

COMPLAINT NO. 2024-00572

IN THE MATTER OF

MICHAEL CARNEY

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**BEFORE THE TEXAS BEHAVIORAL
HEALTH EXECUTIVE COUNCIL**

**THE TEXAS STATE BOARD
OF EXAMINERS OF
PROFESSIONAL COUNSELORS**

AGREED ORDER

Pursuant to its 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 Council, which have been approved and accepted by **MICHAEL CARNEY** ("Respondent") and which constitutes a full settlement and compromise of the complaint(s) currently pending against Respondent before the Council in the above-referenced and numbered matter(s).

FINDINGS OF FACT

1. Respondent is licensed as a Licensed Professional Counselor (#66780) in the State of Texas and is, therefore, subject to the jurisdiction of the Council.
2. Respondent formed a multiple relationship with a client, namely a friendship.
3. Respondent crossed professional boundaries in sharing numerous inappropriate text messages with a client.

CONCLUSIONS OF LAW

1. Respondent voluntarily received a license from the Council and, therefore, is bound by the provisions of Chapters 503 and 507 of the Texas Occupations Code and the Rules of the Council, 22 Texas Administrative Code Parts 30 and 41.
2. Violation of the Council's Rules is unprofessional conduct and constitutes grounds for the imposition of sanctions under §§503.401, 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 22 Tex. Admin. Code §§ 681.38(c) and 681.38(d).

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. Respondent's license is **SUSPENDED** for a period of two (2) years from the effective date of this order. However, the two (2) years of suspension shall be **PROBATED**, so long as Respondent complies with all state and federal statutes and regulations pertaining to the practice of professional counseling. 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 shall be required to participate in therapy for no less than two years 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 clinical social worker, marriage and family therapist, professional counselor, psychiatrist, or psychologist ("therapist") 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 Texas-licensed 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 professional counseling services in safe and competent manner as well as any recommendations to enhance or maintain Respondent's fitness to practice professional counseling.

In the event Respondent's therapist indicates that Respondent is fit to practice professional counseling, but makes recommendations concerning reasonable steps Respondent must or should take to enhance or maintain Respondent's fitness to practice professional counseling, 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 indicates 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 two years 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) sessions 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, without further hearings, informal settlement procedures, or any right of appeal for judicial review; until therapy resumes and the therapist submits a report attesting to Respondent's fitness to provide professional counseling services in safe and competent manner. During any period of non-therapy, the therapy time period shall be tolled and any period of non-therapy shall not apply to the reduction of this required therapy time period. Respondent shall pay all costs associated with this therapy requirement.

3. Respondent shall be required to practice under the supervision of a practice monitor for a period of two (2) years 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 professional counselor or licensed marriage and family therapist 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 Professional Counselor - Supervisor or 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 month. 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 professional counseling, but makes recommendations concerning reasonable steps Respondent must or should take to enhance or maintain Respondent's fitness to practice professional counseling, 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 indicates 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 month 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 professional counseling services in safe and competent manner. During any period of suspension, non-practice, or non-supervision by a practice monitor, the practice monitoring time period shall be tolled and shall not apply to the reduction of the required 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.**

4. Within ninety (90) days of the date this order is ratified, Respondent shall provide the client with a full refund of all money charged to the client at issue for Respondent's services in the amount of \$1,647.55. This payment shall be sent directly to the client at issue in this matter. Respondent shall then provide the Council with proof that the payment was made and received by the client at issue by means of a sworn affidavit.
5. Respondent is assessed and shall pay, within ninety (90) days of the date this order is ratified, an administrative penalty in the total amount of \$8,000.00; of which \$6,000.00 represents administrative costs and \$2,000.00 represents administrative penalty.
6. If before all of the terms, conditions, and restrictions of this order are complete Respondent applies, qualifies, and is granted an upgraded license, then all of the same terms, conditions, and restrictions of this order shall apply to the upgraded license without the need of entering a new order against the upgraded 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:

Michael S Carney SR PhD

Michael Carney
Licensed Professional Counselor
License No. 66780

DATE SIGNED: 03/21/2025

FOR THE STAFF OF THE COUNCIL:

Kenneth Long

Kenneth Long
Texas Bar No. 24078877
Staff Attorney
Texas Behavioral Health Executive Council
1801 Congress Ave., Ste. 7.300
Austin, Texas 78701

DATE SIGNED: 3/29/2025

APPROVED, RATIFIED, AND ENTERED THIS 25th DAY OF March, 2025.

Darrel Spinks

Darrel Spinks
Executive Director
Texas Behavioral Health Executive Council