

**IN THE MATTER OF
JIMMY DOUGLAS, II
RESPONDENT**

*** BEFORE THE MARYLAND STATE
* BOARD OF PROFESSIONAL
* COUNSELORS AND THERAPISTS
* Case Number: 2022-142, 2022-159**

* * * * *

FINAL DECISION AND ORDER

I. BACKGROUND

On or about May 17, 2022, the Maryland Board of Professional Counselors and Therapists, (the “Board”) received a complaint against Jimmy Douglas, II LCPC, License No. LC11605. The complaint alleged that during a therapy session where the client discussed her dating life the therapist inappropriately asked, “when was the last time [she] had relations with anyone?” and after the client shared that her cousin told her she should have sex, the Respondent inappropriately suggested that “your therapist would be the safest option.” The Board received a second complaint on or about May 18, 2022. The complaint was based on the same facts as the previous complaint and was filed by the owner of the practice where the Respondent was employed. As a result, the Board opened an investigation and subsequently charges were issued.

On or about July 21, 2023, the Board charged the Respondent with a Notice of Intent to Revoke his license pursuant to the Maryland State Board of Professional Counselors and Therapists Act (the “Act”), codified at Md. Code Ann., Health Occ. §§ 17-101 *et seq.* (2023 Repl. Vol.). The charges alleged that there was probable cause to believe that the Respondent was in violation of the following provisions of the Act, which in part states:

§17-509. Denial, probation, 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 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:

- (1) Fraudulently or deceptively obtains or attempts to obtain trainee status, a license, or a certificate for the applicant, trainee, licensee, or certificate holder or for another;
- (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; [and]
- (16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy[.]

Pursuant to Health Occ. §17-509 (8) and (13), listed above, the charges were also based 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

A. A counselor shall:

- (11) Be familiar with and adhere to this chapter; [and]
- (14) Take reasonable precautions to protect clients from physical or psychological trauma[.]

B. A counselor may not:

- (2) Participate in dishonest, fraudulent, or deceitful activity in the capacity of a counselor [.]

COMAR 10.58.03.05

A. Client Welfare and Rights.

(2) A counselor may not:

(a) Place or participate in placing clients in position that may result in damaging the interests and the welfare of clients, employees, employers, ore the public[.]

COMAR 10.58.03.09

A. A Counselor may not engage in sexual misconduct with a client or supervisee. Sexual misconduct includes but is not limited to:

(1) Inappropriate sexual language;

(2) sexual exploitation;

(3) Therapeutic deception

E. Sexual Harassment

(1) A counselor may not sexually harass a:

(a) Client[.]

F. Therapeutic Deception. A counselor may not:

(3) Suggest, recommend, or encourage a client to engage in a sexually provocative act, including but not limited to:

(a) Sexual contact with a counselor[.]

D. Prior Sexual Relationships. A counselor may not provide professional services to an individual with whom a counselor has previously engaged in sexual behavior.

The Respondent submitted a written request for a hearing. The Board issued a notice of hearing and held an in person hearing on Friday, March 15, 2024.

II. HEARING BEFORE THE BOARD

The hearing commenced as scheduled and a quorum of the Board was present. At all times during the proceeding, the Respondent was present and represented by counsel,

Cory Silkman, Esquire. The State of Maryland (the “State”) was represented by administrative prosecutor, Assistant Attorney General, Rachael Crane.

Evidence was received in the form of oral testimony from three witnesses.

State’s Witnesses

Practice Owner¹

Complainant

State’s Exhibits

- 1) Report of Investigation;
- 2) Respondent’s Licensure Information;
- 3) Complaint filed with the Board on May 17, 2022
- 4) Text Messages A (May 11, 2022) and B (May 16, 2022);
- 5) Text Messages C, D, and E (May 2022);
- 6) Complaint filed with Aetna Insurance Company;
- 7) Transcript of Interview with Respondent’s Employer;
- 8) Complaint filed with the Board on May 18, 2022
- 9) Therapy session Account Statement
- 10) Termination Letter;
- 11) Consultant Agreement
- 12) Respondent’s License Renewal Application
- 13) Transcript of Respondent’s Interview with Board’s Investigator

¹ To comply with confidentiality and privacy laws the names of the counseling practice, the practice owner and the complainant have been withheld.

- 14) Respondent's email to Board Investigator dated January 10, 2023
- 15) Respondent's chart entry for Therapy Session with the Complainant dated May 17, 2022
- 16) Notice of Intent to Revoke
- 17) Notice of Hearing dated January 17, 2024
- 18) Video: Termination of Respondent
- 19) Video: Complainant's Board Interview
- 20) Video: Respondent's Board Interview

State's Exhibits 1-20 were admitted into the record without objection.

Respondent's Witnesses

Respondent

Respondent's Exhibits

- 1) Letters of Support

The Respondent's Exhibit was admitted into the record without objection.

The issue before the Board was whether the allegations against the Respondent and/or his responses to certain questions on his license renewal application constitute a violation(s) of the Act or the Code of Ethics governing the practice of counseling and therapy; and if there was a violation of the Act or Code of Ethics then what disciplinary action(s) should be issued by the Board as a result.

III. FINDINGS OF FACT

The Board makes the following findings of fact based on the entirety of the record:

1. At all times relevant to the proceedings, the Respondent was authorized to practice as a licensed clinical professional counselor (“LCPC”) in Maryland.
2. The Board originally issued the Respondent a license to practice as a licensed clinical professional counselor on June 25, 2021. The license is currently active with an expiration date of January 31, 2025.
3. At all times relevant to the proceeding, the Respondent was a therapist practicing as an independent contractor who provided counseling services at the Practice from August 17, 2021, until the Practice terminated his contract on May 17, 2022.
4. On May 16, 2022, the Respondent held a virtual therapy session with the Complainant. During the session, the Respondent made sexually suggestive comments to the Complainant. At the end of the session, the Respondent texted a sexually suggestive message to the Complainant.
5. The Complainant immediately called the Practice where the Respondent was employed and left a voicemail detailing what transpired during the session. The Complainant also contacted the Board and her insurance company and filed complaints against the Respondent.
6. The Respondent provided therapy services to the Complainant from November 22, 2021, to May 16, 2022, the date of the incident. All of the sessions, except one were virtual.
7. The Complainant contacted the Practice in September 2021, after she became divorced and moved to Maryland. She completed an intake appointment at the Practice and began therapy sessions with the Respondent.

8. At times, the Respondent exhibited questionable behavior during therapy sessions. For instance, during one session, he stood up in front of the camera and adjusted his pants two times.
9. On May 11, 2022, the Respondent sent the Complainant a text message stating, “On an off note, I know it’s been trying for you but I’m glad I (therapy) could make you smile :)” The Complainant responded “Thank you :)”
10. On May 16, 2022, during the therapy session, the Complainant explained that she was not ready to have sex with anyone because she had not met anyone she could trust.
11. In response to the Complainant, the Respondent said, “Well I think your best option would be for you to have sex with your therapist.” He followed up by saying, “[y]ou know they teach you in school not to have sex with your client” which he repeated several times.
12. After the session ended, the Complainant received a text message from the Respondent stating, “I noticed when I made the comment about your therapist being a “safe” option, you didn’t object... just an observation :-).”
13. The Complainant texted back saying, “I didn’t respond because suggesting we have sex is inappropriate and overstepping all boundaries. I am going to end therapy sessions with you.”
14. Then the Respondent sent the Complainant several text messages. In the first message he apologized for what he said and for making the Complainant feel uncomfortable. He denied intending to make the suggestion and stated that he

would document the last session unless she changed her mind. In the second text message the Respondent admitted among other things that he felt horrible and promised to “never go where we went in session any way shape or form”. The Respondent’s third text reminded the Complainant that the decision to return was entirely independent without no pressure or obligation.

15. On May 17, 2022, the Practice contacted the Respondent and notified him that his contract was terminated.
16. In December 2022 the Respondent submitted a license renewal application. On the application he answered “No” to the questions a) has your employer terminated your contract for any reason related to your practice, and b) have the conditions of your employment been affected by any termination of employment?
17. The Respondent affirmed that the information he provided in the license renewal application was true and correct to the best of his knowledge and belief.
18. It is a violation of several provisions of the Act and Code of Ethics for a therapist who, with knowledge of the client’s divorce and celibacy, suggests to the client that the therapist would be a safe option [for sex] should the client desire to engage in sexual activity with someone the client could trust.
19. It is a violation of the Act and the Code of Ethics for a therapist to misrepresent their employment history on a license renewal application.

IV. DISCUSSION

Pursuant to section 17-509 of the Act, the Board may suspend, rescind, or revoke a

license of any licensee, if the Board finds by a preponderance of the evidence, that the licensee committed any of the enumerated acts. The Board considered whether the Respondent committed the following violations of the Act: fraudulently or deceptively obtains or attempts to obtain a license; violates the code of ethics adopted by the Board, knowingly violates any provision of this title, violates any rule or regulation adopted by the Board, commits an act of unprofessional conduct in the practice of clinical or nonclinical counseling or therapy. See Md. Code Ann., Health Occ. §§ 17-509. (2023 Repl. Vol.).

Summary of the Evidence

At the hearing, the State presented evidence through exhibits 1-20 and the testimony of the Practice Owner and the Complainant. The Complainant testified that the Respondent made sexually inappropriate statements during the virtual therapy session followed by several apologetic text messages.

The Respondent testified on his own behalf. The Respondent did not admit to having an interest, sexual or otherwise, in the Complainant. From his perspective the Complainant misunderstood the statement and took it the wrong way. As a general rule, counselors are taught that there are certain topics that are off limits in therapy between a counselor and a patient. The mere suggestions of sex, sexual contact or other innuendo of the sort between a therapist and patient is at the top of the list of topics to avoid. The Respondent was trained as a graduate professional counselor for at least two years before receiving his clinical license. He had been a contractor at the Practice for nearly a year

prior to this incident. The Complainant testified that the Respondent repeated several times after making the sexually inappropriate statement that “they teach you in school not to have sex with your client”.

As a newly licensed clinician the Respondent knew or should have known the impact of the nature and gravity of his actions on the Complainant. The Respondent had knowledge of the Complainant’s relationship history, including her recent divorce. She testified about her relationship history and her internalization of the Respondent’s actions. The Respondent denied having any issues with boundaries or crossing any boundaries. He was unable to provide a clear, cogent articulation of his reason and rationale for the statements he made to the Complainant during the May 16th treatment session or for any of his subsequent text messages to the Complainant. He repeatedly denied “actually” doing or saying anything wrong. He was also unable to explain the link between his TikTok and his client’s TikTok profile.

The Board finds that the Respondent’s testimony on these points was illogical, unreasonable, and not credible. The Respondent’s very own clinical notes written contemporaneous to the incident acknowledge the commission of an impropriety saying that “the clinician offered an apology... [t]his note is here to remind the clinician of boundaries, modalities and to take care of the client and the client’s best interest”. It is clear to the Board that the Respondent did not have the Complainant or her best interest in mind when these communications occurred. Rather than taking care of the client the Respondent put himself first. He was in the best position to know the detrimental effects

and harm his proposition could cause the Complainant yet; he said it anyway. His lapse in judgment and lack of insight into the harm he caused makes him a serious risk to the counseling profession.

The Practice Owner testified that after receiving the complaint the Practice spoke with the Respondent, and ultimately terminated the Respondent's contract to provide therapy services on behalf of the Practice. Months later, the Respondent filed a license renewal application with the Board. He testified that he believed he answered the application questions regarding his employment history accurately based on his reading and understanding of the questions. On this issue the Board also finds the Respondent's testimony was not credible and his explanations to lack merit. The Respondent's interpretation of the application questions was illogical at best. When asked to explain his response to application question number eight, the Respondent claimed that as a contractor the conditions of his employment [at the Practice] were not affected by the termination of his contract [at the Practice] because he could find employment elsewhere. When asked to explain the ambiguity in the questions, the Respondent asked for the definition of the word "ambiguous". The Board is not convinced that the Respondent did not understand his obligation to report the termination of his contractual employment with the Practice. When he was asked to explain his interpretation of the application questions his demeanor, facial expressions and tone of voice was curt, defensive, and lacked reason considering his education and experience.

V. CONCLUSIONS OF LAW

Based on the foregoing, the Board concludes that a preponderance of the evidence in the record exists to support the conclusion as a matter of law that the Respondent's conduct was unprofessional and unethical. The Board finds the conduct resulted in a violation of Health Occ. § 17-509 (1) fraudulently or deceptively obtains or attempts to obtain a license, (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, and (16) commits an act of unprofessional conduct in the practice of clinical or nonclinical counseling or therapy; in that the Respondent violated COMAR 10.58.03.04 (A)(11) Be familiar with and adhere to this chapter and (14) take reasonable precautions to protect clients from psychological trauma, and (B)(2) a counselor may not: participate in dishonest, fraudulent, or deceitful activity in the capacity of a counselor; COMAR 10.58.03.05 (A)(2)(a) a counselor may not: 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; COMAR 10.58.03.09 (A)(1), (2), and (3) a counselor may not engage in sexual misconduct with a client or supervisee, where sexual misconduct includes but is not limited to: inappropriate sexual language, sexual exploitation, and therapeutic deception; (E)(1)(a) a counselor may not sexually harass a client; and (F)(3)(a) a counselor may not: suggest, recommend, or encourage a client to engage in a sexually provocative act, including but not limited to: sexual contact with a counselor.

The Board finds that the above-mentioned violations of the Act and COMAR most appropriately fall within COMAR 10.58.09.06 (B) (1), (8), (9), (13), and (16) of the Board's sanctioning guidelines. The range of potential sanctions under these provisions

includes reprimand to revocation and/or a minimum fine of \$250 to a maximum fine of \$5,000. COMAR 10.58.09.04. In considering an appropriate sanction for the Respondent's license, the Board took into account evidence that: a) even though there was no evidence of prior disciplinary history the violations of the Act were committed with gross negligence or recklessness; b) the violations were not self-reported; c) the violations had the potential to cause serious patient harm; d) the Respondent was more likely than not motivated not to disclose the termination of his contractual employment on his renewal application for financial gain; e) the client was vulnerable; f) the client had experienced trauma as she had been through a divorce and had self-esteem issues; g) the Respondent's lack of insight into the wrongfulness of his actions; h) the Respondent either attempted to hide, ignored, or failed to acknowledge his misconduct; and j) the conduct has the potential to be repeated or to reoccur in the future.

ORDER

ORDERED that the Respondent's license to practice as a Licensed Clinical Professional Counselor is hereby **SUSPENDED for SIX (6) MONTHS**, commencing on June 17, 2024; and it is further

ORDERED that prior to the Respondent's application for termination of suspension, the Respondent shall submit to an independent "fitness to practice" evaluation conducted by a Board-approved licensed mental health professional; and it is further

ORDERED that the Respondent shall not apply for early termination of suspension; and it is further

ORDERED that after the **minimum period of SIX (6) MONTHS suspension**, and if the Respondent has fully and satisfactorily complied with all terms and conditions for the suspension, the Respondent may submit a written petition to the Board for termination of the suspension. After determination that the Respondent has complied with this Final Order, including a report from an independent evaluator stating that he is fit to practice, and if there are no complaints of a similar nature, the Board may administratively terminate the Respondent's suspension through an order of the Board; and it is further

ORDERED that upon termination of the suspension, the Respondent is placed on **PROBATION** for a minimum period of **THREE (3) YEARS**, and continuing until the Respondent has successfully completed the following probationary conditions:

1. **Within twelve (12) months** of beginning the probationary period, the Respondent shall enroll in and successfully complete a **six (6) credit hour ethics course**, approved in advance by the Board. The Respondent shall submit documentation to the Board demonstrating he successfully

- completed the six (6) credit hour ethics course;
2. No part of the training or education that the Respondent receives in order to comply with the Final Order may be applied to his continuing education credits required for certification/licensure;
 3. The Respondent shall obtain a **Board approved supervisor** at his own expense;
 4. Prior to signing a supervision agreement with any Board-approved supervisor, the Respondent shall present a complete copy of the Final Order to the prospective supervisor;
 5. The Respondent shall authorize the Board to provide the Supervisor with this Final Order and all of the relevant documents in the investigative file, including the Investigative Report and its attachments;
 6. The Respondent shall meet with the Board-approved Supervisor for no less than sixty (60) minutes on a bi-weekly basis throughout the duration of probation;
 7. The Supervisor shall submit **quarterly written reports** to the Board for the entire duration of the probation period detailing the supervision provided and evaluating the Respondent's practice;
 8. The Respondent shall have sole responsibility for ensuring that the Supervisor submits the required reports to the Board in a timely manner;

9. A negative report from the Supervisor or any failure to comply with the Supervisor's recommendations shall be deemed a violation of probation or of this Final Order;
10. In the event that the Respondent's supervisor discontinues supervising the Respondent's practice for any reason during the probationary period, the Respondent shall immediately notify the Board. The Respondent shall be solely responsible for submitting a request for a Board-approved replacement;
11. The Respondent shall, at all times, comply with the Act and all applicable laws, statutes and regulations;
12. The Respondent shall at all times cooperate with the Board, any of its agents or employees, and with the Board-assigned investigator, in the monitoring, supervision, and investigation of the Respondent's compliance with the terms and conditions of the Final Order;
13. After a minimum of three (3) years of probation, the Respondent may submit a written petition to the Board for termination of the probation. After consideration of the petition, the probation may be terminated through an order of the Board. The Board at its discretion may grant termination if the Respondent has fully and satisfactorily complied with all the terms and conditions of the

Final Order, there are no pending investigations or complaints against the Respondent, the Supervisor recommends termination of probation, and the Board deems termination of probation appropriate;

14. If the Respondent fails to make any such petition, then the probationary period status may continue indefinitely, subject to the conditions set forth in this Order;

15. If the Board determines that the terms or conditions of this Order have not been successfully completed, the Board may modify the terms and conditions of Respondent's probation, upon notice to the Respondent;

16. If the Respondent allegedly fails to comply with any term or condition of the Final 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; and

17. After the appropriate hearing, if the Board determines that the Respondent has failed to comply with any term or condition of the Final Order, the Board may reprimand the Respondent, place

Respondent on probation with appropriate terms and conditions, or suspend or revoke the Respondent's license to practice as a clinical professional counselor 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 Final 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 is a Final Order and as such is a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2019).

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 17-512(a), the Applicant 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 Applicant files an appeal, the Board is a party and should be served with the court's process at the following address:


Shelly-Ann Barnes, Acting Executive Director
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.

05/17/2024

Date



Winnie Moore, LCPC

Board Chair

Maryland State Board of Professional
Counselors and Therapists