

IN THE MATTER OF * **BEFORE THE MARYLAND STATE**
HARPER FITZSIMMONS, LCPC * **BOARD OF PROFESSIONAL**
Respondent * **COUNSELORS AND THERAPISTS**
License Number: LC0461 * **Case Number: 2016-052**

* * * * *

FINAL ORDER

On or about April 21, 2023, the Maryland Board of Professional Counselors and Therapists (“the Board”) notified **HARPER FITZSIMMONS, LCPC** License No.: **LC0461** (the “Respondent”), of the Board’s intent to revoke her license to practice as a licensed professional counselor, under the Maryland Professional Counselors and Therapists Act (the “Act”), codified at Md Code Ann., Health Occ. §§ 17-101 *et seq.* (2021 Repl. Vol. & 2022 Supp.). Specifically, the Board based its intent to revoke on the following provisions of the Act:

§ 17-509. Denial, probation, suspension or revocation of trainee status, license, or certificate.

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 applicant, 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 applicant, trainee, licensee, or certificate holder:

- (8) Violates the code of ethics adopted by the Board;
- (9) Knowingly violates any provision of this title;
- (11) Is professionally, physically, or mentally incompetent;
- (13) Violates any rule or regulation adopted by the Board;

- (16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy;
- (18) Fails to cooperate with a lawful investigation conducted by the Board[.]

Pursuant to Health Occ. § 17-509(8) and (13), shown above, the Board also bases its action on the following provisions of the Code of Ethics adopted by the board, codified at Md. Code Regs. (“COMAR”) 10.58.03 *et seq.*, in particular:

COMAR 10.58.03.04 Ethical Responsibility.

- A. A counselor shall:
 - (7) Maintain accurate records;
 - (10) Provide lawfully requested treatment reports or evaluations, or both, to a client, insurance carriers, courts systems, institutions, or other authorized persons;
 - (11) Be familiar with and adhere to this chapter;
 - (13) Cooperate with investigations, proceedings, and other requirements of the Board; and
 - (14) Take reasonable precautions to protect clients from physical or psychological trauma.

COMAR 10.58.03.05 The Counseling Relationship.

- A. Client Welfare and Rights.
 - (2) A counselor may not:
 - (a) Place or participate in placing clients in positions that may result in damaging the interests and the welfare of clients, employees, employers, or the public;
 - (b) Condone or engage in discrimination based on age, color, culture, disability, ethnic group,

gender, race, religion, sexual orientation, marital status, or socioeconomic status;

COMAR 10.58.03.08 Records, Confidentiality, and Informed Consent.

A. A counselor shall:

- (1) Maintain the privacy and confidentiality of a client and a client's records[.]

Health-General § 4-302 Confidentiality of medical records; disclosure

(a) A health care provider shall:

- (1) Keep the medical record of a patient or recipient confidential; and
- (2) Disclose the medical record only:
 - (i) As provided by this subtitle; or
 - (ii) As otherwise provided by law.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

I. BACKGROUND

1. On or about October 1993, the Respondent was licensed with the Board as a Certified Professional Counselor under the name Alice Harper Keech.
2. On or about April 21, 1999, the Respondent, using the name Alice Harper Keech, was certified to practice as a licensed clinical professional counselor (“LCPC”) in the State of Maryland, under license number LC0461.
3. In an undated letter in the Respondent’s Board file, the Respondent asked the Board to change the name on her LCPC license to Harper Keech because the former name was “too confusing for people.”

4. On or about October 15, 2006, Board records reveal that the Respondent changed her name with the Board to Harper Fitzsimmons.
5. The Respondent's LCPC license is currently active and set to expire on January 31, 2024.
6. At all times relevant, the Respondent has owned and operated a home-based private practice (the "Practice"),¹ located in Baltimore, Maryland.²

II. COMPLAINTS

Case # 2016-052

7. On or about October 13, 2016, the Board received a complaint from the parent (the "Parent") of a minor client regarding the Respondent's practice. The complaint raised concerns regarding the Respondent's administrative organization, process and procedures, documentation, and professional demeanor.
8. The Parent explained that she initiated contact with the Respondent in order to seek therapy services for her 10-year-old son (the "Client") who was experiencing frustration in his day-to-day relationships with his sibling (the "Sibling") and parents. As a professional mental health therapist, Parent was familiar with the usual processes and procedures of individual and family therapy. However, over four (4) sessions, between September 19, 2016, and October 10, 2016, Parent

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

² The Practice was located in Catonsville, Maryland from approximately 1998 until November 2017; in Lutherville, Maryland at Location A from December 2017 until August 2020; and in Lutherville, Maryland at Location B from August 2020 until present.

became increasingly concerned about the Respondent's interactions with Client, Sibling, and herself.

9. Parent noted the following areas of concern:
 - a. September 19, 2016 – The Respondent was unprepared for the scheduled session, answering the door after an extended wait time in unprofessional attire. At no time did the Respondent provide documentation for the Parent to complete.
 - b. September 27, 2016 – The Respondent called the Parent on September 26, 2016, the day before the scheduled session, to inquire why Parent and Client were not present. After informing the Respondent of her mistake, the Respondent stated that she “makes that mistake sometimes.” On September 27th, Client emerged from therapy with the Respondent tearful and described how the Respondent would negate the Client's expressions by telling him he was wrong. Client explained that when he tried to inform the Respondent that she was not understanding what he was trying to say, the Respondent got angry with him.
 - c. October 3, 2016 – Following a session with the Client and Sibling, the Respondent invited the Parent into the therapy room to discuss the session. The Respondent stated that she was pleased that Client didn't act “like a rude teenager” like the last session and added that she didn't want Client to end up like the previous client's 15-year-old son – disclosing confidential information about the client the Parent, Client and Sibling observed leaving the Respondent's office prior to their session. In addition, the Respondent informed the Parent that she “busted” Sibling for her negative interactions with Client.
 - d. Prior to the 4th and last visit, Sibling expressed concern and unease about attending the session with the Respondent. Sibling expressed that the Respondent had upset her which made her not want to return. Parent agreed and it was decided that Sibling would skip the session.
 - e. October 10, 2016 – Upon arrival, Parent notified the Respondent that Sibling would not be attending this session

but would return the following week. The Respondent then met with Client for only 10-15 minutes before asking to meet with Parent privately. Parent explained that upon entering, the Respondent's tone and words towards her were judgmental and unprofessional. The Respondent accused Parent of "playing games" with her children; reprimanded her for not forcing Sibling to attend and added "I call the shots in therapy. Not you." The Respondent ended by saying that she would no longer continue working with Client, Sibling and Parent, citing a form that was never provided to the Parent. Parent then observed the Respondent pull a paper file from an unlocked drawer in her coffee table. The Respondent noted how there were no signed forms in the file. The Parent also observed an open notebook on the coffee table that appeared to contain client names and CPT codes. When Parent asked about the Respondent's intent to move forward with the termination of services, the Respondent stated: "I'll have no trouble filling this spot. I'll fill it in a snap (snapping her fingers)." The Respondent added that she would inform Client that it was not his fault stating: "it is not his fault it is yours...Yes, that is judging you."

10. On August 19, 2019, the Board sent a subpoena to the Respondent commanding that all records related to the Client be submitted to the Board by August 29, 2019.
11. On or about August 27, 2019, the Respondent contacted the Board's investigator and advised that she had received the subpoena for the records and that she does not have "all of that." The Respondent added that no one she knows keeps those records. The investigator noted that the Respondent raised her voice and became demanding during the phone call.
12. By email dated August 29, 2019, the Respondent stated: "As I explained to you the other day, a whole box of my treatment records got lost during a recent move I made. I cannot send you the treatment records because I do not have them."

13. As this was a change in what the Respondent had initially stated in her telephone conversation, the Board investigator emailed requesting clarification. The Respondent reiterated: “I said I lost one box of records.”
14. By email dated August 29, 2019, the Board provided the Respondent with a complete copy of the Complaint.
15. By letter dated August 31, 2019, the Respondent provided a written response to the complaint. The Respondent stated in part:

First, I store all closed records in boxes in alphabetical order, by year, locked in the therapy room in my office in my home. I did move from Catonsville[,] MD to Lutherville[,] MD in November, 2017. During the move, two boxes became lost. One contained personal property of mine and the other contained all closed cases with last names from A-E. I do keep the cases in a coffee table which is not locked.³ However, the room is locked if I am not in there doing therapy, not used for any other reason and no one enters that room.

Since my office is in my home, the front door is left ajar for those coming to appointments early or to be able to enter the waiting room if I cannot take them immediately.

....

I sometimes do mix up dates of appointments. Next the complaint was that the son was upset in the appointment and cried in the car and did not like me. I cannot comment on this honestly because I do not remember the family or the issues that brought them into therapy. It is reported that I was told the daughter did not want to participate in the therapy and apparently agreed with that decision. That would be the parents’ decision.

....

³ In her February 9, 2021, interview with the Board, the Respondent stated: “The coffee table had locks. You know how you can pull out the drawers, they had locks on them and the patient files were kept in there, locked.”

Finally, I am quoted as using a type of speech that is not comfortable to me and I do not use, EX – “I busted your daughter.” I do not speak this way and never have[.]⁴

16. On July 15, 2020, the Board issued a subpoena to the Respondent requesting that the Respondent provide her appointment books for August 1, 2016, through July 15, 2020, to the Board by July 28, 2020.
17. By email dated July 27, 2020, the Respondent stated: “I relocated in 2017 and some of my records were lost. I do not have appointment books except for 2019 and 2020.”
18. A review of the Board’s records reveals a pattern of unprofessional conduct, inappropriate and unethical interactions with clients, and unprofessional maintenance of clinical records. The file includes the following information:

Complaint 2011-011

19. On or about January 29, 2011, the Board received a complaint regarding the Respondent’s practice. Wife and Husband sought marital therapy services with the Respondent in October – November 2010. The Wife is a LCSW-C and has been in practice for 10 years.
20. In the complaint, the Wife and Husband explained that they were uncomfortable with the setting of the Respondent’s private practice – “she practices out of a

⁴ During the February 9, 2021, interview the Respondent was asked about her recollections of the 10-year-old Client, 7-year-old Sibling, and Parent. The Respondent stated:

I know the kid [Sibling] was upset because she was lying about her brother [Client] and it came out during the session that she was lying. **And I said to her well, honey I guess you’re busted**, and she didn’t like that and complained to her mother and from there the mother complained to the Board. [Emphasis added]

bedroom of her home and clients must wait in her living room until the session starts. Her living room was quite cluttered and often had many of her personal effects such as bills, personal mail, personal identification, and even money strewn about the room here and there.”

21. In the complaint, the Wife stated when conducting our sessions, Ms. Fitzsimmons would often:

- Yell at us
- Raise her hand and “shhh” one of us from talking
- Talk over us
- Roll her eyes at us
- Slam her clipboard/notebook down on a table in anger and frustration
- Threaten to “stop treating us” if we didn’t follow through with her suggestions
- Make declarative statements about what we were “allowed” and “not allowed” to do
- Name call (she called me controlling and insecure over and over again)
- Interrupt our sessions with personal phone calls
- Told us that we were no longer allowed to bring our 3-month-old infant, who merely slept the entire session because he was a “distraction” – she knew we had no daycare for him during my maternity leave⁵
- Often forgot, cancelled, or rescheduled our sessions
- Never provided receipts for our \$20 co-pays (Later, I found out on our Explanation of Benefits that our co-pay is only \$13. She has yet to reimburse us the difference)

22. The Board’s file contains a note that states: “Ms. Fitzsimmons was unable to provide treatment records due to a flood and sewage backup in her basement. Client records had been maintained in basement and were destroyed in the flood.”

⁵ During a January 28, 2021 phone call with the Board’s investigator, the Respondent referred to the Wife as “the idiotic woman that filed this ridiculous complaint . . . you know this woman, this black woman, although she is light-skinned, she is this black woman who brought her baby to a session.”

Complaint 2013-034

23. On or about May 16, 2013, the Board received a complaint from a parent of a client who stated that child's first and only scheduled visit with the Respondent was on May 7, 2013.
24. On May 9, 2013, the Respondent called the client and "was asking why she wasn't at her appointment and that she (the Respondent) was going to charge us \$150 for not giving 24-hour notice." The client attempted to explain that they did not have another appointment scheduled when the Respondent "started screaming to her "Give me your mother's phone number – I want your mother's phone number – I'll call the police and have them come lock you up because you could be suicidal."
25. The Respondent then called the parent's phone and demanded that the client and both parents attend a session with the Respondent on May 10, 2013, adding "if you don't come, I will call the police."
26. The parent returned the Respondent's phone call that evening to inform her that the family would no longer be seeking services from the Respondent. During the conversation, the Respondent "started screaming "EXCUSE ME, EXCUSE ME" while the parent was talking."
27. Upon the Board's request, the Respondent provided the Board's investigator with a total of three pages that made up the entirety of the client's file. The file was handwritten and was missing required information and disclosures.

CEU Audit

28. By letter dated July 2, 2015, the Respondent was notified that she was selected for an audit of compliance with the Continuing Education Units requirement for the February 1, 2013, to January 31, 2015, license cycle.
29. By letter dated July 25, 2015, the Respondent answered stating: "I did fulfill the requirements for February 1, 2013 – January 31, 2015, and had all of the certificates. However, we experienced a flood in April of 2015 and all of my certificates and other personal and business information were destroyed in the flood. None of it was salvageable and I cannot submit it to you."

CONCLUSIONS OF LAW

The Respondent's professional and clinical interactions with clients and their family members, as well as her failure to properly maintain records and provide complete and accurate records when requested as set forth above, constitutes violations of: Health Occ. § 17-509(8) (violates the code of ethics adopted by the Board); § 17-509(9) (Knowingly violates any provision of this title); § 17-509(11) (Is professionally, physically, or mentally incompetent); § 17-509(13) (violates any rule or regulation adopted by the Board); § 17-509(16) (commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy) and § 17-509(18) (Fails to cooperate with a lawful investigation conducted by the Board); in that the Respondent violated COMAR 10.58.03.04(A)(7), (10), (11), (13), and (14), and COMAR 10.58.03.05(A)(2)(a) and (b), and COMAR 10.58.03.08(A)(1). In addition, the

Respondent's failure to maintain records in and safe and retrievable manner violates Health-General § 4-302.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 16th day of June, 2023, by a majority of the full authorized membership of the Board hereby:

ORDERED that the Respondent's license to practice professional counseling is hereby **REVOKED**; and it is further

ORDERED that the Respondent shall return to the Board all professional counseling licenses within ten (10) days of the effective date of this 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 this Order is reportable to the National Practitioner Data Bank; and it further

ORDERED that this document constitutes a formal disciplinary action of the Board, and this Order is final and is a public document for purposes of public disclosure, pursuant to Md. Code Ann., Gen. Prov. § 4-101 & § 4-333 (2021 Repl. Vol. & 2022 Supp.).

NOTICE OF RIGHT OF APPEAL

Pursuant to Md. Code Ann., Health Occ. § 17-512(b), the Respondent has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the date of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222; and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files an appeal, the Board is a party and should be served with the court's process at the following address:

Shelly-Ann Barnes, Compliance Manager/Investigator Supervisor
Maryland State Board of Professional Counselors and Therapists
4201 Patterson Avenue
Baltimore, Maryland 21215-2299
Fax: 410-358-1610

At that point, the Administrative Prosecutor is no longer a party to this case and need not be served or copied.

06/16/2023
Date



Winnie Moore, LCPC
Board Chair
Maryland Board of Professional Counselors and
Therapists