent and said he was play fighting with the child. A subsequent SANE examination of the child revealed bruises, swelling, and redness from the incident with Respondent.

17. CPOST revoked Applicant’s certification as a law enforcement officer based on his misdemeanor conviction and his failure to maintain good moral character sufficient to warrant the public trust as a law enforcement officer. CPOST sent a copy of the order to Applicant on September 9, 2020, and provided written notice to Applicant of his right to request a hearing on the order. This order became final fifteen days later.

Conclusions of Law

18. The Kansas Social Workers Licensure Act (Act), K.S.A. 65-6301 *et seq.*, authorizes the Board to issue a license as a master social worker to applicants who meet the requirements. See K.S.A. 65-6306(b). However, the Board may deny a license or may limit or condition a license if it finds an applicant has a person misdemeanor conviction and “has not demonstrated to the Board’s satisfaction that such person has been sufficiently rehabilitated to merit the public trust.” K.S.A. 2021 Supp.65-6311(a)(2).

19. K.A.R. 102-2-1a(p) defines the term “merits the public trust” as:

[A]n applicant or licensee possesses the high standard of good moral character and fitness required to practice social work as demonstrated by the following personal qualities:

(1) Good judgement;

- (2) integrity;
- (3) honesty;
- (4) fairness;
- (5) credibility;
- (6) reliability;
- (7) respect for others;
- (8) respect for the laws of the state and the nation;
- (9) self-discipline;
- (10) self-evaluation;
- (11) initiative; and
- (12) commitment to the social work profession values and ethics.

20. Applicant has applied for licensure as a master social worker after a conviction of a person misdemeanor offense. The Board has jurisdiction over Applicant and this matter.

21. The Board conducts administrative proceedings regarding licensure under the Act in accordance with the Kansas Administrative Procedure Act (KAPA), K.S.A. 77-501 *et seq.* K.S.A. 2021 Supp. 65-6311(c). Under the KAPA, the Board may use summary proceedings to issue an order, subject to a party's request for a hearing. The Board finds that the use of summary proceedings in this matter does not violate any law and the protection of the public interest does not require the Board to give notice and opportunity to participate to persons other than the parties. See K.S.A. 77-537.

22. Applicant's misdemeanor battery conviction occurred on November 4, 2019—less than three years ago. The court placed him on probation for 12 months. However, the court revoked his probation three times. The first revocation was for failing to ██████████ Applicant claimed he misunderstood the court's order. The second revocation was for drinking alcohol and missing probation meetings; Applicant did not dispute this. The third revocation, which occurred less than six months ago, was for not ██████████ ordered by the court and leaving the state to attend a concert without permission from his probation officer. Applicant states he forgot to ask for permission, but he did ██████████ After each revocation, the court extended his probation term. As a result, Applicant remains on probation until September 2022. The three probation revocations show Applicant's reluctance to change and comply with authority.

23. The factual findings in the order issued by CPOST show the incident was more serious than Applicant has acknowledged. CPOST found Applicant's ██████ locked ██████ in the bathroom and called ██████ mother. ██████ was hysterical. ██████ told her Applicant had hit ██████ and used pressure points on ██████ Applicant's wife could hear Applicant yelling in the background even though Applicant denied being out of control or hysterical. When she talked with Applicant, he threatened to shoot anyone who came on the property. Applicant said he had not drank as much as his wife had claimed, but upon arriving at the residence, Applicant's wife and father found Applicant passed out. When he awoke, Applicant stated he was play fighting with his ██████

24. Applicant's explanation of the incident with his [REDACTED] was that he squeezed his [REDACTED] upper arm and applied slight pressure on the nerve in [REDACTED] inner arm. In other words, Applicant applied a pressure point to control his [REDACTED]. Applicant claimed this was a lesser method of parental discipline than a spanking. He also claimed [REDACTED] [REDACTED] was not injured, and he never hit his [REDACTED] did anything out of anger, or touched any areas that could cause injury. Despite his denial of anger, the court ordered Applicant to have a [REDACTED]. Additionally, the CPOST order found that a SANE examination of Applicant's [REDACTED] showed [REDACTED] suffered bruises, swelling, and redness from Applicant's conduct. These injuries showed Applicant's physical contact with his [REDACTED] exceeded parental discipline and Applicant was angry when he had physical contact with his [REDACTED]

25. Applicant stated he continued [REDACTED] [REDACTED] [REDACTED] However, he has not provided any statement from [REDACTED] nor has he provided any information on the steps he has taken to [REDACTED]. Thus, Applicant has not provided evidence of his progress through [REDACTED]

26. Applicant stated he believed his wife used this incident so that she could end their marriage and get custody of their [REDACTED]. Applicant also claimed he entered the plea of nolo contendere so that his [REDACTED] would not have to testify in a courtroom. In other words, Applicant has yet to take responsibility for his criminal conduct and the harm that it has caused to his family.

27. After his conviction, Applicant continued his education, obtaining a master's degree in social work. All five references recommended Applicant for licensure as a master social worker. However, only one reference knew of a significant fact concerning Applicant's background that would reflect on Applicant's character and fitness to practice social work. That reference stated Applicant's conviction was "significant in nature." He apparently based his knowledge on an on-line document that he had accessed rather than Applicant advising him about his conviction. As such, it seems Applicant did not inform any of his references about the nature of his conviction so that they could provide a complete evaluation of his character.

28. In summary, Applicant has not been forthright and lacks candor regarding the circumstances that led to his misdemeanor battery conviction and the extent of his rehabilitation. He remains on probation for a misdemeanor conviction that occurred less than three years ago because the court revoked his probation three times for not complying with various conditions. The Board concludes that Applicant has not been sufficiently rehabilitated to warrant the public trust because he does not possess the traits for good moral character and fitness required to practice social work as identified in K.A.R. 102-2-1a(p).

29. Based upon the above findings of fact and conclusions of law, the Board determines that the application filed by Steven E. Burkhart for licensure as a master social worker should be denied.

Order

After consideration of the above findings of facts and conclusions of law, it is the decision and order of the Board that the application filed by Steven E. Burkhart for licensure as a master social worker should be denied.

IT IS SO ORDERED.

Kansas Behavioral Sciences Regulatory Board



Deb Stidham, Board Member and
Presiding Officer

NOTICE OF ADMINISTRATIVE RELIEF

Pursuant to K.S.A. 77-537(b) and 77-542(a), a party may file a written request for a hearing before the Board on the above Summary Proceeding Order with the Board within fifteen (15) days of the date listed on the Certificate of Service below. Pursuant to K.S.A. 77-503(c), the 15-day period begins the day after the date shown in Certificate of Service below. If the 15th day falls on a Saturday, Sunday, or legal holiday, then the 15-day period runs until 5:00 p.m. on the next day that is not a Saturday, Sunday, or legal holiday. Receipt of a written request occurs on the date the Board's office receives it. If the Board does not receive a request for a hearing in the time and the manner stated, the above Summary Proceeding Order becomes effective upon expiration of the 15-day period.

The Board's designee who may receive service of a request for a hearing on behalf of the Board is:

David Fye, Executive Director
Behavioral Sciences Regulatory Board
700 SW Harrison, Suite 420
Topeka, Kansas 66603

CERTIFICATE OF SERVICE

This is to certify that on this 29th day of August 2022 I placed a copy of the above and foregoing Summary Proceeding Order and Notice of Administrative Relief in the U.S. mail, first-class postage prepaid and addressed to:

Steven E. Burkhart



A handwritten signature in blue ink, appearing to read "Kestler A. Allen".

Staff,
Kansas Behavioral Sciences Regulatory Board