

IN THE MATTER OF	*	BEFORE THE MARYLAND
JENNIFER N. HAMERSKY, LCPC	*	STATE BOARD OF PROFESSIONAL
Respondent	*	COUNSELORS AND THERAPISTS
License Number: LC3230	*	Case Number: 2016-63

* * * * *

FINAL ORDER

On or about the 12th day of February, 2018, the Maryland State Board of Professional Counselors and Therapists (the "Board") notified **JENNIFER N. HAMERSKY, LCPC** (Licensed Clinical Professional Counselor) (the "Respondent"), License Number LC3230, of its intent to revoke her license to practice clinical and nonclinical professional counseling in the State of Maryland under the Maryland Professional Counselors and Therapists Act (the "Act"), Md. Code Ann., Health Occ. II ("Health Occ. II") §§ 17-101 *et seq.* (2014 Repl. Vol.).

The Board based its action on the Respondent's violation of the following provisions of the Act under Health Occ. II § 17-509:

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 a license or certificate to any applicant, place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license of any licensee or a certificate of any certificate holder if the applicant, licensee, or certificate holder:

- (6) Willfully makes or files a false report or record in the practice of counseling or therapy;
- (7) Makes a willful misrepresentation while counseling or providing therapy;
- (8) Violates the code of ethics adopted by the Board;

- (10) 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;
- (13) Violates any rule or regulations adopted by the Board; [and]
- (16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy[.]

The underlying violations of the code of ethics and the rule or regulations adopted by the Board under Health Occ. § 17-509(8) and (13) include the following violations of Md. Code Regs. ("COMAR") 10.58.03:

.04 Ethical Responsibility.

B. A counselor may not:

- (2) Participate in dishonest, fraudulent, or deceitful activity in the capacity of a counselor; [and]
- (3) Enter into relationships that could compromise a counselor's objectivity or create a conflict of interest.

.09 Sexual Misconduct.

B. Concurrent Sexual Relationships. A counselor may not engage in either consensual or forced sexual behavior with:

- (1) A client[.]

In its Notice, the Board informed the Respondent that she had the opportunity to request a hearing before the Board by submitting a request in writing to the Board's Executive Director within thirty days of service of the Notice. More than thirty days have elapsed since the service of the Notice on the Respondent, and the Respondent has not requested a hearing.

FINDINGS OF FACT

The Board makes the following findings of fact:

I. BACKGROUND

1. At all times relevant hereto, the Respondent was licensed to practice clinical and non-clinical professional counseling in the State of Maryland. The Respondent was originally licensed to practice clinical and non-clinical professional counseling in Maryland on July 30, 2009, under License Number LC3230. The Respondent's license is current until January 31, 2019.

2. At all times relevant hereto, the Respondent was employed as a mental health and substance abuse counselor at a counseling facility (the "Facility")¹ located in Anne Arundel County, Maryland. The Facility was under contract to provide mental health and substance abuse services for the United States Probation and Pretrial Services Office ("USPO"). The Respondent's responsibilities at the Facility included providing mental health and substance abuse services for USPO to pretrial offenders and supervised release defendants in the United States District Court for the District of Maryland.

3. On or about November 1, 2016, a psychologist (the "Complainant") licensed to practice psychology in Maryland telephoned a Board investigator and filed a written complaint with the Board reporting that one of his patients disclosed during a therapy session that he, the patient, had a sexual relationship with his court-appointed drug counselor, whom the Board investigator later identified as the Respondent. The patient further disclosed to the Complainant that the Respondent had had sexual relationships with her other clients as well.

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.

II. BOARD INVESTIGATION

4. In the course of the investigation, a special agent of the Federal Bureau of Investigation contacted the Board investigator and advised that he was investigating the Respondent for having committed federal offenses.

5. On or about March 16, 2017, a Federal Grand Jury for the District of Maryland issued a seven-count indictment (the "Indictment") against the Respondent in the United States District Court for the District of Maryland, captioned *United States of America v. Jennifer Hamersky*, Criminal Number JKB-17-0147. The indictment charged the Respondent with:

Count One (Conspiracy) - Between in or about October 2015, through in or about February 2017, the Respondent knowingly and willfully conspired to knowingly engage in misleading conduct toward another person with intent to hinder, delay or prevent the communication to a law enforcement officer or judge of the United States information relating to the commission or possible commission of a violation of conditions of release pending judicial proceedings, in violation of 18 U.S.C. § 1512(b)(3) and 18 U.S.C. § 371.

Counts Two through Four (Obstruction of Justice) - Between on or about March 14, 2016, and November 30, 2016, and in or about November 2016, the Respondent did knowingly engage in misleading conduct toward another person with intent to hinder, delay or prevent the communication to a law enforcement officer or judge of the United States information relating to the commission or possible commission of a violation of conditions of release pending judicial proceedings, in violation of 18 U.S.C. § 1512(b)(3).

Counts Five through Seven (False Document) - On or about November 30, 2016, and January 24, 2017, and in or about November 2016, the Respondent did knowingly and willfully make and use a false writing and document, knowing the same to contain a materially false, fictitious and fraudulent statement and entry in a matter within the jurisdiction of the judicial branch of the Government of the United States, in violation of 18 U.S.C. § 1001(a)(3).

6. The Indictment alleged that from September 2015 through February 2016, and then from August 2016 through February 2017, the Respondent served as the pretrial release substance abuse and mental health counselor for a client ("Client A"), who was under USPO monitoring. From around October 2015 through at least February 2016, while serving as Client A's counselor, the Respondent engaged in repeated sexual encounters and used narcotic drugs with Client A. Moreover, from February 2016 through May 2016, while Client A was incarcerated, the Respondent delivered various items, including a television, an XBox video game system, headphones, CDs and workout clothing, to Client A at the detention center for his use and benefit.

7. In or about August 2015, the Respondent conducted an initial substance abuse diagnostic assessment of another client ("Client B") pursuant to an order from the United States District Court for the District of Maryland. From around September 2015 through February 2016, Client B was subject to random urinalysis at the Facility pursuant to a court order. From around September 2016 to February 2017, the Respondent engaged in sexual relations with Client B.

8. The Indictment further alleged that while serving as Client A's mental health and substance abuse counselor, and with the assistance of Client B, the Respondent:

- A. Concealed Client A's use of narcotic drugs by falsely advising Client A's USPO Officer that Client A was compliant with conditions of his release;

- B. Submitted false information and made material omissions from Client A's monthly treatment reports to USPO falsely stating that Client A had not use narcotic drugs when he did use narcotic drugs;
- C. Omitted material information from Client A's March 2016 mental health evaluation report in order to conceal Client A's use of narcotic drugs;
- D. Provided false reports and information to Client A's attorney for submission to a United States Magistrate Judge in order to obtain Client A's release from incarceration;
- E. Forged Client A's monthly urinalysis testing logs in order to make it appear that Client A participated in urinalysis testing when he did not;
- F. Mad false representations to the Facility's urinalysis collector regarding Client A's urinalysis testing requirements; and
- G. Made false representations to USPO officer that Client A had appeared for urinalysis tests when he did not.

9. On or about June 28, 2017, the Respondent appeared in the United States District Court for the District of Maryland and pleaded guilty to Count One – Conspiracy to Obstruct Justice, in violation of 18 U.S.C. 371 and Count Four – Obstruction of Justice in violation of 18 U.S.C. 1512(b)(3).

10. On or about December 22, 2017, the Court sentenced the Respondent to 39 months imprisonment as to Count One and 39 months imprisonment as to Count Four, to run concurrently, followed by three years of supervised release.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes as a matter of law that the Respondent's actions, including but not limited to, engaging in a sexual relationship with Clients A and B, and providing Client A with various items for his use and benefit while he was in detention, constitute: violating the code of ethics adopted by the Board, *i.e.* COMAR 10.58.03.04B(3) and COMAR 10.58.03.09B(1), in violation of Health Occ. II § 17-509(8); violating any rule or regulations adopted by the Board, *i.e.* COMAR 10.58.03.04B(3) and COMAR 10.58.03.09B(1), in violation of Health Occ. II § 17-509(13); and committing an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy, in violation of Health Occ. II § 17-509(16).

The Board further concludes that the Respondent's submission of false information and/or making of material omissions to USPO, Client A's attorney and a United States Magistrate Judge in the course of her treatment of Client A constitute: willfully making or filing a false report or record in the practice of counseling or therapy, in violation of Health Occ. II § 17-509(6); making a willful misrepresentation while counseling or providing therapy, in violation of Health Occ. II § 17-509(7); violating the code of ethics adopted by the Board, *i.e.* COMAR 10.58.03.04B(2), in violation of Health Occ. II § 17-509(8); violating any rule or regulations adopted by the Board, *i.e.* COMAR 10.58.03.04B(2), in violation of Health Occ. II § 17-509(13); and committing an act of

immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy, in violation of Health Occ. II § 17-509(16).

Finally, the Board concludes that the Respondent's plea of guilty to and conviction for Conspiracy to Obstruct Justice and Obstruction of Justice in the United States District Court for the District of Maryland on or about December 22, 2017, constitute being convicted of or pleading guilty to a felony or a crime involving moral turpitude, in violation of Health Occ. II § 17-509(10).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by the affirmative vote of a majority of the Board considering this case:


ORDERED that the Respondent's license to practice clinical and nonclinical professional counseling in the State of Maryland under License Number LC3230, be and hereby, is **REVOKED**; and it is further

ORDERED that the Respondent is prohibited from practicing clinical or any other forms of professional counseling in the State of Maryland; and it is further

ORDERED that this is a Final Order of the Board and is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

4/6/18

Date



Risa L. Ganel, MS, LCMFT
Board Chair
Maryland State Board of Professional
Counselors and Therapists

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. II § 17-512(b) (2014 Repl. Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of service of this Final Order and shall be made as provided for judicial review of a final decision in the Md. Code Ann., State Gov't II §§ 10-201 *et seq.* (2014 Repl.) and Title 7, Chapter 200 of the Maryland Rules.