

**BEFORE THE BOARD OF SOCIAL WORK EXAMINERS
FOR THE STATE OF NEW MEXICO**

IN THE MATTER OF:

Case Nos. SW-19-04-COM

**Tally (Talis) May,
License No. M-05365
Respondent.**

DECISION AND ORDER BASED ON HEARING

THIS MATTER comes before the New Mexico Board of Social Work Examiners (“Board”) upon the filing of the Notice of Contemplated Action (“NCA”) dated December 16, 2019. Tally (Talis) May (“Respondent”) requested a formal hearing on the matter. An evidentiary hearing was held on August 25, 2022 via the WebEx online platform.

Pursuant to the New Mexico Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2019) Board members, having familiarized themselves with the record, met at a properly noticed meeting on September 9, 2022 to consider the Hearing Officer’s Report. At such Board meeting, a quorum of the Board decided upon the following:

FINDINGS OF FACT

1. The Board adopts the Findings of Fact proposed in the Hearing Officer’s Report dated September 8, 2022, which is attached hereto and incorporated herein.

CONCLUSIONS OF LAW

Based on the above findings, the Board reaches the following Conclusions of Law:

1. The Board, having reviewed the NCA and the allegations and evidence on record, finds by a preponderance of the evidence that Respondent violated the following Board regulation: 16.63.16.8(M) Derogatory Language.

2. The Board, having reviewed the NCA and the allegations and evidence on record, dismisses the following violations as alleged in the NCA, as not supported by a preponderance of

the evidence: NMSA § 61-31-17 (A)(4) and (8); NMAC 16.63.16.8 (H) Privacy and Confidentiality; NMAC 16.63.16.8 (E) Competence; NMAC 16.63.1.13 COOPERATION WITH THE BOARD.

3. Accordingly, the Board is justified in taking the contemplated action against Respondent, set out below.

ORDER

Based on these Findings of Fact and Conclusions of Law, the Board renders the following:

Respondent shall complete six (6) CEUs on ethics: three (3) units shall be on the NASW Code of Ethics including the 2021 amendments and three (3) units shall be on self-care. Respondent shall complete these required CEUs within six (6) months of the date of this Decision and Order. Upon timely completion of the required CEUs, the Board's finding herein as to a violation of 16.63.16.8(M) shall not be considered discipline by the Board. Should Respondent fail to complete the required CEUs within the time period provided herein, the Board shall suspend Respondent's license until such time as the CEUs are complete.

IT IS SO ORDERED.

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

/s/ Susan McFeaters
Dr. Susan J. McFeaters
Chair

9/22/2022
Date

STATEMENT OF RIGHT TO JUDICIAL REVIEW

A person entitled to a hearing provided for in the Uniform Licensing Act, who is aggrieved by an adverse decision of a board issued after hearing, may obtain a review of the decision in the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978. A person aggrieved by

a final decision may appeal the decision to district court by filing in district court a notice of appeal within thirty days of the date of filing of the final decision. *See* NMSA 1978 § 39-3-1.1.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed and e-mailed to:

George F. Heidke
The Law Office of George F. Heidke
820 Second Street NW
Albuquerque, NM 87102
gfheidkelaw@gmail.com
Counsel for Respondent

Kaythee Hlaing, Assistant Attorney General
Via e-mail at: khlaing@nmag.gov
Administrative Prosecutor

Karla J. Soloria, Assistant Attorney General
Via e-mail at: ksoloria@nmag.gov
Counsel for the Board

/s/ Sheila Harris
Sheila Harris
Compliance Liaison
Regulation and Licensing Department
P.O. Box 25101
Santa Fe, NM 87504

Dated this 22 day of September, 2022.

**BEFORE THE BOARD OF SOCIAL WORK EXAMINERS
FOR THE STATE OF NEW MEXICO**

IN THE MATTER OF:

Case Nos. SW-19-04-COM

**Tally (Talis) May,
License No. M-05365
Respondent.**

HEARING OFFICER REPORT

This matter came before duly appointed Hearing Officer Dr. Susan McFeaters upon the filing of the Notice of Contemplated Action (“NCA”) dated December 16, 2019, by the New Mexico Board of Social Work Examiners (the “Board”). Tally (Talis) May (“Respondent”) requested a formal hearing on the matter. An evidentiary hearing was held on August 25, 2022 via the WebEx online platform. The online platform was necessitated by the COVID-19 public health emergency. The WebEx platform permitted the Hearing Officer to observe any witnesses by both audible and visual means. The Hearing Officer presided over the hearing, and was advised by the Board’s counsel, Karla Soloria. The state appeared through administrative prosecutor Assistant Attorney General Kaythee Hlaing. Respondent appeared and was represented by counsel, George Heidke.

The Hearing Officer submits this report pursuant to the New Mexico Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2019) (“the ULA”), and hereby submits the following proposed finds of fact.

Summary of Allegations

1. On or around March 5, 2019, the Board received a Complaint filed by Complainant, an out-of-state parolee, enrolled in an 18-month aftercare counseling program at Viibe Wellness Center (“Viibe”), which is operated by Respondent. *See* State’s Exhibits 1, 2.

2. On February 13, 2019, Complainant received a call to meet with Respondent immediately, instead of waiting until his regular appointment on February 15, 2019. *Id.*

3. Complainant alleged that upon his arrival at Viibe Wellness Center, Respondent was present with Complainant's parole officer and another group leader. Respondent confronted Complainant with his criminal history, police report, and a printout of a blog the Complainant kept. Respondent allegedly chastised Complainant, acted in a confrontational manner, and repeatedly insisted Complainant was guilty of his crime and would never win his appeal. *Id.*

4. Complainant alleged Respondent suggested Complainant had certain psychopathic or psychological conditions and that Respondent would require Complainant to go undergo psychological testing. *Id.*

5. Complainant alleged Respondent required Complainant to take a sexual deviancy evaluation despite there being nothing to warrant this, and ordered Complainant not to go to the movies until she decided he was not grooming children for sexual assaults in dark movie theaters. *Id.*

6. The Board attempted to contact the Respondent at the address that was registered with the Board on March 12, 2019, and again on May 15, 2019; Respondent failed to answer the Board or cooperate with its investigation into the instant Complaint. *Id.*

7. The above information presented potential cause for suspending, revoking, or taking other action against Respondent's license in accordance with the ULA, the Social Work Practice Act ("Act"), NMSA 1978, §§ 61-31-1 through -25, and the Board's Rules ("Rules"), 16.63.16 NMAC, on the following grounds:

a. **NMSA § 61-31-17. License denial, suspension or revocation.**

(A) In accordance with procedures contained in the Uniform Licensing Act [NMSA 1978, Section 61-1-1 et seq.], the board may deny, revoke or

suspend any license held or applied for under the Social Work Practice Act, upon grounds that the licensee or applicant:

...

(4) is guilty of unprofessional or unethical conduct;

...

(8) is grossly negligent or incompetent in the practice of social work;

b. NMAC 16.63.16.8 (M). Derogatory Language.

Social workers shall not use derogatory language in their written or verbal communications to or about clients. Social workers shall use accurate and respectful language in all communications to and about clients.

c. NMAC 16.63.16.8 (H). Privacy and Confidentiality.

(1) Social workers shall respect clients' right to privacy. Social workers shall not solicit private information from clients unless it is essential to providing services or conducting social work evaluation or research. Once private information is shared, standards of confidentiality apply.

d. NMAC 16.63.16.8 (E) Competence.

(1) Social workers shall provide services and represent themselves as competent only within the boundaries of their education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.

e. NMAC 16.63.1.13 COOPERATION WITH THE BOARD.

(A) A social worker shall give full cooperation and assistance to the board of social work examiners and to its committees, functions and duties with respect to licensing and disciplinary matters. Applicants and licensees shall respond promptly to any matter or inquiry by the board.

(B) Failure to cooperate with the board in an investigation as required by 16.63.13 NMAC herein will constitute unprofessional behavior and may result in disciplinary action, including but not limited to suspension, revocation or denial of license, as provided by the Social Work Practice Act, Sections 61-31-1 through 61-31-25 NMSA 1978, as amended.

Summary of Proceedings

The state's administrative prosecutor introduced the following exhibits:

Exhibit 1: The Complaint Form

Exhibit 2: The NCA and correspondence from the Board to Respondent regarding the Complaint and requesting a response

Witnesses

Complainant

Respondent, Tally May

Proposed Findings of Fact

1. Respondent holds a 2001 master's degree in social work from New Mexico State University. She has specialized in treating sex offenders for 17 years. She has been licensed as a social worker for 27 years.

2. Respondent had experience starting at Otero prison working with sex offenders and left Otero to start Viibe in 2015.

3. Respondent is a sex offender therapist and is a supervisor at Viibe.

4. Viibe holds a contract with the Department of Corrections for the treatment of sex offenders.

5. Respondent has had one previous complaint made against her by a disgruntled former employee that did not result in discipline after her response to that complaint. She has had no previous disciplinary action taken against her in 27 years of practice, and this was her first hearing before the Board.

Testimony by Complainant

6. Complainant had been released from incarceration in Vermont on January 15, 2019; he had been released for less than a month before starting to attend Viibe for therapeutic programming for reintegration back into the community, as part of his post-release probation conditions.

7. Prior to the February 13, 2019 incident underlying the Complaint, Complainant had attended 2 individual sessions with Respondent and 2 group sessions at Viibe.

8. On the morning of February 13, 2019, Complainant was contacted by the front office at Viibe and told he had to go into Viibe that afternoon for an emergency session, although Complainant was already scheduled for a session in a couple of days.

9. Upon arrival at Viibe, Complainant was met by Respondent, two probation officers and another person who had been directing group therapy sessions at Viibe.

10. Complainant alleged Respondent then told him everyone in the room had already agreed with what Respondent was going to tell him. Complainant alleged Respondent began insulting him and making accusations.

11. Complainant alleged Respondent told him that the “game is over,” made a personal attack, told him that none of his appeals will work in court, that she knows Complainant is guilty of all the charges, that she doesn’t always get all the information from the state when they send people to her for rehabilitative programming, that she had researched Complainant on the internet, and that she told him he had psychological issues and was delusional about his case in court. *See State’s Exhibit 1.*

12. Complainant alleged that during this interaction he became frustrated with the personal attack and unqualified diagnoses and he got louder while Respondent was shouting at him. The parole officers in the room told everyone to settle down.

13. Complainant alleged that subsequent to the February 13 meeting he spoke with the director of parole services, Carole Slavens, who informed Complainant that she had already spoken with the parole officers about what happened at the February 13 meeting. Slavens informed Complainant he would not be required to undergo any additional testing or additional parole conditions imposed by Respondent, nor would Complainant be required to continue attending Viibe.

14. Complainant felt it was unnecessary to be called in for the February 13 meeting and that it was inappropriate for Respondent to say the things she said in the context of a therapeutic relationship.

Testimony by Respondent

15. Respondent explained that the February 13 meeting had been requested by Complainant's probation and parole officer because Complainant had written a manifesto about his victim. Probation and parole services reached out to Viibe, as parole services wanted to meet at Viibe in order to confront Complainant about the manifesto and inform him that it was a violation of his probation agreement.

16. Regarding the manifesto, at the hearing Respondent stated it was 8 pages long, attacked the victim, stated that the victim had a conspiracy against Complainant, and was very demeaning. The victim had been terrified and had reached out to probation and parole; Respondent would not have been able to speak to the victim nor would have been able to confirm or deny Complainant was a client due to HIPAA.

17. Respondent was aware prior to the February 13 meeting that Complainant had a long history of being manipulative, per legal documentation from probation and parole services. Per Respondent, Complainant had to be confronted so he would not be manipulative.

18. Respondent explained that when persons exhibit psychopathic behavior it is appropriate to confront them about lying, manipulation, and psychopathic behavior.

19. Respondent explained that, as would happen at any treatment team meeting at Viibe, Complainant was told why he was brought in for the meeting. Complainant was told he was brought into Viibe because his victim had complained to parole services about the manifesto Complainant had written.

20. Respondent recalled that Complainant got very heated and that Complainant got up and started posturing at Respondent because, per Respondent, Complainant did not like being held accountable. That is when parole officers told everyone to calm down.

21. Respondent told Complainant that it is not Viibe's function to force him to commit a crime he may or may not have committed. This was consistent with Complainant's contract with Viibe.

22. Respondent testified that Complainant came into the meeting, they discussed why he was there, that they didn't want him to make an admission of guilt, and that they wanted him to take responsibility for his offending behavior. Per Respondent, this is appropriate for when confronting sex offenders in a confrontive milieu, to reinforce taking responsibility for behavior.

23. After Respondent explained to Complainant why he was at the meeting, a probation officer let Complainant know that they were contacted by Complainant's victim as the manifesto was a continuous blog that he had been writing and having his sister publish; probation wanted him to reread the conditions of his parole and understand that the manifesto could be a serious violation.

24. Respondent denied stating Complainant was "guilty" or "the game is up" to Complainant in the meeting.

25. Respondent testified that the meeting concluded within 20 minutes, with Complainant being very upset and leaving.

26. Respondent explained that Complainant had to be confronted in the presence of probation and parole because Complainant needed to be aware of the conditions of his probation and parole agreement, so that he could avoid violating that agreement and going back to prison.

27. Respondent believed the comments made by Complainant in the manifesto were detrimental to his therapy and potentially detrimental to his freedom.

28. Respondent believes legal and therapy should be a team, which is why Viibe has “treatment teams” which are implemented to “soften the blow” of probation and parole officers interacting with clients. Clients are confronted at Viibe rather than at the probation and parole offices, so Viibe can be supportive of the clients.

29. Respondent had no authority whatsoever over the conditions and requirements of Complainant’s parole.

30. Respondent testified that Complainant had demonstrated extreme resistance to any type of therapeutic intervention since beginning at Viibe. She noted Complainant’s extreme resistance in his previous sessions with her.

31. Respondent testified she never insulted Complainant and never told him she “was smarter than him.”

32. Respondent admitted that towards the end of the February 13 meeting when Complainant started posturing toward her she felt threatened and may have used the “F word.” She stated this was in response to Complainant’s physical response and posturing at the meeting, and was not intended to be disrespectful.

33. After the meeting, Respondent informed probation and parole that she did not know if Viibe would be comfortable keeping Complainant on as a client because Respondent was afraid of him. Respondent suggested they move Complainant out of Viibe as appropriateness of the client relationship was not there.

34. Probation and parole was responsible for Complainant’s placement in an alternative treatment setting.

35. Probation and parole asked Viibe to take Complainant back in August, 2020 because the therapist who was then treating Complainant had reached out to probation and parole. That therapist expressed Complainant had been minimizing behaviors and was being extremely manipulative, and Complainant had underlying psychopathy relating to Complainant's deviancy that the therapist was not able to treat. That therapist was not equipped to treat Complainant.

36. Respondent agreed to take Complainant back at Viibe for treatment subject to Complainant signing a behavioral contract outlining Viibe's expectations of Complainant upon readmission. Viibe had also just hired a male director and Respondent felt Complainant would be better equipped to work with that male director for treatment. The male director treated Complainant upon his return to Viibe.

37. Respondent testified that she received a letter in August, 2021 at her work address at 2701 W. Picacho St. which stated her license had been revoked due to lack of responding to the Complaint.

38. Respondent stated that prior to this letter she had not previously received the Notice of Contemplated Action (NCA) underlying the revocation.

39. Upon receiving the letter notifying her of her license revocation Respondent called the Board right away, thinking the revocation had to be a mistake as she has not subverted the responsibilities of her license in her 27 years as a social worker.

40. Respondent never received previous letters from the Board asking her to respond to the Complaint, which were sent to an outdated address.

41. In 2019, when Respondent had renewed her license, she left out demographic information such that she did not receive her renewed license. She called the Board in July of 2019 inquiring about her license, at which time she was told she had left out certain information,

and she understood the Board updated her demographic information at that time. She gave the Board the address at 2701 W. Picacho St. at that time.

42. In 2021, when Respondent renewed her license again she found out the Board had in fact not updated her information since 2015. She received an email regarding an audit for CEUs and she sent them that information.

43. Respondent stated she had been diligent in updating her contact information with the Board in July of 2019 when she contacted the Board about not receiving her renewed license.

44. Respondent testified she got a hold of Sheila Harris at the Board, who stated the Board had an address on “Hillrise.” Respondent did not understand this as that address applied in 2015, whereas she had received her license in 2017, 2019, and 2021 at the 2701 W. Picacho St. address, which is her place of work. She was told the Board had not updated her address since 2015, contrary to Respondent having called to update her information in July, 2019 and in fact receiving her 2017, 2019, and 2021 licenses at her 2701 W. Picacho St. business address.

Respectfully Submitted,

September 8, 2022

Susan J. McFeaters

DATE

Dr. Susan J. McFeaters

HEARING OFFICER