

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

IN THE MATTER OF:

**WILLIAM MARTIN
License Number: 0162061**

CASE NO. CT-2016-72

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 July 23, 2018.
2. On July 23, 2018, the NCA was sent certified mail return receipt (No. 9171 9690 0935 0076 8827 12) to the Respondent’s address on file with the Board.
3. The envelope containing the NCA was returned unopened to the Board on August 16, 2018 with a USPS label stating “return to sender, not deliverable as addressed, unable to forward”.
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. Respondent did not mail a request for hearing within the time and manner required by NMSA 1978, Sections 61-1-4(D) and (E).

8. 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 which states 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.

9. 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.

10. 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 William Martin'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

WILLIAM MARTIN

License Number: 0162061

CASE NO. CT-2016-72

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). 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 Counseling and Therapy Practice Board Rules:

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.

NMAC 16.27.18.19(G). RESPONSIBILITY TO THE PROFESSION:

G. Licensed or registered individuals shall cooperate in ethics investigations, proceedings, and resulting requirements of this code. Release of confidential information in an investigation by the board does not constitute a violation of confidentiality. Failure to cooperate in an investigation is itself an ethics violation.

FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

On or about August 2, 2016, the New Mexico Board of Counseling and Therapy Practice received a Complaint from Paul Tucker reporting that, while employed as an Intensive Outpatient Program therapist at the Turning Point Recovery Center, Inc., a number of Respondent's clients submitted complaints regarding statements and inquiries made by Respondent that made the clients feel uncomfortable or offended. The Board subsequently sought a response from Respondent at least four times, but he failed to provide one.

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:

* * *

- 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; [or]

* * *

- M. corrective action, as specified by the board.

§ 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 professional licenses of the Respondent, 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
2550 Cerrillos Road
Santa Fe, NM 87505-3260

DATED: 23rd day of July, 2018



Chairperson
New Mexico Counseling and Therapy
Practice Board

Administrative Prosecutor:

/s/Olga Serafimova
Olga Serafimova
Assistant Attorney General
Litigation Division
408 Galisteo Street
Santa Fe, NM 87501

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Contemplated Action was mailed to the Respondent on this 23rd day of July 2018, via certified mail 9171 9690 0935 0076 8827 12 return receipt requested.

Respondent Name: William Martin
P.O. Box 1531
Hobbs, NM 88241

By: Sheila Harris
Sheila Harris, Compliance Liaison
New Mexico Counseling and Therapy Practice Board