

**BEFORE THE STATE OF NEW MEXICO COUNSELING
AND THERAPY PRACTICE BOARD**

IN THE MATTER OF:

**ROBERT J. COYNE, SR.
License Number: 4758**

CASE NOS. CT-2016-34; CT-2016-76

Respondent.

DEFAULT ORDER

THIS MATTER, having come before the Counseling and Therapy Practice Board (the "Board"), on Friday, October 19, 2018, the Board finds the following:

1. A Notice of Contemplated Action ("NCA") was issued by the Board on May 7, 2018.
2. On May 7, 2018, the NCA was sent certified mail return receipt (No. 9171 9690 0935 0076 8827 98) to the Respondent's address on file with the Board.
3. The certified return receipt for the envelope containing the NCA was returned to the Board signed by Respondent on May 8, 2018.
4. The NCA was issued to the Respondent in compliance with the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 *et seq.*
5. The NCA informed the Respondent of his right to a hearing and that the Respondent must respond to the Board in writing requesting a hearing within twenty (20) days after service of the NCA. NMSA 1978, Section 61-1-4(D).
6. The NCA informed the Respondent that failure to respond to the NCA will result in the Board taking the contemplated action. NMSA 1978, Section 61-1-4(E).
7. On or about June 12, 2018, Respondent replied to the NCA stating that he has "no intention(s) to renew or pursue any licenses, certificates of the like. I have been retired since May 2016 after 30yrs of service and plan to remain retired."

8. Respondent did not mail a request for hearing within the time and manner required by NMSA 1978, Sections 61-1-4(D) and (E).
9. The Board is “expressly vested with the power and authority to make and enforce rules to carry out the provisions of NMSA 1978, Section 61-9A-26A(4) and (6) which state in pertinent part as follows:

A. In accordance with the procedures established by the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to 31, the Board may deny, suspend or revoke any license or registration held or applied for under the Counseling and Therapy Practice Act, NMSA 1978, Sections 61-9A-1 to 30, or take any action provide for in the Uniform Licensing Act , upon grounds that the licensee, registrant or applicant:

- (1) is guilty of fraud, deceit or misrepresentation in procuring or attempting to procure any license or registration provided for in the Counseling and Therapy Practice Act;
- (2) is adjudicated mentally incompetent by regularly constituted authorities;
- (3) is found guilty of a felony or misdemeanor involving moral turpitude;
- (4) is found guilty of unprofessional or unethical conduct;
- (5) has illicitly been using any controlled substance, as defined in the Controlled Substances Act, or using mood-altering substance or alcoholic beverage to an extent or in a manner dangerous to the licensee, registrant or applicant or any other person or the public or to an extent that the use impairs the licensee’s, registrant’s or applicant’s ability to perform the work of a counselor or therapist practitioner;

- (6) has violated any provision of the Counseling and Therapy Practice Act or regulation adopted by the Board;
- (7) is grossly negligent in practice as a professional counselor or therapist practitioner;
- (8) willfully or negligently divulges a professional confidence;
demonstrates marked incompetence in practice as a professional counselor or therapist practitioner;
- (9) demonstrates marked incompetence in practice as a professional counselor or therapist practitioner;
- (10) has had a license or registration to practice as a counselor, therapist or other mental health practitioner revoked, suspended or denied in any jurisdiction, territory or other possession of the United States or another country for acts of the licensee or registrant similar to acts described in this subsection;
- (11) knowingly and willfully practices beyond the scope of practice, as defined by the board; or
- (12) uses conversion therapy on a minor.

10. The Board can “impose a civil penalty on any person who is found, through a court or administrative proceeding, to have acted in violation of Chapter 61, Article 9A NMSA 1978. Such action may include the imposition of fines, costs or any other penalty authorized by NMSA 1978, Section 61-1-3 and may be subject to payment of all costs of disciplinary proceedings pursuant to NMSA 1978, Section 61-1-3.2.

11. The Board's decision and Default Order is final and not subject to judicial review.

NMSA 1978. Section 61-1-4(E).

IT IS ORDERED THAT Respondent Robert S. Coyne, Sr.'s license is revoked and he may not apply for or receive a New Mexico counseling or therapy license until the NCA has been answered and resolved.

Chairman Stewart Sroufe is designated by the Board to sign this Order on behalf of the Counseling and Therapy Practice Board.

IT IS SO ORDERED.

**COUNSELING AND THERAPY
PRACTICE BOARD OF NEW MEXICO**

Date: October 29, 2018

/s/ Stewart Sroufe
Chairman Stewart Sroufe

**BEFORE THE STATE OF NEW MEXICO
COUNSELING AND THERAPY PRACTICE BOARD**

IN THE MATTER OF

**ROBERT S. COYNE, SR.
License Number: 4758**

CASE NOS. CT-2016-34; CT-2016-76

RESPONDENT.

NOTICE OF CONTEMPLATED ACTION

YOU ARE HEREBY NOTIFIED that the New Mexico Counseling and Therapy Practice Board ("Board") has before it sufficient evidence that, if not rebutted or explained at a formal hearing, will justify the Board in disciplining you. Contemplated disciplinary measures permitted by Sections 61-1-3 (E) through (M) of the Uniform Licensing Act include revoking, suspending, or limiting your professional license, or other discipline. The Board also contemplates imposing upon you the costs of conducting a hearing, as allowed by rule.

APPLICABLE LAW

This matter arises under the New Mexico Counseling and Therapy Act, codified at New Mexico Statutes Annotated ("NMSA") 1978, § 61-9A-1 through -30 ("Act"), the rules of the Board contained in the New Mexico Administrative Code ("NMAC") in Title 16, Chapter 27, and the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 through 61-1-33 ("ULA").

Such contemplated action exists pursuant to the following relevant provisions of the Act:

§ 61-9A-26(A)(4)(6). License and registration; denial, suspension and revocation.

A. In accordance with the procedures established by the Uniform Licensing Act (61-1-1 to 61-1-31 NMSA 1978), the Board may deny, suspend or revoke any license or registration held or applied for under the Counseling and Therapy Practice Act (61-9A-1 to 61-9A-30 NMSA 1978), or take any other action provided for in the Uniform Licensing Act, upon grounds that the licensee, registrant or applicant:

- (1) is guilty of fraud, deceit or misrepresentation in procuring or attempting to procure any license or registration provided for in the Counseling and Therapy Practice Act;
- (2) is adjudicated mentally incompetent by regularly constituted authorities;
- (3) is found guilty of a felony or misdemeanor involving moral turpitude;
- (4) is found guilty of unprofessional or unethical conduct;
- (5) has illicitly been using any controlled substances, as defined in the Controlled Substances Act, or using a mood-altering substance or alcoholic beverage to an extent or in a manner dangerous to the licensee, registrant or applicant or any other person or the public or to an extent that the use impairs the licensee's, registrant's or applicant's ability to perform the work of a counselor or therapist practitioner;
- (6) has violated any provision of the Counseling and Therapy Practice Act or regulations adopted by the board;
- (7) is grossly negligent in practice as a professional counselor or therapist practitioner;
- (8) willfully or negligently divulges a professional confidence;
- (9) demonstrates marked incompetence in practice as a professional counselor or therapist practitioner;
- (10) has had a license or registration to practice as a counselor, therapist or other mental health practitioner revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for acts of the licensee or registrant similar to acts described in this subsection;
- (11) knowingly and willfully practices beyond the scope of practice, as defined by the board; or
- (12) uses conversion therapy on a minor.

Evidence indicates that Respondent may have violated the above-cited statute, as well as the following Board Rule:

16.27.18.16 PROFESSIONAL COMPETENCE, CONDUCT & INTEGRITY:

A. A licensed or registered individual shall not misrepresent his or her credentials, degrees, or competencies either through spoken word, written, or electronically transmitted material.

B. A licensed or registered individual, when interacting with a client or former client to whom the counselor or therapist has at anytime within the previous 60 months rendered counseling or therapy, shall not:

- (1) engage in sexual intercourse, contact or other physical intimacies with the client; or
- (2) enter into a financial or other potentially exploitive relationship with the client.

C. The prohibitions set out in 16.27.18.16 above shall not be limited to the 60-month period but shall extend indefinitely if the client is proven to be clearly vulnerable, by reason of emotional or cognitive disorder, to exploitive influence by the counselor or therapist. The counselor or therapist who engages in such activity after the 60-month period following cessation or termination of treatment bears the burden of providing proof that there has been no exploitation, in light of all relevant factors, including

- (1) the amount of time that has passed since therapy terminated;
- (2) the nature and duration of the therapy;
- (3) the circumstances of termination;
- (4) the patient's or client's personal history;
- (5) the patient's or client's mental status;
- (6) the likelihood of adverse impact on the patient or client and others; and
- (7) any statements or actions made by the counselor or therapist during the course of therapy suggesting or inviting the possibility of a post termination relationship with the patient or client.

D. A licensed or registered individual shall not undertake or continue a professional relationship with a client when the counselor or therapist is impaired due to mental, emotional, physiological, or substance abuse conditions.

E. A licensed or registered individual is in violation of this code and subject to loss of licensure or other disciplinary action if they:

(1) are convicted of a felony or misdemeanor related to their qualifications or functions, or;

(2) are disciplined by other state licensing boards for acts which would be a violation under this code of ethics, statutes or regulations, or;

(3) are no longer competent to practice, or;

(4) fail to cooperate with the state at any point from the inception of a conduct complaint through the completion of all proceedings regarding that complaint.

F. Licensed or registered individuals shall only perform counseling or therapy services within the scope of practice for their license. Licensed or registered individuals shall only perform testing and assessment services for which they are authorized under the act.

G. Licensed or registered individuals shall not use advertising, which is misleading, deceptive or false. All and any announcements of services shall include state designation and license number.

H. A licensed or registered individual, when developing competency in a service or technique that is either new to the counselor or therapist, or new to the profession, shall engage in ongoing consultation with other relevant professionals and shall seek appropriate education and training in the new area. The counselor or therapist, shall inform the client of the innovative nature and the known risks associated with the services, so that the client can exercise freedom of choice concerning the services.

FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

CT-2016-34: On or about May 13, 2016, the New Mexico Board of Counseling and Therapy Practice received a Complaint from Linda Pena, Probation Officer, reporting that on or about August 26, 2016, Respondent had been arrested and charged with two counts of negligent use of a deadly weapon, one count of tampering with evidence, and one count of disorderly conduct. The Statement of Probable Cause attached to Ms. Pena's report indicated that Respondent had twice discharged a weapon while heavily intoxicated following a disagreement with his wife. Ms. Pena further reported that Respondent was offered participation in a pre-prosecution diversion program but failed to comply with its conditions in that he tested positive for alcohol consumption multiple times, including on or about February 4, 2016 when his breath alcohol test results were

0.175 and 0.150, missed mandatory tests, and committed other alcohol-related probation violations.

CT-2016-76: On or about August 24, 2016, the New Mexico Board of Counseling and Therapy Practice received a Complaint from Una Smith reporting that she saw Respondent on or about November 1, 2012 for Dissociative Identity Disorder (“DID”), during which session Respondent acknowledged he had no education, training, or experience in treating DID and continued to disclose to Ms. Smith his and his wife’s history of substance abuse, stating that he had purchased a case of beer he intended to consume that weekend. Ms. Smith further stated that, since this session, Respondent had occurred several times in local news police blotters for a variety of incidents. A news article attached to the complaint reported that Respondent had been sentenced for discharging a handgun during a domestic disturbance.

RESPONDENT’S RIGHT TO A HEARING

The hearing, if requested, will be conducted in accordance with the ULA. The ULA provides as follows:

§ 61-1-3. Opportunity for licensee or applicant to have hearing.

Every licensee or applicant shall be afforded notice and an opportunity to be heard, before the board has authority to take any action, which would result in:

- A. denial of permission to take an examination for licensing for which application has been properly made as required by board rule;
- B. denial of a license after examination for any cause other than failure to pass an examination;
- C. denial of a license for which application has been properly made as required by board rule on the basis of reciprocity or endorsement or acceptance of a national certificate of qualification;

D. withholding the renewal of a license for any cause other than:

(1) failure to pay the required renewal fee;

(2) failure to meet continuing education requirements; or

(3) issuance of a temporary license extension if authorized by statute;

E. suspension of a license;

F. revocation of a license;

G. restrictions or limitations on the scope of a practice;

H. the requirement that the applicant complete a program of remedial education or treatment;

I. monitoring of the practice by a supervisor approved by the board;

J. the censure or reprimand of the licensee or applicant;

K. compliance with conditions of probation or suspension for a specific period of time;

L. payment of a fine for a violation not to exceed one thousand dollars (\$1,000) for each violation, unless a greater amount is provided by law;

M. corrective action, as specified by the board; or

N. a refund to the consumer of fees that were billed to and collected from the consumer by the licensee.

§ 61-1-8. Rights of person entitled to hearing.

A. A person entitled to be heard under the Uniform Licensing Act shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefore to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.

B. Upon written request to another party, any party is entitled to:

(1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.

C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

CONCLUSION

The evidence before the Board summarized above, if not rebutted or explained at a formal hearing, is sufficient to justify the Board in revoking, or imposing other disciplinary measures upon, the Respondent's professional license, and in imposing the costs of the administrative hearing, if any.

The Board shall take these actions unless, within twenty (20) days after receipt of this Notice of Contemplated Action, the Respondent requests a formal hearing by certified mail, return receipt requested. Such a request for a formal hearing should be mailed to:

**Sheila Harris
Compliance Liaison
New Mexico Counseling and Therapy Practice Board
PO Box 25101,
Santa Fe, NM 87504**

5/7/18

Date



Chairperson
New Mexico Counseling and Therapy
Practice Board

Prepared by:

/s/Olga Serafimova

Olga Serafimova

Assistant Attorney General

P.O. Drawer 1508

Santa Fe, NM 87504-1508

Telephone: (505) 490-4878

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Contemplated Action was mailed to the Respondent on this 5/7/18 day of May, 2018, via United States Postal Service Certified Mail, return receipt requested.

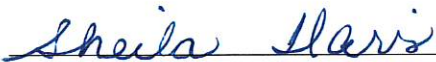
Respondent Name: Robert S. Coyne, Sr.

Address: 2164 C 43rd Street

Los Alamos, NM 87544

Certified Mail No.: 9171969009350076882798

Return Receipt Requested



Sheila Harris, Compliance Liaison

New Mexico Board Social Work Examiners

Regulation and Licensing Department

PO Box 25101

Santa Fe, NM 87504