

**BEFORE THE MISSISSIPPI STATE BOARD OF EXAMINERS FOR
LICENSED PROFESSIONAL COUNSELORS**

In the Matter of:

DAVID CARPENTER,

Respondent

No. 2019-18

FINAL ORDER

THIS MATTER came before the Mississippi State Board of Examiners for Licensed Professional Counselors (“Board”) on January 17, 2020, to determine whether disciplinary action should be imposed against the license of David Carpenter (“Respondent”). Board Member Kimberly Elam Sallis, PhD, LPC-S, recused herself and did not participate in the Board’s consideration and deliberation in this matter. A quorum of the remaining Board members was present throughout the hearing and deliberation in the matter.

The Respondent appeared in person for the hearing and was represented by legal counsel, Attorney Nicholas Bain. Ken Walley, Complaint Counselor, presented the charges against the Respondent. The case was called for hearing without objection from any party.

Gloria J. Green served as Administrative Hearing Officer, presided at the hearing and was directed to prepare the Board’s written decision in accordance with its deliberation. Having conducted the hearing in this matter and based upon the exhibits, testimony and the evidence presented, the Board makes the following findings, conclusions and order based on clear and convincing evidence:

FINDINGS OF FACT

1. The Board is established pursuant to Title 73, Chapter 30 of the Mississippi Code of 1972, as amended, and is charged with the duty of licensing and regulating the practice of Licensed Professional Counselors in the State of Mississippi.
2. Respondent is the holder of license number 1792 issued by the Board.
3. On or about December 6, 2019, the Board filed a Notice of Hearing and Complaint in this matter, alleging that the Respondent: used inappropriate billing procedure to bill 1.5 hours for one hour sessions for his clients; employed unlicensed counselors and presented them as licensed; allowed his daughter to have a slumber party at his offices and allowed counselor to leave records in the open; prevented a former employee from making referrals for her former clients; hired former clients as employees; counseled across state lines without proper credentials; had drug paraphernalia and alcohol in the workplace; consumed alcohol in front of clients, used narcotics, and had a confrontation with a known drug dealer at his office; signed a letter of recommendation using the name of another counselor; fell asleep during sessions; and failed to use and document an ethical decision-making model.

4. Respondent was properly served with notice of the time, place, and nature of the proceedings to be held before the Board.

5. At the beginning of the hearing, Respondent and the Complaint Counselor jointly moved for the dismissal of the charge alleging that Respondent had used inappropriate billing procedures to bill for 1.5 hours session for his clients. The motion to dismiss was granted by the Board and the case proceeded on the remaining allegations of the Complaint.

6. The Respondent has a prior disciplinary history with the Board including some of the same rule or standards violations as involved here.

7. The Respondent's admission and the evidence received show that Christy Brantley was employed by and provided counseling services to clients at the Respondent's practice, New Creations Counseling LLC ("New Creations"). Ms. Brantley is not licensed to provide counseling or therapeutic services. Rather, she holds a Certified Mental Health Therapist (CMHT) credential issued by the Mississippi Department of Mental Health. The CMHT is valid only in Mississippi's "state mental health system", which consists of programs that are certified, funded and/or operated/administered by the Mississippi Department of Mental Health.

8. New Creations is not a part of the state mental health system. Thus, her CMHT credential was improperly used to provide counseling at New Creations.

9. Respondent explained that he oversaw clients with Ms. Brantley and billed for her services under his National Provider Identifier ("NPI") number. The Respondent has not, however, been approved by the Board to provide counseling supervision.

10. The evidence was insufficient to establish that the Respondent allowed counselors records to be in the open during his daughter's slumber party, counseled across state lines without proper credentials, had a confrontation with a known drug dealer, and/or fell asleep during sessions.

11. While the Respondent admitted to having a history of substance abuse for alcohol, he denied, and the evidence did not show, that he had or consumed alcohol in the workplace as alleged in the Complaint. Nor did the evidence establish that the Respondent possessed or used illicit narcotics. The evidence also was not sufficient to show that the Respondent was aware of or had any dominion and control over any drug paraphernalia in the workplace.

12. The Respondent and Stephanie Eaton agree that she did not have access to client files or information so that she could make referrals for clients counseled by her while employed at New Creations. By the time of her termination from New Creations, the Respondent and Ms. Eaton's professional relationship had eroded and they had different view regarding referrals of clients counseled by Ms. Eaton. She felt that she should have been able to make referrals for the clients. The Respondent and his wife indicated that the information was not provided to Ms. Eaton because of the eroded relationship. They further indicated that the individuals were clients of New Creation and that each of Ms. Eaton's active clients was contacted and offered a referral for counseling services.

13. By his own admission, the Respondent did hire a client or former client to perform work at New Creations. The evidence received shows that the former client, J.G.¹, had his last counseling session and was discharged by the Respondent on or about January 25, 2019. J.G. was employed with New Creations from around September 2018 to May 2019.

14. Respondent did send an unsigned letter of support, showing Ms. Eaton as the author, to the Board.

Based upon the foregoing Findings of Fact, the Board makes the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to Sections 73-30-7, 73-30-21 and 73-30-23 of the Mississippi Code of 1972, as amended. Venue is likewise properly placed before the Board to hear this matter in Jackson, Hinds County, Mississippi.

2. This matter was duly and properly convened and all substantive and procedural requirements under law have been satisfied.

3. The Board is authorized by Sections 73-30-7 and 73-30-13 to regulate the licensing and practice of Licensed Professional Counselors, to adopt the code of ethics of The Counseling Association (ACA) as the ethical standards for physical therapists, and to adopt such rules and regulations as it finds necessary to carry out its regulatory functions.

4. Pursuant to the Board's Rules and Regulations at 30 Admin. Code Pt. 2201, R, 4, in order to serve as a supervisor or oversee the counseling of another individual, an LPC must have the required experience and training in supervision as prescribed by the Board and must be approved by the Board to provide supervision. The Respondent was not at the time of his supervision of Ms. Brantley nor is he currently a Board approved supervisor and, therefore, he was not authorized to oversee or monitoring her counsel practice.

5. The Board finds and concludes that the clear and convincing evidence shows that, as described above in the Findings of Fact, the Respondent failed to use and document an ethical decision-making model when he hired a former client and used an unlicensed person to provide counseling.

6. The Hearing Panel concludes that the evidence, as set forth above in the Findings and Conclusions 4 and 5, clearly and convincingly establishes a basis for disciplinary action pursuant to Section 73-30-21(1) (f) and/or (g) in that Respondent violated 30 Admin. Code Pt. 2201, R. 7.1 and R. 7.4 and Sections A.1, A.6.c, C.3.a, D.1.f and I.1.b of the ACA Code of Ethics.

7. The clear and convincing evidence does not establish that the Respondent violated the Board's Rules and Regulations at 30 Admin. Code Pt. 2201, R.7.1 and R.7.5 and those charges should be dismissed.

8. Further, the clear and convincing evidence does not establish that the Respondent

¹ The client is be referred to by initials to preserve confidentiality.

violated Sections A.4.a, A.6.a, A.6.e, A.12, B.1.c, B.6.b, C.2.G, C.3.C, H.1.a, H.2.d, I.1.b of the ACA Code of Ethics as contained in the Complaint and those charges should be dismissed.

Accordingly, the Board issues the following Order:

ORDER

IT IS THEREFORE ORDERED that the charges in the Complaint based on violations of 30 Admin. Code Pt. 2201, R.7.1 and R.7.5 and Sections A.4.a, A.6.a, A.6.e, A.12, B.1.c, B.6.b, C.2.G, C.3.C, H.1.a, H.2.d, I.1.b of the ACA Code of Ethics are hereby dismissed.

IT IS FURTHER ORDERED that, for the violations cited above (individually and jointly) in Conclusions, License Number 1792 issued to Respondent David Carpenter shall be suspended for a minimum of twelve (12) months from and after that this Final Order is signed for the Board.

IT IS FURTHER ORDERED that, for the violations cited above (individually and jointly) in Conclusions, the Respondent is hereby assessed the Board costs of investigating and prosecuting this matter in the amount of five hundred seventy-five dollars (\$575.00).

Within sixty (60) calendar days after the entry of this Final Order by the Board, the Respondent must submit full payment to the Board, or arrange for installment payments with the Board's Executive Director, of the monetary penalty, costs and fees imposed by this Order. If the Respondent fails to make a monthly installment payment as arranged with the Executive Director, the remaining balance will be due immediately and the failure to pay shall be deemed a violation of this Order.

IT IS FURTHER ORDERED that, upon the effective date of this Final Order, Respondent shall not engage in any act that constitutes the practice of Licensed Professional Counselor nor shall the Respondent imply to any party by word or conduct that he is authorized to practice as a Licensed Professional Counselor in the State of Mississippi nor shall he use any title, abbreviations, letters, figures, signs, advertisements, or devices that indicate(s) that he is or may engage in practice as a Licensed Professional Counselor in the State of Mississippi.

IT IS FURTHER ORDERED that Respondent shall not be eligible to become a Board-approved supervisor for a minimum of five (5) years from and after the date that his license and privilege to practice as a Licensed Professional Counselor has been reinstated.

IT IS FURTHER ORDERED that there shall be no automatic termination of suspension after the end of the Respondent's suspension period. At the end of the suspension period, the Respondent may petition the Board in writing for termination of suspension and full reinstatement of his license. In the event that Respondent submits any petition or request for removal from suspension, the burden of proof shall be upon the Respondent to demonstrate to the satisfaction of the Board that he has satisfactorily complied with all conditions of this Final Order and that he is capable of conducting himself in a fit and competent manner as a Licensed Professional Counselor. If the Respondent fails to make such a written request or petition, then his license suspension status shall continue until further order of the Board.

IT IS FURTHER ORDERED that any money paid by the Respondent shall be deemed received by the Board when noted in the Board's record by Board staff. Further, any correspondence, report or documentation from or for the Respondent shall be deemed received by the Board when the Board's date stamp is affixed to the correspondence or documentation.

The monetary penalty and costs must be paid by money order or certified or cashier's check, payable to the Mississippi Board of Examiners for Licensed Professional Counselors. Said penalty and costs shall not be deemed paid until received by the Board.

The monetary penalty, costs and/or any communication or documentation required under this Final Order shall be delivered to LeeAnn Mordecai, Executive Director, Mississippi Board of Examiners for Licensed Professional Counselors, 239 North Lamar Street. Suite 402, Jackson, Mississippi 39201.

IT IS FURTHER ORDERED that the Respondent shall fully comply with all terms and provisions contained in this Final Order. The Respondent is responsible for ensuring compliance with the terms of this Order. The burden of proof shall be on the Respondent to demonstrate compliance with all of the terms and conditions of this Order.

IT IS FURTHER ORDERED that this decision and opinion is a final order of the Board and is conclusive evidence of the matters described herein.

IT IS FURTHER ORDERED that this action and order of the Board shall be public record. It may be shared with other licensing boards (in- and out-of-state) and the public and may be reported to the appropriate entities as required or authorized by state and/or federal law or guidelines. This action shall be spread upon the Minutes of the Board as its official act and deed.

IT IS FURTHER ORDERED that upon execution of this Final Order by affixing the Board authorized signature below, the provisions of this Final Order shall become the final order of the Board.

SO ENTERED, this the 15th day of May 2020.

**MISSISSIPPI STATE BOARD OF EXAMINERS FOR
LICENSED PROFESSIONAL COUNSELORS**

BY: 
Richard Strebeck, PhD, LPC-S, NCC, CSAT, Chair
for and on behalf of the Board