

IN THE MATTER OF
NIKKI FALAY, LCMFT
Respondent

License Number: LCM872

*** BEFORE THE MARYLAND STATE**
*** BOARD OF PROFESSIONAL**
*** COUNSELORS AND THERAPISTS**
*** Case Number: 2020-024**

* * * * *

CONSENT ORDER

On June 24, 2024, the Maryland State Board of Professional Counselors and Therapists (the “Board”) charged **NIKKI FALAY, LCMFT** (the “Respondent”), Licensed Clinical Marriage and Family Therapist, License Number LCM872, with violating the Maryland Professional Counselors and Therapists Act (the “Act”) codified at Md. Code Ann., Health Occ. §§ 17-101 *et seq.* (2021 Repl. Vol. & 2023 Supp.), and the Board’s regulations under Md. Code Regs. (“COMAR”) 10.58 *et seq.*

The Board charges the Respondent with violating the following provisions of the Act:

§ 17-507. Professional disclosure statements.

- (a) Any individual who is licensed under Subtitle 3 of this title or certified under Subtitle 4 of this title may not charge a client or receive remuneration for counseling or therapy services unless:
 - (1) Before the performance of those services, the client is furnished a copy of a professional disclosure statement; or
 - (2) (i) This professional disclosure statement is displayed in a conspicuous location at the place where the services are performed; and

- (ii) A copy of the statement is provided to the client on request.

§ 17-509. Denial, suspension or revocation of license.

Subject to the hearing provisions of § 17-511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny trainee status, a license, or a certificate to any Respondent, place any trainee, licensee, or certificate holder on probation, reprimand any trainee, licensee, or certificate holder, or suspend, rescind, or revoke the status of any trainee, a license of any licensee, or a certificate of any certificate holder if the Respondent, trainee, licensee, or certificate holder:

- (8) Violates the code of ethics adopted by the Board;
- (9) Knowingly violates any provision of this title;
- (13) Violates any rule or regulation adopted by the Board[.]

The relevant provisions of the code of ethics and regulations adopted by the Board provide:

COMAR 10.58.03.04 Ethical Responsibility.

A. A counselor shall:

- (11) Be familiar with and adhere to this chapter[.]

COMAR 10.58.08.10 Responsibilities of a Supervisee.

A. A supervisee shall:

- (1) Verify that the supervisee's supervisor has been approved by the Board;

B. A supervisee may not engage in the practice of clinical marriage and family therapy independent of supervision.

C. A supervisee shall provide the client with a copy of a professional disclosure statement as required under Health Occupations Article, § 17-507, Annotated Code of Maryland, that:

- (1) Clearly states the marriage and family therapy services are provided under clinical supervision; and

- (2) Provides the name of the supervisor with address and contact information.
- D. A supervisee shall obtain a signed informed consent for treatment form from the client which indicates that the client:
 - (1) Is aware that marriage and family therapy services are being provided under clinical supervision; and
 - (2) Consents to the recording of therapy sessions and the sharing of client information and, acknowledges that all these materials may be shared with:
 - (a) The Board-approved supervisor of record; or
 - (b) The instructor supervising an education-related practicum.

Prior to the evidentiary hearing on the Notice of Charges, the Respondent, represented by counsel, and the Administrative Prosecutor entered into negotiations to resolve the case in lieu of an evidentiary hearing. As a result of negotiations, the parties agreed to the following Consent Order consisting of Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds the following:

I. BACKGROUND

1. On August 21, 2017, the Board issued the Respondent a license to practice as a Licensed Graduate Marriage and Family Therapist – license number LGM649.
2. On March 17, 2022, the Board issued the Respondent a license to practice as a Licensed Clinical Marriage and Family Therapist (“LCMFT”) – License number

LCM872. Her LCMFT is currently active and is scheduled to expire on January 31, 2026.

II. COMPLAINT

3. On or about October 3, 2019, the Board received a complaint from a former client (the “Client”) of the Respondent’s when she was employed at a center that offers a spectrum of services to those looking for individual and family therapy and treatment (the “Center”).¹ The Complaint stated in part:

I started seeing Ms. Falay May 4[,] 2019[,] for work-related issues, childhood attachment issues, and emerging relationship issues.

1. I am complaining, . . . that Nikki Falay LGMFT, failed to provide me—at the beginning of treatment or any other time—with a copy of the professional disclosure statement required under Health Occupations Article §17-507, Annotated Code of Maryland[.]
2. I am complaining, . . . that Nikki Falay LGMFT, failed to obtain—at the beginning of treatment or any other time—a signed informed consent treatment form, from me and all other clients she has seen and accepted payment from, which indicates the client:
 - a. Is aware that marriage and family therapy services are being provided under clinical supervision; and
 - b. Consents to the recording of therapy sessions and the sharing of client information and, acknowledges that all these materials may be shared with:
 - i. The approved supervisor of record;

....

¹ For confidentiality and privacy purposes, the names of individuals and facilities involved in this case are not disclosed in this document. The Respondent may obtain the names of all individuals and facilities referenced in this document by contacting the administrative prosecutor.

3. I am complaining that Nikki Falay's supervisor, [Supervisor 1] is NOT a supervisor approved by the Maryland Board of Professional Counselors and Therapists pursuant to COMAR 10.58 and that, therefore, Ms. Falay provided therapy services under her LGMFT license without cognizable supervision as provided as a requirement of her graduate-level license. Further, because Ms. Falay purportedly was being supervised by someone unapproved by the Maryland Board of Professional Counselors and Therapists, she was and is not authorized to provide any marriage and family therapy or other therapy[.]

4.

5. Both Nikki Falay and [Supervisor 1] refused to provide me with their license numbers despite my numerous written requests[.]

4. After receiving the complaint, the Board initiated an investigation of the Respondent under Case Number 2020-024.

III. BOARD INVESTIGATION

5. As part of its investigation, the Board obtained personnel and treatment records from the Facility and conducted interviews, including an interview with the Respondent.

6. On June 4, 2020, the Board received the Respondent's written response to the allegations. The Respondent noted the following:

1. Throughout my clinical practice, I have started first sessions with new clients with a few caveats, that start with explaining what the letters 'LGMFT' after my name mean. I start this explanation with the 'LG' piece and explain that I am a Licensed Graduate MFT, meaning that I am under supervision. Therefore, just like all other clients I have worked with, [Client] was given a chance to give verbal informed consent, after which she continued to work with me

for months following, without concern around my being supervised Additionally, the day that the crucial importance of having a written copy of my professional disclosure signed by new clients was brought to the attention of myself and [Owner] of [Center], a form was created on our portal to be included as a part of our intake packet in the future[.]

2. As mentioned above, while [Client] is correct that her consent in relation to my being supervised was not taken in written form, verbal consent was given by [the Client] after my disclosure during our first session of being a Licensed Graduate MFT under supervision[.]
 3. During working with [Client], I was under supervision with both [Owner], LCSW-C and [Supervisor 1]; as [Owner] helped me address admin matters as well as matters related to client's crises and [Supervisor 1] provided me with supervision around my entire caseload from an MFT perspective. When I signed my supervision contract with both supervisors, it was under the understanding that [Supervisor 1] is a LCMFT, a MD Board approved supervisor, as well as a supervisor candidate with the AAMFT who has the ability to supervise an LGMFT in a way that allows for both monitoring of caseload and acquisition of supervision hours towards my licensing. I also understand that as an LCSW-C, [Owner] could potentially provide me with 10% of my required supervision hours, if approved by the board for this[.]
7. A review of the Client's treatment file revealed no mention or documentation of the "caveats" the Respondent provided to the Client, nor was the Client's verbal consent to the Respondent's professional disclosure documented.
 8. A review of the Board's records at the time the Respondent was providing treatment to the Client, neither Supervisor 1 nor Owner were Board approved supervisors.

9. A review of the Respondent's Application for Extension of Graduate Marriage and Family Therapist License, received by the Board on August 4, 2021, revealed the Respondent indicated that she was requesting a "2nd 2-year extension of my graduate marriage and family therapist license in order to accumulate the supervised clinical hours required for licensure as a clinical marriage and family therapist. I am requesting an additional 2-year extension for the following reason(s): Mid-2020 I discovered that the hours I accumulated with my supervisor at the time would not count towards licensure and had to start again."

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent's conduct as described above constitutes violations of the Act and a basis on which to sanction her license. Specifically, the Respondent violated Health Occ. § 17-507(a)(1) and (2)(i)-(ii); Health Occ. § 17-509(8) (violates the code of ethics adopted by the Board; *to wit*: 10.58.03.04(A)(4) and (11)); § 17-509(9) (knowingly violates any provision of this title); and/or § 17-509(13) (violates any rule or regulation adopted by the Board); in that the Respondent violated COMAR 10.58.08.10(A)(1), (B), (C)(1) and (2), and (D)(1) and (2)(a)-(b).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 28, day of February, 2025, by a majority of the Board considering this case,

hereby:

ORDERED that the Respondent's license to practice as a Licensed Clinical Marriage and Family Therapist (LCMFT) is hereby **REPRIMANDED**; and it is further

ORDERED that the Respondent must complete a Board-approved course in **ETHICS** within **90 days** following the execution of this Consent Order; and it is further

ORDERED, if the Respondent allegedly fails to comply with any term or condition of the Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If, in its sole discretion, the Board determines that there is a genuine dispute as to a material fact, the hearing shall be an evidentiary hearing before the Board. If there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before the Board;

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

ORDERED that the Respondent shall be responsible for all costs incurred under the terms and conditions of the Consent Order; and it is further

ORDERED that the effective date of this Order is the date that it is signed by the Board; and it is further

ORDERED that the Consent Order is a Final Order and as such is a **PUBLIC**

RECORD pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014).

2/28/2025
Date

Stacey Nelson
Winnie D. Moore, LCPC Stacey Nelson LCPC, LCPAT, ATR-Bc
~~Board Chair~~ Board Vice Chair
Maryland State Board of Professional
Counselors and Therapists

CONSENT

I, Nikki Falay, by affixing my signature hereto, acknowledge that:

1. I am represented by counsel, Robert Bouse, Esquire, and I have consulted with counsel in this matter. I have knowingly and voluntarily agreed to enter into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.
2. I have knowingly and voluntarily agreed to enter into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.
3. I am aware that I am entitled to a formal evidentiary hearing, pursuant to Md. Code Ann., Health Occ. § 17-511 (2021 Repl. Vol. and 2023 Supp.) and Md. Code Ann., State Gov't §§ 10-201 *et seq.* (2021 Repl. Vol. and 2023 Supp.).
4. I acknowledge the validity and enforceability of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I am waiving those procedural and substantive protections.
5. I voluntarily enter into and agree to abide by the terms and conditions set forth herein as a resolution of the Notice of Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.
6. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may be subject to further disciplinary actions.

7. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

01/27/2025
Date


Nikki Falay, Respondent

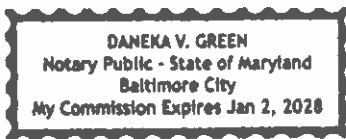
NOTARY


STATE OF Maryland

CITY/COUNTY OF Baltimore

I HEREBY CERTIFY that on this 27th day of January 2025 ^{DG} ~~2024~~, before me, a Notary Public of the State and City/County aforesaid, personally appeared Nikki Falay, Respondent, and gave oath in due form of law that the foregoing Consent Order was her voluntary act and deed.

AS WITNESS, my hand and Notary Seal.




Notary Public

My Commission Expires: 01/02/2028