

**LOUISIANA STATE BOARD OF
SOCIAL WORK EXAMINERS**

**IN THE MATTER OF
TIFFANY THORNE MAYO
LICENSE NO. 5081**

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND SANCTIONS
NUMBER: 2009-41**

The Louisiana State Board of Social Work Examiners (the "Board" or "LABSWE") received on September 26, 2008 a self report from Tiffany Thorne Mayo, LCSW, advising that she married a former client. Additionally, on September 26, 2008 the Board received a draft psychosocial assessment from Carol Miles, LCSW, which indicated that Ms. Mayo self disclosed she married a former client. Tiffany Thorne Mayo saw Ms. Miles for a psychosocial assessment subsequent to entering into Consent Agreement and Order 2008-195 with the Board on July 25, 2008, which required Ms. Mayo to be evaluated for the Board's Impaired Professional Program. On September 26, 2008, the Board voted to accept the self report as a complaint.

An Administrative Complaint in the captioned proceedings was filed with the Board on February 27, 2009, and the Board set the matter for hearing on May 15, 2009. The Complaint alleges that Respondent violated provisions of the Social Work Practice Act and Board Rules, Standards of Practice and Procedures by marrying the identified former client within five years of termination, which is a violation of Respondent's professional and ethical duty that a social worker shall not engage in sexual intimacy or contact with a former client, as set out in Rule 113 B(4) of the Rules, Standards and Procedures for Louisiana social workers.

Respondent's attorney requested that the hearing be continued to July 31, 2009. The Administrator granted the request for a continuance. On July 30, 2009, the Respondent's

attorney and the Assistant Attorney General verbally requested another continuance and this matter was continued for hearing on August 25, 2009.

At 9:00 a.m. on August 25, 2009, the Board convened with board members, Wade Tyler, PhD, LCSW, Michael Hickerson, RSW, Hope Himel-Benson, LCSW, Evelyn Jenkins, LCSW, and John McBride, LCSW, serving on the hearing panel.

Defenses Based on the Prior Consent Order

Board Rule 113 B (4) of the Rules, Standards and Procedures for Louisiana social workers established pursuant to LA R. S., 37:2717 A (5) of the Social Work Practice Act, prohibits social workers from engaging in sexual intimacy or contacts, as defined in Rule 113 B (5), with a former client for whom the social worker has provided clinical/therapeutic social work services. The rule prohibits such contacts for a period of at least five years following the termination of social work services and provides for disciplinary action against the social worker who engages in sexual intimacy with the former client within that time span.

Several of the allegations of the Administrative Complaint in these proceedings refer to Ms. Mayo's inappropriate contacts of a nonsexual nature with a client for whom she provided both individual and group clinical social work services as a substance abuse counselor. This conduct was the subject of a prior complaint against Ms. Mayo which resulted in a Consent Agreement and Order ("Consent Order") as authorized by LA R.S. 49:955 D. The Consent Order identified specific examples of inappropriate social contacts which Ms. Mayo had with her client between mid December, 2007 and March of 2008 while both Ms. Mayo and the client were affiliated with the agency where Ms. Mayo practiced.

In the Consent Order Ms. Mayo acknowledged the inappropriate contacts which she admitted were violations of her professional and ethical duties as well as other Board Rules

prohibiting a social worker from engaging in a personal relationship with a client; from encouraging planned social meetings; from giving or exchanging inappropriate gifts and by failing to safeguard the best interest of a former clinical/therapeutic client. The Consent Order did not contain any description of conduct of a sexual nature between Ms. Mayo and the client.

The Complaint in these proceedings alleges that, two weeks after Ms. Mayo entered into the Consent Order in case #2008-195, Ms. Mayo, on August 8, 2008, married the former client identified in the Consent Order. The Complaint alleges that, by marrying the identified former client within five years of termination of social work services, Ms. Mayo has violated her professional and ethical duty not to engage in sexual intimacy or contact as set out in Rule 113 B (4).

Respondent, in Pre-Hearing Memorandum and at the adjudication hearing, raised several defenses to the pending complaint which were based on the investigation of Respondent's conduct which was the subject of the aforementioned Consent Order. In essence, Respondent claimed that there was some evidence of sexual activity between herself and the identified client contained in the investigation documents of Craig Meier, the Board's Complaint Investigation Officer ("CIO") at the time that he was investigating the March 7, 2008 Mandatory Report filed with the Board by Ms. Mayo's Program Director, Suzanne Hutti, LCSW. Respondent further stated that the CIO's report listed both a dual relationship with the client as well as sexual intimacy with the client as possible violations and the Recommendations section of the report states that the "allegations have been substantiated through the investigation and it is recommended that a Consent Agreement and Order be considered."

Respondent, citing Board Rule 907 C, argued that because the Board did not vote to dismiss any charges that "any and all charges of sexual misconduct were deemed by law to be

incorporated into the Consent Agreement and Order of July 25, 2008, whether or not such was the intent of the Board's Administrator, the Complaint Investigation Officer, the recused Board member or the Board itself." Respondent then argued that the pending complaint is merely a "rehash" of the same allegations resolved by the July 25, 2008 Consent Order.

The defense urged by Respondent misinterprets Rule 907 C and is without merit. Rule 907 C relates to the complaint received by the Board and not to possible violations which may be disclosed during the investigation of that complaint. The complaint, actually filed by Suzanne Hutti, LCSW, only notified the Board that Ms. Mayo had provided information "that she had developed a friendship with a client in an outpatient clinic where she was employed". Ms. Hutti's letter expressed her belief that Mrs. Mayo's actions may involve possible violations regarding "dual relationships". During the investigation of the complaint, both the identified client and Mrs. Mayo denied any sexual or emotional aspects to their relationship.

The record shows that the CIO's report did not contain a recommendation that the complaint/Mandatory Report of Ms. Hutti be dismissed. Without such a recommendation from the CIO, the designated Board member review and the Board vote are not required. The record further shows that the subject matter of Ms. Hutti's letter to the Board was the same subject matter of the informal resolution of the complaint which was signed by the Respondent and the Board. The hearing panel of the Board also takes notice that there has been no attack on the validity of the Consent Order between the Board and Ms. Mayo and rejects the notion that the document adjudicated any conduct other than that which is specifically described therein.

Respondent also asserted that the Consent Order does not prohibit future contact between the parties. Respondent's assertion, while true, is without any legal significance regarding the complaint pending before the Board. As a social worker, Ms. Mayo must always conform to the

ethical standards of her profession and her conduct as a social worker always remains subject to the requirements, restrictions and prohibitions of the Social Work Practice Act and the Rules, Standards and Procedures. There is certainly no language in the Consent Order which permits any future contact between Ms. Mayo and the former client or in any way authorizes her to disregard the ethical standards, the Practice Act or the Board Rules. If Respondent's assertion was intended as a defense against the pending complaint of having sexual relationships with a former client, this defense is likewise without merit.

Next, Respondent raised the defense of Res Judicata, claiming that the Consent Order is a final judgment encompassing all allegations of misconduct because the CIO's report stated that the allegations "have been substantiated". This panel of the Board finds that this defense is also without merit for several reasons. As set out above, the Consent Order addressed the complaint and not disputed evidence of sexual contact. At the time that the parties entered into the Consent Order on July 25, 2008, the Respondent's August 8, 2008 marriage to the former client had not yet occurred. Furthermore, both the Respondent and the former client gave false information (denying sexual contact with each other) during the investigation of the prior complaint in case #2008-195. Respondent admitted in these proceedings that she had lied during the earlier investigation and, in fact, had sexual contact with the former client. Had the Respondent provided truthful information during the prior investigation, the Consent Order would have addressed the more serious conduct, would have recited additional rules violations and would have meted out a different sanction. The record shows that it was the false information which Respondent provided during the earlier investigation which not only resulted in lesser violations and a lesser sanction but also precluded the Board from addressing the Respondent's prior sexual conduct in the Consent Order. Under the circumstances presented, the Board finds Respondent's

assertion that, any "subsequent complaint arising out of the same factual basis is barred by law", is without any legal or factual support.

Respondent also challenged the legality of the prior investigation under Board Rule 923 B because the CIO "did not obtain the consent of the alleged victim to conduct interviews about the third party complaint of Ms. Hutti." Respondent's challenge completely misinterprets Rule 923 B. The pertinent part of the rule provides "(B)y bringing a complaint against his or her social worker, the client waives the privilege of confidentiality for the purpose of the hearing." This provision is the Practice Act counterpart to Louisiana Code of Evidence Art. 510 B (2) (h) which does not permit a patient/client to claim the benefit of the Health care provider-patient privilege when the client's communications to the social worker (which ordinarily would be confidential) are relevant in proceedings held by peer review committees and other disciplinary bodies to determine whether the healthcare provider deviated from professional standards. The provision is designed to enable the social worker to defend himself against the client's complaint before the Board by disclosing treatment or other confidential information without the client's consent or even over the client's objection.

It does not follow, however, that because the alleged victim of Ms. Mayo's conduct was not the complainant before the Board, that the CIO required the former client's consent in order to investigate the complaint filed against the social worker by a third party. Under no circumstances could a social worker's prohibited contacts, inappropriate personal relationships, or other indicia of dual relationships be considered confidential or accorded the protections of a testimonial privilege under the law. This interpretation of the Rule suggested by Respondent would enable the client to protect his or her social worker (from being investigated for engaging in prohibited conduct with the client) by not filing a complaint with the Board and by not

consenting to the disclosure of information about the social worker's conduct. However, it is clear that the prior investigation was directed at the impermissible conduct of the social worker and not to the client's treatment information. Accordingly, the panel finds that the CIO's investigation in the prior case was neither illegal nor did it require the client's consent.

Respondent has also claimed that neither the assistant Attorney General nor the Board could inquire into Ms. Mayo's sexual activity following her marriage to her former client because marriage was considered a fundamental right under decisions of the United States Supreme Court. However, the Respondent put her sexual and intimacy issues within her marriage to her former client before the panel through the introduction of her treatment records with her therapist, Karen Gersen, LCSW, and also by calling Ms. Gersen as a witness at the hearing. Given the Board's duty of public protection, the hearing panel was not of the opinion that the Respondent's conduct was protected against legitimate inquiry because she married the client with whom she had previously engaged in an impermissible sexual relationship. Nevertheless, Respondent, by introducing evidence about the subject matter which she also claimed was protected, opened the door to the panel's questioning on this issue.

The panel also notes that Respondent devoted much effort in attempting to make the CIO's report and Craig Meier's credibility the focal point of the hearing. As discussed below, the panel found that the testimony of the CIO both credible and consistent with the testimony of other witnesses and exhibits which were introduced at the hearing.

Credibility Determinations

A central component of the respondent's defense was the attempted impeachment of the Complaint Investigation Officer, Craig Meier's investigative reports, stating that the information relative to the identified client was illegally obtained. The Code of Federal Regulation regarding

confidentiality of alcohol and drug abuse patient records was cited. The panel found the argument unconvincing. Paragraph 209ee-3 pertains specifically to patient records. Suzanne Hutti, LCSW, Florida Human Services Authority Regional Administrator, testified that no patient records were given over to Mr. Meier. Mr. Meier testified that no patient records were received. Furthermore, Mr. Meier's investigative report for case no. 2008-195 entered into evidence, refers only to "Blake R." or "the client", a standard nomenclature to protect the identity of the client throughout the mental health professions. In fact, it was respondent's counsel who disclosed to the LABSWE this client's full name through the exhibits introduced into evidence. Finally, it is not the purview of this panel to determine whether federal confidentiality statutes have been violated. Mr. Meier received information from those he interviewed, as well as the materials from the agency's internal investigation in good faith. The panel further notes that Respondent has brought no legal action against the Florida Parishes Human Services Authority, the party which released the challenged information. The panel finds the testimony and the report of Mr. Meier entered into evidence credible.

Findings of Fact

1. Tiffany Thorne Mayo has been a licensed clinical social worker in Louisiana since November 3, 2004 as evidenced by license #5081.
2. Tiffany Mayo submitted a written report to the board on September 23, 2008 that she married a former client.
3. That Ms. Mayo appeared before the board on July 25, 2008 and entered into a Consent Agreement and Order which resolved Complaint 2008-195. Said Consent Agreement and Order signed by Ms. Mayo on June 25, 2008, and signed by members of the board July 25, 2008, was entered into the hearing record provided by both parties as exhibits.

4. Ms. Mayo was employed from February 12, 2007 to February 26, 2008 at Florida Parishes Human Services Authority, Addictive Disorders Services, Washington Parish Addictive Disorders Clinic conducting individual and group clinical services as evidenced by Consent Agreement and Order 2008-195 and the respondent's testimony and resignation letter effective February 26, 2008 signed by Ms. Mayo.

5. The former client was a client of Washington Parish Addictive Disorders Clinic from May 2007 through February 2008 as evidenced by Consent Agreement and Order 2008-195.

6. Ms. Mayo admitted that she conducted the client's intake interview on May 3, 2007, and provided individual supportive clinical services to the identified client 1-2 times per week in October – November 2007.

7. Ms. Mayo admitted that, per her request, the client was transferred to the other agency counselor for supportive counseling in early December 2007 as evidenced by Consent Agreement and Order 2008-195.

8. Ms. Mayo admitted violating La. R.S. 37:2717(A)(7), Rule 113(A)(5), Rule 113(B)(1), Rule 113(A)(7) and Rule 113(B)(2), and accepted specified discipline from the board for such violations as such evidenced by Consent Agreement and Order 2008-195.

9. Ms. Mayo married the identified client as evidenced by Marriage License No. 043365 C issued by the State of Louisiana, Parish of St. Tammany, and the State of Louisiana Certificate of Marriage, certifying that Tiffany Thorne Mayo and the identified client were married.

10. Taking together the following, it is more probable than not that Ms. Mayo engaged in sexual intimacy or sexual contact with a former client as defined in Rule 113B4 & 113B5:

a. The definition of marriage provided by La. Civil Code Article 98 that "[m]arried persons owe each other fidelity, support and assistance." Although the comment says, "The term

fidelity as used in this article refers not only to the spouses duty to refrain from adultery but also to their mutual obligation to submit to each others reasonable and normal sexual desires.”, the board made its finding without regard to this comment.

b. The psychotherapeutic notes and testimony of Karen Gerson, LCSW

1. Psychotherapeutic notes of Karen Gerson, LCSW referring to the marriage, intimacy issues, and the respondent's desire to have children. Ms. Gerson's psychotherapeutic notes indicate numerous discussions of the topic

- February 14, 2008 regarding marriage and exploring desires to be married
- April 10, 2008 issues related to boyfriend
- May 5, 2008 wanting to have children
- May 8, 2008 discussed elopement and having children
- July 24, 2008 upcoming elopement
- July 31, 2008 discussed upcoming marriage
- August 7, 2008 parenting step-son explored
- August 14, 2008 got married – discussed
- August 21, 2008 intimacy issues discussed
- October 16, 2008 discussed problems in marriage
- October 23, 2008 marriage issues
- November 12, 2008 desires to get pregnant discussed
- December 15, 2008 discussed unhappiness and indecision related to marriage
- January 8, 2009 discussed physical problems and marital issues
- January 15, 2009 marital issues
- February 2, 2009 continued with marital issues

- February 4, 2009 dynamics in marriage and why
- March 4, 2009 marital
- March 23, 2009 marital
- April 2, 2009 marital
- April 9, 2009 desire to have children
- April 16, 2009 marital

2. The testimony of Karen Gerson, LCSW acknowledging that there may have been discussions of sexual relations, and her statement that "everyone agrees that there were violations of the board's rules." Ms. Gerson would not deny discussions in psychotherapeutic sessions about sexual activity or contact between Ms. Mayo and the former client.

c. Ms. Mayo's marriage to Blake R. is beyond dispute as evidenced by the marriage certificate which is a part of the record and by her admission.

113 B (4) of the Rules, Standards and Procedures provides that a social worker who has provided clinical/therapeutic social work services, such as counseling or the diagnosis or treatment of mental and emotional disorders with individuals, couples, families, or treatment groups, shall not engage in or request sexual intimacy or contacts as defined in §113.B.5, is prohibited from engaging in or requesting sexual intimacy or contacts with a former client within five years from documented termination. Any social worker who engages in sexual intimacy or contacts as defined in §113.B.5 with a former client within five years of documented termination of services shall be subject to disciplinary action for violations under R.S. 37:2717(A)(4) and (7). Sexual intimacy is further defined by 113 B (5) of the Rules, Standards and Procedures which provides that sexual intimacy or contact is defined as any contact or any other conduct which

reasonably could lead to sexual arousal, whether verbal or nonverbal, including, but not limited to, sexual touching, sexual intercourse (i.e. genital, anal or oral), masturbation, whether clothed or unclothed, by either the social worker or the client. Sexual intimacy also includes phone sex, cyber-sex and other electronic or printed communication which reasonably could lead to sexual arousal.

Sexual intimacy is further inferred by:

Under oath, Ms. Mayo admitted that she lied in her denial of sexual activity with her client during the investigation leading to Consent Agreement and Order 2008-195. Ms. Mayo admitted that she had sex before she got married, but claimed protection by law to not disclose whether or not she is having sex within the marriage. In her testimony, Ms. Mayo did not deny sexual activity or sexual contact occurring after entering into the Consent Agreement and Order 2008-195. Ms. Mayo's counsel introduced therapy notes into evidence which shows that intimacy issues and having children were repeatedly communicated with her therapist.

Conclusions of Law

1. The Findings of Fact led the panel to conclude that Ms. Mayo had sexual intimacy and sexual contact with her former client (current husband), which is a violation of an order, rule or regulation adopted by the Board as established by La. R.S. 37:2717(A)(5).
2. The Findings of Fact led the panel to conclude that by marrying the identified former client within five years of termination, Ms. Mayo's conduct was unprofessional and unethical, rising to the level of violation of Rule 113(B)(4) of the Rules, Standards and Procedures for Louisiana social workers that a social worker shall not engage in sexual intimacy or contact with a former client.

Sanctions

It is ordered that:

1. Tiffany Mayo, LCSW license #5081 is revoked for ten years effective September 17, 2009.
2. Ms. Mayo shall not practice social work while her license is revoked.
3. Ms. Mayo may apply for a social work credential after September 17, 2019, upon meeting the credentialing requirements effective at the time of application, to include but not limited to, examination requirements.
4. Within thirty (30) days of applying for a social work credential, Ms. Mayo shall undergo an evaluation, at her expense, provided by a Board-approved evaluator for the Board's Impaired Professional Program (IPP) and follow all recommendations of the evaluator and the IPP Manager.
5. Within ninety (90) days of applying for a social work credential, Ms. Mayo shall pass the Open Book Examination and pay all costs associated with the administration of this exam.
6. Within 180 days (6 months) of applying for a social work credential, Ms. Mayo shall complete 60 hours of continuing education, 18 hours of which shall be in the area of ethics and 42 hours of which shall be in the area of clinical practice, to include diagnosis and treatment. No more than 10 of the 60 hours may be obtained through distance education. The continuing education shall be pre-approved by the Board and are in addition to the continuing education hours required to renew her social work credential. Evidence of completing the required continuing education hours shall be submitted to the Board. Ms. Mayo may choose to complete some or all of the required continuing education during the final two years of revocation.

7. Tiffany Mayo shall pay the investigative and legal costs in the amount of \$15,210.75 prior to reapplication for a social work credential. Installment payments by certified check, money order or credit card are allowable.
8. This decision shall be published and reported, including but not limited to, the LABSWE Newsletter, the Association of Social Work Boards (ASWB), and the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank (NPDB-HIPDB).

Date

9/18/09

Wade M. Tyler, PhD, LCSW
Chairperson