

CHARLES J. MALINOWSKI

CONSENT ORDER

OFFICES OF



THE ATTORNEY GENERAL

J. JOSEPH CURRAN, JR.
ATTORNEY GENERAL

DONNA HILL STATON
CARMEN M. SHEPARD
DEPUTY ATTORNEYS GENERAL
DIRECT DIAL (410) 767-1872

TDD FOR DISABLED
MARYLAND RELAY SERVICE
1-800-735-2258

TOLL FREE: 1-877-4MD-DHMH

DANIEL J. O'BRIEN
PRINCIPAL COUNSEL
ASSISTANT ATTORNEY GENERAL

MARGARET ANN NOLAN
TIMOTHY J. PAULUS
DEPUTY COUNSEL
ASSISTANT ATTORNEYS GENERAL

FACSIMILE (410) 333-5831
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
300 WEST PRESTON STREET, SUITE 302
BALTIMORE, MARYLAND 21201
AREA CODE: 410-767-1861
FAX NO.: 410-333-7894

October 10, 2002

Aileen Taylor, Administrator
Board of Professional Counselors and Therapists
4201 Patterson Avenue
Baltimore, Maryland 21215-0095

Re: Charles J. Malinowski, CSC-AD
License Number: AC0454

Dear Ms. Taylor:

Attached is the signed and notarized Consent Order for the above referenced case. As I mentioned to you on the phone yesterday, October 9, 2002, Mr. Malinowski's attorney returned only one copy of the Consent portion of the Consent Order to us. Sherrai instructed me to forward it on to you for Board approval.

Once the Board has approved and signed the Consent Order, please send a full copy to those listed at the bottom of this letter. Thank you.

If you have any questions, please call me at (410) 767-1872.

Sincerely,

Handwritten signature of Mary T. Fonzi in cursive script.
Mary T. Fonzi
Legal Assistant

Encl.

cc: Timothy J. Paulus, Deputy Counsel
Noreen Rubin, Board Counsel
Sherrai V. Hamm, Assistant Attorney General
Arnold M. Zerwitz, Esq.

IN THE MATTER OF * BEFORE THE MARYLAND
CHARLES J. MALINOWSKI * STATE BOARD OF
RESPONDENT * PROFESIONAL COUNSELORS
CERTIFICATE NUMBER: AC0454 * AND THERAPISTS

* * * * *

CONSENT ORDER

The Maryland State Board of Professional Counselors and Therapist (the "Board") charged **Charles J. Malinowski, Certificate Number: AC0454** (the "Respondent"), with violating certain provisions of the Maryland Professional Counselors and Therapists Act (the "Act"), Md. Health Occ. Code Ann., ("H.O.") §§ 17-101 et seq. (2001). Specifically, the Board charged the Respondent with violating the following:

H.O. § 17-313:

Subject to the hearing provisions of §17-314 of this subtitle, the Board, on the affirmative vote of a majority of its member then serving, may deny a certificate to any applicant, place any certificate holder on probation, reprimand any certificate holder, or suspend or revoke a certificate of any certificate holder if the applicant or certificate holder:

- (4) Violates the code of ethics adopted by the Board;
- (5) Knowingly violates any provision adopted by the Board;
- (9) Violates any rule or regulation adopted by the Board.

The Board also voted to charge the Respondent with violating the following:

COMAR 10.58.03.09C Sexual Misconduct.

C. Relationship with Former Clients.

(1) Except as set forth in § C (3) of this regulation, a counselor may not engage in sexual behavior with a former client.

FINDINGS OF FACT

The Board finds:

1. At all times relevant to the charges herein, the Respondent was originally issued a certificate to practice as a certified supervised counselor, alcohol and drug, in the State of Maryland on July 27, 2001.
2. In the Fall of 2001, the Board received an anonymous complaint alleging that the Respondent was involved in an intimate relationship with a former patient. The complaint further alleged that the Respondent was the patient's primary counselor when the patient was a residential client at the Hope House.¹
3. Further investigation by the Board revealed the following:
4. The Respondent worked at the Hope House from April 15, 1996 through October 31, 1998 and from March 2000 to July 2001.
5. The Respondent met Patient A² while she was a client receiving inpatient care at Hope House. Patient A was the Respondent's client between October 2000 and

¹ Hope House is a drug and alcohol treatment facility, inpatient, outpatient, and extended care services are offered at Hope House.

² To ensure confidentiality, Patient A's name is not set forth in this document. Patient A's name was made available to the Respondent.

March 2001. The Respondent saw Patient A for treatment approximately twice a week.

6. In June 2001, the Respondent saw Patient A working at a restaurant after she was being treated at Hope House. The Respondent and Patient A struck up a conversation and they began dating soon thereafter.
7. On April 23, 2002, the Respondent married Patient A.

CONCLUSIONS OF LAW

The Board finds that the Respondent violated H.O. §§ 17-313(4), (5), and (9).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 18th day of October 2002, the Board, by a majority of the quorum of the Board, hereby

ORDERED that the Respondent's license be **SUSPENDED** for a period of **two (2) years**, and that said suspension be **IMMEDIATELY STAYED**; and be it further

ORDERED that the Respondent shall be placed on **PROBATION** for a period of **three (3) years** subject to the following conditions:

1. The Respondent shall take and pass the Maryland law course for certified, supervised counselors, drug and alcohol, no later than six (6) months from the date of this Order; and
2. The Respondent shall take and pass the Board approved ethics course no later than six (6) months from the date of this Order.

ORDERED that if the Respondent violates any of the terms or conditions of this Consent Order, including the probationary terms or conditions as set forth herein, then the

Board, after a determination of violation and notice, and an opportunity for a hearing, may impose any other disciplinary sanctions it deems appropriate, including suspension or revocation, said violation of probation being proved by a preponderance of evidence; and be it further .

ORDERED that at the end of Respondent's probationary period, the Respondent may petition the Board for termination of the probationary status and reinstatement of his license without any conditions or restrictions, provided that he has fulfilled all the terms and conditions of probation set forth herein, is not in violation of this Consent Order, and there are no outstanding complaints against the Respondent. If the Board determines that the terms of probation have not been successfully completed, then the Board may modify one or more condition upon which the Respondent was placed on probation, upon notice to the Respondent. However, if the Respondent fails to make any such petition, then the probationary period status shall continue indefinitely, subject to the conditions set forth in this Order; and be it further

ORDERED that the Respondent shall practice alcohol and drug counseling in accordance with the Maryland Professional Counselors and Therapists Act, and in a competent manner; and be it further

ORDERED that in the event the Board finds for any reason in good faith that the Respondent has violated any provision of Title 17 of the Health Occupations Article, Annotated Code of Maryland or the regulations thereunder, the Board, after notification to the Respondent, and an opportunity for a hearing, may take immediate action and may

impose any lawful disciplinary sanctions it deems appropriate, including but not limited to revocation or suspension of the Respondent's license to practice alcohol and drug counseling; and be it further

ORDERED that the Respondent shall be responsible for all costs incurred under this Consent Order; and be it further

ORDERED that for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. § 10-617(h) (1999), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order, and that the Board may also disclose to any national reporting bank to whom the Board is mandated to report; and be it further

ORDERED that the conditions of this Consent Order be, and the same is hereby, effective as of the date of this Order; and be it further

ORDERED that this is a **FINAL ORDER** and as such is a public document pursuant to Md. State Gov't. Code Ann. §§ 10-611 et seq. (1999).

10/18/02

Date



Joanne Faber, LCPC

Chair

Maryland State Board of
Professional Counselors and
Therapists

CONSENT OF CHARLES J. MALINOWSKI

I, Charles J. Malinowski, CSC-AD, by affixing my signature hereto, acknowledge that:

1. I am represented by Arnold M. Zerwitz, Esquire, and I have had the opportunity to consult with counsel before signing this document.

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to § 17-314 of the Act, Md. State Gov't. Code Ann. §§ 10-201 seq. (1999), and Code Md. Regs. tit. 10, § 58.04

3. I acknowledge the validity of this Consent Order as if entered after a formal evidentiary hearing in which I would have had 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 provided by law.

4. 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 as set forth in § 17-315 of the Act and Md. State Gov't Code Ann. §§ 10-201 et seq. (1999).

5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, and, following proper procedures, I may suffer disciplinary action, which may include revocation of my license to practice alcohol and drug counseling in the State of Maryland.

6. I sign this Consent Order without reservation as my voluntary act and

deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

10/4/02
Date

Charles J. Malinowski
Charles J. Malinowski, CSC-AD
Respondent

10/4/02
Date

Arnold M. Zerwitz
Arnold M. Zerwitz, Esquire

NOTARY

STATE OF Maryland
CITY/COUNTY OF Baltimore

I HEREBY CERTIFY THAT on this 4th day of October, 2002, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Charles J. Malinowski, CSC-AD, and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal

My Commission Expires: 3/22/04 *Linda D. Turner*
Notary Public