LOUISIANA STATE BOARD OF
SOCIAL WORK EXAMINERS

IN THE MATTER OF	**FINDINGS OF FACT, CONCLUSIONS**
LILLIE FORD LAVAN	**OF LAW AND SANCTIONS**
LICENSE NO. 4121	**NUMBER 2012-02**

This matter came before the Louisiana State Board of Social Work Examiners ("Board") on September 28, 2012 for a hearing on an Administrative Complaint filed with the Board by the Assistant Attorney General and docketed in the captioned proceedings on July 20, 2012. Board members, Lisa Lipsey, LCSW, Michael Hickerson, RSW, Judith Haspel, LCSW, Carla Moore, LMSW, and Parker Sternbergh, LCSW, served on the hearing panel.

Complaint History and Pre-Hearing Issues

The complaint in this case originated with an article dated July 1, 2011 on www.nola.com, which named Lillie Lavan as being indicted on federal charges of health care fraud. A letter of inquiry was sent to Assistant United States Attorney Catherine Maraist with The United State Attorney's Office, Middle District of Louisiana. In response to this inquiry, the Board received a copy of the Indictment, Factual Summary Stipulation, and the Plea Agreement in the matter of the United States of America versus Lillie Lavan. The Factual Summary Stipulation states that Lillie Lavan was a LCSW employed by Fusion and Grace to provide individual, face-to-face psychotherapy services to Medicare beneficiaries. Between May 2006 and September 2010, Ms. Lavan aided owner, Sonya Williams, in the preparation and submission of approximately $1,173,370 in false claims to Medicare. The Factual Summary Stipulation further states that Ms. Lavan created and caused the creation of false and misleading patient records. The Plea

Agreement indicates that Ms. Lavan entered a plea of guilty to health care fraud, in violation of 18 U.S.C. § 1347.

Because the services provided were within the field of social work practice, the Board turned the matter over to the Attorney General's office. The draft Administrative Complaint alleged violations of La R.S. 37:2717(A)(1), 2717(A)(5), and 2717(A)(10). The Assistant Attorney General prepared a draft administrative complaint and this draft complaint was served on Ms. Lavan by certified mail, return receipt requested on April 17, 2012. A response from Ms. Lavan to the draft complaint was not received.

Thereafter, the Assistant Attorney General filed the Final Administrative Complaint with the Board and the Board set the matter for hearing at 8:30 a.m. on September 28, 2012. This Administrative Complaint, along with notice of the administrative hearing, was served on Ms. Lavan by certified mail, return receipt requested on August 10, 2012.

The Complaint alleges that Respondent violated provisions of the Social Work Practice Act by allowing the owner and operator of Fusion and Grace to use her individual Medicare provider number to bill Medicare for services, by creating false and misleading patient records which indicated she had performed individual, face-to-face psychotherapy services to Medicare beneficiaries which she did not perform, and by billing for group recreational and social activities with Medicare beneficiaries as if they were individual, face-to-face psychotherapy sessions. The Complaint also alleges that Ms. Lavan aided in the preparation and submission of approximately $1,173,370 in false claims to Medicare. These claims were false in that they sought payment for psychotherapy services that had not been provided, that were not medically necessary, and that were not provided by licensed, qualified health care providers who were entitled to payment.

Based on the above alleged facts, the Administrative Complaint charges Ms. Lavan with violations and such conduct serves as just cause for the Board to deny, revoke, or suspend the

license of Ms. Lavan, or otherwise discipline Ms. Lavan. The Complaint includes violations of the Louisiana Social Work Practice Act:

1. By pleading guilty to health care fraud, 18 U.S.C.A. § 1347, the Board is authorized by La. R.S. 37:2717(A)(1) to discipline the license of Ms. Lavan.

2. By the actions described above, Ms. Lavan is in violation of an order, rule, or regulation adopted by the Board, as set out in La. R.S. 37:2717(A)(5).

3. Violation of her professional and ethical duty as set forth in La. R.S. 37:2717(A)(10), which prohibits the submission of false or deceptive reports or claims for the purpose of obtaining payment.

RESPONDENT'S FAILURE TO APPEAR

At the time the case was called, Respondent, Lillie Ford Lavan was not present. The Board was provided with a copy of the hearing notice letter and the certified return receipt documenting Ms. Lavan was served on August 10, 2012.

AUTHORITY FOR ADJUDICATION BY DEFAULT

The Louisiana Administrative Procedure Act (LAPA) allows for the disposition of an Administrative Complaint by default under LA R. S. 49:955 (D) unless such action is "precluded by law". No other provision of LAPA or the Social Work Practice Act precludes the adjudication of the captioned complaint by default. The Board, satisfied that the requirements for due process of law had been met, allowed the case to proceed in the absence of the Respondent.

THE HEARING

The Assistant Attorney General introduced the licensing information from the Board's database as documentary evidence to support the Board's jurisdiction in this matter. The Assistant Attorney General also submitted certified copies of the Factual Summary Stipulation and the Plea Agreement in the case of *USA v. Lillie Lavan*, USDC, Middle District Criminal # 11-64 - FJP- DLD in support of the allegations contained in the Administrative Complaint. Because the Respondent elected not to appear for the hearing, the documents offered by the Assistant Attorney General were admitted into evidence without objection. In this adjudication the Board has required proof by a preponderance of evidence relative to each of the allegations contained in the Administrative Complaint. At the close of the presentation of evidence the Board took the matter under deliberation and, after thorough review of all of the evidence, unanimously made the following Findings of Fact, Conclusions of Law and Sanctions.

FINDINGS OF FACT

1. Lillie Ford Lavan is a Licensed Clinical Social Worker (LCSW), number 4121, since July 12, 1997.

2. Ms. Lavan was actively engaged in the practice of social work, employed with Fusion Services, L.L.C. ("Fusion") and Grace Social Services, L.L.C. ("Grace") of Alexandria, Louisiana as a LCSW to provide individual face-to-face psychotherapy services to Medicare beneficiaries.

3. Ms. Lavan allowed the owner and operator of Fusion and Grace to use her individual Medicare provider number to bill Medicare services.

4. Between May 2006 and September 2010, Ms. Lavan aided in the preparation and submission of approximately $1,173,370 in false claims to Medicare seeking payment for psychotherapy services which were not provided, were not medically necessary and were not provided by licensed healthcare providers.

5. Ms. Lavan authorized and participated in group recreational and social activities with Medicare beneficiaries and caused these activities to be billed as if they were individual, face-to-face psychotherapy sessions. Ms. Lavan also created and caused to be created false and misleading patient records representing her provision of such services as part of a scheme to defraud.

6. On or about January 24, 2012, Ms. Lavan pled guilty to one felony count of an indictment charging her with health care fraud (18 U.S.C. § 1347). A copy of such plea agreement and fact stipulation are attached to this decision.

CONCLUSIONS OF LAW

The unopposed exhibits, including the Respondent's Factual Summary Stipulation and Plea Agreement, show that Respondent, with the benefit of legal counsel, admitted to conduct which was in violation of federal law resulting in her conviction on one felony count of a health care fraud indictment. Accordingly, the same conduct which Respondent admitted in the federal criminal proceeding is deemed admitted before the Board in regard to the charges filed against her in the captioned Administrative Complaint.

The Administrative Complaint alleged that Ms. Lavan violated three provisions of the Social Work Practice Act, La. R. S. 37:2717 (A) (1), (5) and (10). Pursuant to La. R. S. 37:2717 (A) (1) the Board is given the power to deny, revoke or suspend a social worker's license or otherwise discipline of social worker for "any of the following causes: (1) A final conviction of any felony upon a plea or verdict of guilty or following a plea of nolo contendere." Respondent's aforementioned guilty plea to one felony count of a federal health care fraud indictment conclusively established that Ms. Lavan has violated La. R. S. 37:2717 (A) (1).

La. R. S. 37:2717 (A) (5) authorizes the Board to take disciplinary action where the Respondent has violated "any order, rule, or regulation adopted by the board." However, the

second violation alleged in the Administrative Complaint does not identify which "order, rule or regulation adopted by the board" Ms. Lavan is alleged to have violated. Instead, the violation, in its essential language, alleged that, by pleading guilty to health care fraud, Ms. Lavan has violated an order, rule or regulation adopted by the board.

Legal due process governing this Administrative Proceeding requires that the Respondent be given notice of the particular law or rule alleged to have been violated. This legal principle governing Administrative Complaint pleading requirements also is specified in the language set off by parentheses in the second sentence of Board Rule §909 (B). While the Respondent's admitted conduct may have violated one of more Board Rules, the Board cannot make such a finding in the absence of a specific allegation. Therefore, the Board concludes that a violation of La. R. S. 37:2717 (A) (5) has not been established.

The third violation alleged is La. R. S. 37:2717 (A) (10). This provision allows disciplinary action for "Deceiving or defrauding the public or making, submitting, or causing to be submitted any false or deceptive claims, reports, charges, assessments, or opinions regarding any client or service provided to any client, insurance company, health care provider, third-party payor, company, individual or any governmental agency for the purpose of obtaining payment or anything of economic value." This violation was alleged with particularity and Respondent's admitted conduct conclusively establishes her violation of La. R. S. 37:2717 (A) (10).

SANCTIONS

IT IS ORDERED that:

1. Lillie Ford Lavan's LCSW license #4121 is hereby revoked .
2. Ms. Lavan shall pay a fine authorized by La. R.S. 37:2717(B)(5) in the amount of $2,000.00.
3. Ms. Lavan shall pay the legal costs associated with Complaint 2012-01 in the amount of $599.05.

4. Ms. Lavan shall return to the Board all licensure wall certificates and wallet-size identification cards issued by the Board.

IT IS FURTHER ORDERED that:

5. Ms. Lavan is not allowed to make application for any form of social work license, certificate or registration issued by this Board for a period of at least five years from the date of this order.

6. In the event that Ms. Lavan should, at the end of this five year period, make application for any form of social work license, certificate or registration issued by this Board, Ms. Lavan shall be regarded as a new applicant in all respects.

7. Under no circumstances will any future application submitted by Ms. Lavan for any form of social work license, certificate or registration issued by this Board be granted until Ms. Lavan has paid in full the amounts specified in sections 2 and 3 of this Order.

8. In the event of reinstatement, the Board reserves the right, in its sole and absolute discretion, to place restriction on Licensee's practice of social work.

11/16/2012

Date

Lisa L. Lipsey, LCSW

Lisa L. Lipsey, LCSW

Chairperson