

COMPLAINT NO. 2024-00583

IN THE MATTER OF

GARY MALONE

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**BEFORE THE TEXAS BEHAVIORAL
HEALTH EXECUTIVE COUNCIL**

**THE TEXAS STATE BOARD
OF EXAMINERS OF
MARRIAGE AND FAMILY
THERAPISTS**

AGREED ORDER

Pursuant to the authority under §507.305 of the Texas Occupations Code, §2001.056 of the Government Code, and 22 Texas Administrative Code §884.12(e), the Executive Director for the Texas Behavioral Health Executive Council ("Council") hereby approves, ratifies, and enters this Agreed Order with the following Findings of Fact, Conclusions of Law, and Order of the Council, which have been approved and accepted by Gary Malone ("Respondent") and which constitutes a full settlement and compromise of the complaint currently pending against Respondent before the Council in the above-referenced and numbered matter.

FINDINGS OF FACT

1. Respondent is licensed as a marriage and family therapist (#202381) in the State of Texas and is, therefore, subject to the jurisdiction of the Council.
2. Respondent had a sexual relationship with a former client.
3. This is Respondent's first complaint.
4. Respondent accepted responsibility for his actions and demonstrated insight into the choices that led to the violation.
5. Respondent has implemented remedial measures to ensure a violation of this type does not happen again.
6. Respondent has participated in community service and philanthropic endeavors in his community.

CONCLUSIONS OF LAW

1. Respondent voluntarily received a license from the Council and, therefore, is bound by the provisions of Chapters 502 and 507 of the Texas Occupations Code and the Rules of the Council, 22 Texas Administrative Code Parts 35 and 41.

2. Violation of the Council's Rules is unprofessional conduct and constitutes grounds for the imposition of sanctions under §§502.351, 507.301, and 507.351 of the Texas Occupations Code.
3. Based on the above Findings of Fact, the Council finds that Respondent violated Council Rules 801.45(b)(1).

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. Respondent's license is SUSPENDED for a period of five (5) years from the effective date of this order. However, the five (5) years of suspension shall be PROBATED, so long as Respondent complies with all state and federal statutes and regulations pertaining to the practice of marriage and family therapy. Although the probated suspension ordered herein will result in Respondent's license being restricted, Respondent shall take all steps necessary to renew and maintain Respondent's license while this order is in effect. Respondent's license shall remain on restricted status until all terms of this order have been satisfactorily completed.
2. Respondent is assessed and shall pay, within thirty (30) days of the date this order is ratified, an administrative penalty in the total amount of \$1,000.00; of which \$800.00 represents administrative costs and \$200.00 represents administrative penalty.
3. Respondent, within thirty (30) days of the date this order is ratified, shall complete and submit proof of completion of six (6) hours of professional development relating to boundaries. This professional development is in addition to the professional development hours required for license renewal. Respondent will pay all costs of the coursework.
4. Respondent shall be required to participate in therapy for no less than one year from the date this order is ratified. Respondent shall, within fourteen (14) days of the date this order is ratified, submit to the Council, or its designee, for approval the name and qualifications of a licensed marriage and family therapist or licensed professional counselor who has agreed to provide Respondent therapy. The Respondent must submit a copy of the therapist's CV and receive written approval from the Council, or its designee, before any of the therapy Respondent receives may be acceptable to meet the requirements of this order. The therapist shall (1) be a Texas-licensed marriage and family therapist or professional counselor with no record of disciplinary actions; and (2) have no business, professional, personal, or other relationship with Respondent that would interfere with the therapist's function or duties. Once approved, the therapist shall submit to the Council, or its designee, a treatment plan by which the therapist plans to assess and treat the Respondent; the therapist may make modification to the treatment plan at the therapist's discretion, and any medications shall be reported to the Council, or its designee, in writing. Respondent must attend therapy at least twice a month but if Respondent's therapist

recommends therapy on a more frequent basis then Respondent must comply with such recommendations.

It shall be Respondent's responsibility to assure the therapist submits written reports to the Council, or its designee, on a quarterly basis verifying that therapy has taken place, providing a general opinion and evaluation of the Respondent, and providing an opinion regarding the Respondent's ability to provide marriage and family therapy services in safe and competent manner as well as any recommendations to enhance or maintain Respondent's fitness to practice marriage and family therapy.

In the event Respondent's therapist indicates that Respondent is fit to practice marriage and family therapy, but makes recommendations concerning reasonable steps Respondent must or should take to enhance or maintain Respondent's fitness to practice marriage and family therapy, Respondent shall comply with any and all recommendations made by Respondent's therapist. If Respondent refuses or fails to follow the recommendations, Respondent agrees that Respondent's license shall be **SUSPENDED**, without further hearings, informal settlement procedures, or any right of appeal for judicial review; pending further review of Respondent by the Council, or its designee.

If the therapist concludes there is sufficient concern or need to impose further requirements, restrictions, and/or take other appropriate actions to ensure the safety of the public the Council, or its designee, may do so at its own discretion. In the event Respondent refuses or fails to follow the additional requirements or restrictions imposed by the Council, or its designee, Respondent agrees that Respondent's license shall be **SUSPENDED**, without further hearings, informal settlement procedures, or any right of appeal for judicial review; pending further review of Respondent by the Council, or its designee.

After a full year of therapy, and only if the Respondent's therapist recommends doing so in writing, Respondent may submit a written request to the Council, or its designee, to end this required therapy; and the Council, or its designee, may grant or deny this request at its own discretion. A full year of therapy shall be 365 days from the date Respondent has the first therapy session and continued for the minimum required two (2) session per month. If the therapist cannot continue providing therapy, Respondent shall get approval from the Council, or its designee, for a new therapist. If Respondent does not have any therapy for a period of more than thirty (30) days Respondent's license shall be **SUSPENDED** until therapy resumes and the therapist submits a report attesting to Respondent's fitness to provide marriage and family therapy services in safe and competent manner. During any period of non-practice or non-therapy, the therapy time period shall be tolled and any period of non-practice or non-therapy shall not apply to the reduction of this time period. Respondent shall pay all costs associated with this therapy requirement.

5. Respondent shall be required to practice under the supervision of a practice monitor for a period of one (1) year from the date this order is ratified. Respondent shall, within fourteen (14) days of the date this order is ratified, submit to the Council or its designee for approval

the name and qualifications of a marriage and family therapist supervisor who has agreed to serve as a practice monitor. The Respondent must submit a copy of the practice monitor's CV and receive written approval from the Council, or its designee, before any of the practice monitoring Respondent receives may be acceptable to meet the requirements of this order. The practice monitor shall (1) be a Texas-licensed marriage and family therapist supervisor with no record of disciplinary actions; (2) have no business, professional, personal, or other relationship with Respondent that would interfere with the practice monitor's function or duties; and (3) possess specialized knowledge, education and experience in the same field of practice as that of Respondent.

Once approved, the practice monitor shall submit to the Council or its designee a monitoring contract and plan by which Respondent's practice shall be monitored for compliance with ethical and legal practice standards, as well as the terms of this Order. Monitoring shall consist of at least one (1) hour of individual face-to-face meetings every week. The Respondent shall provide the practice monitor with a copy of this Order and access to Respondent's records. Respondent shall execute a release authorizing the practice monitor to divulge any information the Council or its designee may request.

It shall be Respondent's responsibility to assure the practice monitor submits written reports to the Council or its designee on a quarterly basis verifying that monitoring has taken place and providing an evaluation of Respondent's performance. At the Council's discretion, if any of these reports provides sufficient concern, the Council may impose further monitoring requirements and/or take other appropriate actions to ensure the safety of the public.

In the event Respondent's monitor indicates that Respondent is fit to practice marriage and family therapy, but makes recommendations concerning reasonable steps Respondent must or should take to enhance or maintain Respondent's fitness to practice marriage and family therapy, Respondent shall comply with any and all recommendations made by Respondent's monitor. If Respondent refuses or fails to follow the recommendations, Respondent agrees that Respondent's license shall be **SUSPENDED**, without further hearings, informal settlement procedures, or any right of appeal for judicial review; pending further review of Respondent by the Council, or its designee.

If the monitor concludes there is sufficient concern or need to impose further requirements, restrictions, and/or take other appropriate actions to ensure the safety of the public the Council, or its designee, may do so at its own discretion. In the event Respondent refuses or fails to follow the additional requirements or restrictions imposed by the Council, or its designee, Respondent agrees that Respondent's license shall be **SUSPENDED**, without further hearings, informal settlement procedures, or any right of appeal for judicial review; pending further review of Respondent by the Council, or its designee.

If the practice monitor cannot continue the monitoring engagement, Respondent shall get approval from the Council or its designee for a new practice monitor. If no new practice

monitor is approved, Respondent shall not practice until a new practice monitor has been approved. If Respondent does not have at least one (1) hour of individual face-to-face supervision every week Respondent's license shall be SUSPENDED, without further hearings, informal settlement procedures, or any right of appeal for judicial review, until supervision resumes and the practice monitor submits a report attesting to Respondent's fitness to provide marriage and family therapy services in safe and competent manner. During any period of suspension, non-practice, or non-supervision by a practice monitor, the one (1) year practice monitoring time period shall be tolled and shall not apply to the reduction of this required one (1) year practice monitoring time period. Respondent shall pay all costs associated with this practice monitoring requirement. RESPONDENT AGREES THAT ANY FAILURE TO COMPLY WITH THE PRACTICE MONITORING REQUIREMENTS, OR ANY OTHER TERM IN THIS ORDER, SHALL CONSTITUTE IMMEDIATE GROUNDS FOR REVOCATION OF RESPONDENT'S LICENSE.

WARNING

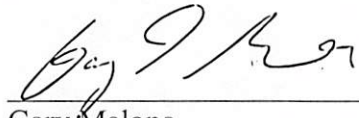
RESPONDENT'S FAILURE TO COMPLY WITH ONE OR MORE TERMS OF THIS ORDER MAY CONSTITUTE A VIOLATION OF 22 TEXAS ADMINISTRATIVE CODE §884.55 REQUIRING FURTHER DISCIPLINARY ACTION.

WAIVERS

On the underlying investigative file, Respondent has waived his or her right to an informal settlement conference, a formal hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH), and judicial review pursuant to Texas Government Code Chapter 2001, in exchange for the conditions set out in this Agreed Order.

THE RESPONDENT, BY SIGNING THIS ORDER, AGREES TO ITS TERMS, ACKNOWLEDGES UNDERSTANDING OF THE FORMAL NOTICES, FINDINGS OF FACT, AND CONCLUSIONS OF LAW SET FORTH HEREIN AND COVENANTS TO SATISFACTORILY COMPLY WITH THE MANDATES OF THIS ORDER IN A TIMELY MANNER. RESPONDENT FURTHER ACKNOWLEDGES AND AGREES THAT HE OR SHE HAS AGREED TO THIS ORDER UPON THE ADVICE AND CONSENT OF COUNSEL, OR THAT HE OR SHE HAS HAD THE OPPORTUNITY TO HAVE THIS ORDER REVIEWED BY COUNSEL OF HIS OR HER CHOICE.

FOR THE RESPONDENT:



Gary Malone
Marriage and Family Therapist
License #202381

DATE SIGNED: 01/08/2025

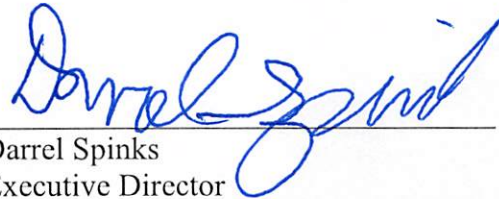
FOR THE STAFF OF THE COUNCIL:



Brian Clark
Texas Bar No. 24099457
Staff Attorney
Texas Behavioral Health Executive Council
1801 Congress Ave., Suite 7.300
Austin, Texas 78701

DATE SIGNED: 1/8/25

APPROVED, RATIFIED, AND ENTERED THIS 9th DAY OF January, 2025.



Darrel Spinks
Executive Director
Texas Behavioral Health Executive Council