BEFORE THE MISSISSIPPI STATE BOARD OF EXAMINERS FOR LICENSED PROFESSIONAL COUNSELORS

In the Matter of:

TABATHA SHERI POWELL
8256 OKATIBBEE DAM ROAD
COLLINSVILLE, MISSISSIPPI 39235

CAUSE NO. 2024-14

RESPONDENT

FINAL ORDER

THIS MATTER came before the Mississippi State Board of Examiners for Licensed Professional Counselors ("Board") on August 14, 2024, upon Notice to Show Cause for Tabatha Sheri Powell, 8256 Okatibbee Dam Road, Collinsville, Mississippi 39235 ("Respondent") to give good cause why her application for licensure should not be denied. A quorum of the Board members was present throughout the hearing and deliberations in this matter.

Respondent, having been properly served, called on the day of the hearing and being fully informed of her rights to a hearing before the Board, did appear at the hearing and was not represented by an attorney. Special Assistant Attorney General Alexis E. Morris served as legal counsel for the Board. The Board's Executive Director, LeeAnn P. Mordecai was called to testify, and the Board's exhibits were introduced into evidence. Respondent appeared without legal representation, provided testimony and introduced one exhibit. The case was called for hearing without objection from any party. A court reporter made a record of the proceedings.

Special Assistant Attorney General Kristen N. Love, designated by the Board to serve as its Administrative Hearing Officer, presided over the proceeding and was directed by the Board to prepare its written decision in accordance with its deliberations. The hearing was held pursuant to Title 73, Chapter 30 of the Mississippi Code of 1972, as amended, and pursuant to any and all other applicable Mississippi laws and regulations.

Having conducted the hearing in this matter and based upon the exhibits, testimony and the evidence presented, the Board makes the following findings of fact, conclusions of law, and orders based on clear and convincing evidence:

FINDINGS OF FACT

1. The Board is established pursuant to Sections 73-30-1 *et seq.*, of the Mississippi Code of 1972, as amended[1] and is statutorily charged to regulate the practice of counseling as well as the use of the titles of "Provisional Licensed Professional Counselor" and "Licensed Professional Counselor" for those who offer counseling services to the public for fees.

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[1] Unless otherwise indicated, all statutory reference is to the Mississippi Code of 1972, as amended.

2. Section 73-30-7 authorizes the Board to adopt such rules and regulations it finds necessary to conduct the business of the Board and to carry out its licensure and regulatory functions.

3. Pursuant to Section 73-30-21 and Board Rule 4.2(G), the Board may, after notice and opportunity for a hearing, refuse to issue a license, upon a determination by the Board that such applicant has failed to meet all requirements for licensure.

4. Upon such determination, an applicant may request a hearing, pursuant to Section 73-30-11 and Board Rules and Regulations, at the next regularly scheduled meeting of the Board to show cause why the application for licensure should not be denied.

5. The Board finds this matter was duly and properly convened and all substantive and procedural requirements under law have been satisfied.

6. The Board finds Respondent was properly noticed of the Complaint and the date and time of the hearing.

7. The Board finds Respondent appeared at the hearing without legal representation.

8. Respondent applied for licensure as a Provisional-Licensed Professional Counselor (P-LPC) on or about January 30, 2016. A PLPC license was issued in 2018.[2] Under Board Rules and Regulations, namely 30 Miss. Admin. Code Pt. 2201, R. 4.2, a P-LPC license is renewable yearly but for not more than four (4) years without a Board-approved extension. Respondent submitted her fifth renewal application via online in June 2023 without requesting a Board-approved extension, and the Board's online system automatically processed the renewal outside of the Board's Rules and Regulations. The Board's Executive Director discovered the technical mistake and issued Respondent correspondence that stated as follows:

> Rule 4.2.G, states, "The P-LPC shall be renewable for not more than four (4) years. Licensees may appeal to the Board for an extension." The Mississippi Board of Examiners for Licensed Professional Counselors (Board) recently discovered that you renewed your P-LPC license after four years – without requesting an extension.
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> Per Rule 4.2.G., you must submit a new application after four (4) years. Therefore, your online renewal was insufficient and your P-LPC has lapsed. You have ninety (90) days or until October 31, 2023, to submit a new P-LPC application under the current rules and regulations. The renewal fee will be automatically credited to the application fee.

Respondent denied any recollection of this correspondence from the Board dated August 4, 2023, though the certified mail receipt indicated Respondent signed upon delivery on August 11, 2023.

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[2] All applicants are required to apply under the current rules and regulations. The rules and regulations were updated in 2023.

9. As indicated in the Board's August 4, 2023 Correspondence to Respondent, the Board had declared Respondent's P-LPC lapsed under Rule 4.2.G. Respondent submitted a new application for provisional licensure on October 3, 2023, prior to the expiration of extension referenced in the Board's August 4, 2023 Correspondence to Respondent. The Board denied this application on January 31, 2024, for three reasons as follows:

> The LPC Board's findings, based on the data presented, and in reference to appropriate statutes and relevant Rules and Regulations, including the following:
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> 1. Degree: MS in Adult Continuing Education is not a qualifying degree for the P-LPC/LPC.
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> Educational Requirements: As per the University of West Alabama website:
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> "M.S. Adult Continuing Education: Counseling and Psychology
> The program does not prepare graduates for licensure. The program is designed for:
> Individuals seeking to expand their knowledge of counseling psychology.
> Individuals who do not plan on immediately pursuing licensing as a licensed professional counselor.
> Individuals who are already licensed in a related field, such as licensed marriage and family counselors."
>
> 2. LPC-S Contract: was not reviewed and thus may be missing or not detailed enough in areas.
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> 3. Declaration of Practice: was not reviewed and thus may be missing or not detailed enough in areas.

Respondent requested an administrative hearing on February 22, 2024, to show cause why her October 3, 2023 Application for Provisional Licensure should not be denied. Respondent's request for appeal argued as follows:

> I Tabatha S. Powell am filing and administrative hearing as it is under Rules and Regulations Rule 5.2A. I understand that I came in under the old rule for the P-LPC. However, I have complied since 2019. I received my P-LPC and it did not expire until June 2024. Now, it has lapsed due to the new rule. I understand that the new rules have taken place with concerns about the counseling degree. My concern is that I have been trying to pass my (NCMHE) and I have taken it 3 times before the rules change. I have taken in June 2023 and missed it by a few points. I realize that rules change. My concern is that I was already once a P-LPC and this time I passed my Jurisprudence Exam and passed it in October 2023. However, it was not recorded until November 28, 2023. I sent everything to the board before October

> 30, 2023 to receive my P-LPC back. I have not worked full-time since my license lapsed. I have got approval from the NBCC Board to retake my test by June or July 2024. Now, all of a certain degree that I have does not meet the requirements anymore when it count before. I have worked hard and closely with my LPC-S to get my clock hours. I still have 3633 hours that total since 2019. I am still under new Supervision with a contract that has been recorded along with the hours as well.
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> I am asking the Mississippi Board of Examiners to restate my P-LPC because they were done under the old requirements. I had no knowledge of any new requirements needed for the P-LPC license and I submitted every requirement before the deadline.

During the hearing, Respondent maintained her arguments for licensure and emphasized that her educational degree should be considered a qualifying degree under her new P-LPC application because her educational degree had previously been deemed a qualifying degree by the Board when her original application for provisional licensure was approved by the Board, along with subsequent renewals. The Board received correspondence dated July 21, 2024, from the University of West Alabama's Graduate Director of Counseling Psychology in support of Respondent's October 3, 2023 Application that stated as follows:

> Thank you for the privilege of advocating for my Student, Ms. Tabatha Powell. She completed the MSCE (now designated as MSACE) in Counseling and Psychology in 2005. The courses that she returned to graduate school to take after this degree was conferred were specifically to meet the didactic requirements to pursue her license as a Licensed Professional Counselor. Prior to January 2017, the State of Mississippi LPC allowed "stacking" of degrees to meet didactic requirements. I understand that this is no longer the case. However, the courses she returned to take, both PY (Psychology) courses and SC (School Counseling) courses were specifically for this purpose. Thank you for your time considering Ms. Powell as a candidate to sit for her P-LPC/LPC.

The Board's Executive Director testified, however, that when the Board reviewed the University of West Alabama's description of Respondent's MS in Adult Continuing Education: Counseling and Psychology, the degree was described as a program that does not prepare graduates for licensure. Thus, Respondent's degree in MS Adult Continuing Education (ACE): Counseling and Psychology conferred on May 7, 2005, per Respondent's transcript submitted in support of her October 3, 2023 Application, was not a qualifying degree for provisional licensure in Mississippi.

10. The sworn testimony and evidence presented at the hearing clearly and convincingly establishes Respondent failed to meet the educational requirements for provisional licensure under Board Rules and Regulations. Respondent's transcript verified that the University of West Alabama conferred a degree upon Respondent in MS Adult Continuing Education (ACE): Counseling and Psychology on May 7, 2005. Respondent's transcript also showed that she completed additional courses at the University between 2014 and 2015, with no additional degree conferred. Moreover, the University's website stated that Respondent's degree in MS Adult

Continuing Education (ACE): Counseling and Psychology was a program that does not prepare graduates for licensure.

CONCLUSIONS OF LAW

1. The Board has jurisdiction in this matter pursuant to Sections 73-30-1 *et seq.*, of the Mississippi Code of 1972, as amended. Venue is likewise properly placed before the Board to hear this matter at its regularly scheduled Board meeting.

2. This matter was duly and properly convened with all substantive and procedural requirements satisfied.

3. The provisions of Sections 73-30-1 *et seq.*, of the Mississippi Code of 1972, as amended set forth the eligibility requirements for provisional licensure. Applicants for provisional licensure must show proof of completion of a qualifying graduate degree program as outlined under Board Rules and Regulations, namely 30 Miss. Admin. Code Pt. 2201, R. 4.2.

4. The sworn testimony and evidence presented at the hearing clearly and convincingly establishes Respondent failed to meet the educational requirements for provisional licensure under Board Rules and Regulations. Respondent's transcript verified that the University of West Alabama conferred a degree upon Respondent in MS Adult Continuing Education (ACE): Counseling and Psychology on May 7, 2005. Respondent's transcript also showed that she completed additional courses at the University between 2014 and 2015, with no additional degree conferred. Moreover, the University's website stated that Respondent's degree in MS Adult Continuing Education (ACE): Counseling and Psychology was a program that does not prepare graduates for licensure and therefore was a non-qualifying degree.

10. The evidence clearly and convincingly establishes Respondent failed to demonstrate she meets the education requirements necessary for provisional licensure that are required by the Board's Rules and Regulations.

Based upon its Findings of Fact and Conclusions of Law, the Board finds as follows:

FINAL ORDER

IT IS, THEREFORE, ORDERED that the application for provisional licensure for Tabatha Sheri Powell is denied by clear and convincing evidence in accordance with provisions of Sections 73-30-1 *et seq.*, of the Mississippi Code of 1972, as amended and the Board's Rules and Regulations.

IT IS, THEREFORE, ORDERED that this decision and opinion shall be a final order of the Board and shall be conclusive evidence of the matters described herein.

FURTHER ORDERED, 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.

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

SO ORDERED, this the 26th day of SEPTEMBER, 2024.

MISSISSIPPI STATE BOARD OF EXAMINERS FOR LICENSED PROFESSIONAL COUNSELORS

[BOARD SEAL]

BY: Kimberly E. Sallis PhD. LPCS
KIMBERLY ELAM SALLIS, PhD, LPC-S
BOARD CHAIR

NOTICE OF APPEAL RIGHTS

Tabatha Sheri Powell, Respondent, may, within thirty (30) days after the decision of the Board appeal therefrom in accordance with MISS. CODE ANN. § 73-30-11.