STATE OF MARYLAND

DHMH Board of Professional Counselors and Therapists

Maryland Department of Health and Mental Hygiene
4201 Patterson Avenue • Baltimore, Maryland 21215-2299
Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

October 21, 2008

VIA FIRST CLASS MAIL

Thomas Shipley
1524 W. Mount Royal Avenue
Baltimore, Maryland 21217

RE: Final Decision and Order
Case Number. 07-3264

Dear Mr. Shipley:

Enclosed, please find the Final Decision and Order on your application for reinstatement of your Professional Counselor License.

Sincerely,

Aileen Taylor
Executive Director

Cc: Rebecca Carter, Esq.
Noreen Rubin, Assistant Attorney General, Board Counsel
Sherrai Hamm, Assistant Attorney General, Administrative Prosecutor
Timothy J. Paulus, Deputy Counsel

IN THE MATTER OF	*	**BEFORE THE MARYLAND**
THOMAS R. SHIPLEY	*	**STATE BOARD OF PROFESSIONAL**
Former L.C.P.C.	*	**COUNSELORS & THERAPISTS**
		Case No. 07-3264

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FINAL ORDER ON APPLICATION FOR REINSTATEMENT OF LICENSURE AS A CLINICAL PROFESSIONAL COUNSELOR

I. INTRODUCTION

On November 16, 2007, a majority of the members of the Maryland State Board of Professional Counselors and Therapists ("Board"), met with Thomas R. Shipley and his counsel to consider Mr. Shipley's application for reinstatement of his license as a clinical professional counselor. In connection with Mr. Shipley's reinstatement application, the Board reviewed the following written materials:

(1) Mr. Shipley's application, attachments, and all related correspondence;

(2) Records of Mr. Shipley's disciplinary history with the Board and his underlying plea of guilty to and criminal conviction for Unnatural and Perverted Sexual Practices with a child under age 14, in 1999;

(3) Mr. Shipley's Letter of Surrender dated January 19, 2001;

(4) Written comments in a Memorandum submitted by an Administrative Prosecutor on behalf of the State, dated November 6, 2007.

Following oral presentations from Mr. Shipley, his counsel and the Administrative Prosecutor, and after considering Mr. Shipley's written application, attachments, reports from Mr. Shipley's psychologist, and his answers to questions from Board members, the Board advised Mr. Shipley that it would not reinstate his LCPC license. This Order constitutes the Board's final decision on Mr. Shipley's reinstatement application.

II. PROCEDURAL AND FACTUAL HISTORY

1. Prior Criminal History 1999-2000

In August, 1999, Mr. Shipley, then aged 65, was charged in the Circuit Court for Caroline County with committing the following sexual crimes between July, 1993 and July 1994: (1) one count of Sexual Abuse of a male child under 18 years; (2) one count of Sex Offense in the Second Degree with a male child under 14 years; (3) one count of Sex Offense in the Third Degree with a male child under 14 years; (4) one count of Unnatural and Perverted Sexual Practices with a male child under 14 years, in violation of Md. Ann. Code, Art. 27, §§ 35A, 464A(a)(3), 464B(a)(3), and 554, respectively.

In December, 1999, Mr. Shipley pled guilty to and was convicted of Unnatural and Perverted Sexual Practices with a male child under 14 years, in violation of Md. Ann. Code, Art. 27, § 554[1] (1996 Repl. Vol.). In support of his guilty plea, Mr. Shipley admitted that the 11-12 year old boy was being mentored by him under his supervision, that Mr. Shipley had the boy spend nights at Mr. Shipley's house, that he watched pornographic films in his bedroom with the boy, lay in bed with the boy, and engaged in mutual manual penile stimulation and mutual oral sex with the boy. The criminal court accepted Mr. Shipley's guilty plea only after determining that his plea was voluntary, that he understood the nature and elements of the charges and the consequences of the plea, and that there was a factual basis for the plea. The court established that Mr.

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[1] Section 554, as formerly codified in the Maryland Annotated Code, Article 27, provides:

> Every person who is convicted of taking into his or her mouth the sexual organ of any other person or animal, or who shall be convicted of placing his or her sexual organ in the mouth of any other person or animal, or who shall be convicted of any other unnatural or perverted sexual practice with any other person or animal, shall be . . . imprisoned in jail or in the house of correction or in the penitentiary for a period not exceeding 10 years . . . .

Md. Code Ann., Art. 27, § 554 (1996 Repl. Vol.). This section is now codified in Md. Crim. L. Code Ann. § 3-322 (2002 Repl. Vol.).

Shipley was fully advised of his due process trial rights and those rights he was waiving by pleading guilty to the charges.

At his sentencing hearing in March, 2000, Mr. Shipley's attorney stated that Mr. Shipley "had pled guilty to what we thought the facts supported." The court sentenced Mr. Shipley to 10 years in prison, with all but 3 months suspended, to be served on home detention. Mr. Shipley also was sentenced to 4 years probation, with no contact with children under the age of 16. Mr. Shipley completed his probation in 2004. By Court Order, Mr. Shipley's criminal records were expunged in 2007.

2. <u>Board Disciplinary Proceedings 2000-2001</u>

On October 20, 2000, the Board charged Mr. Shipley under Md. Health Occ. Code Ann. §§ 17-3A-13 and 17-313(6) with pleading guilty to and being convicted of a crime of moral turpitude. The Board notified Mr. Shipley that he was entitled to an evidentiary hearing under the Administrative Procedure Act, Md. State Gov't Code Ann. §§ 10-201 *et seq.,* scheduled for February, 2001, as well as a Case Resolution Conference scheduled for December, 2000, before the Board. Pursuant to Md. Health Occ. Code Ann. § 17-3A-10, the Board agreed to accept the surrender of Mr. Shipley's LCPC license as a resolution of the charges against him. In a public Letter of Surrender dated January 19, 2001, Mr. Shipley acknowledged that:

(a) He was surrendering his LCPC license pending investigation of [his] recent behavior and in lieu of incurring disciplinary action under the Professional Counselors and Therapists Act;

(b) He and was waiving his right to contest the Board's charges in a formal evidentiary hearing;

(c) The Board possessed sufficient evidence to find that he violated Section 17-313(6) by being convicted of or pleading guilty to a crime involving moral turpitude;

(d) The Board had the right to revoke his LCPC license based upon the criminal acts he allegedly committed;

In the Letter of Surrender, Mr. Shipley also agreed that: his LCPC license would remain surrendered indefinitely for a period of no less that 3 years; at the end of 3 years, he could petition the Board for reinstatement of his license, which petition may be accepted or denied by the Board at its sole discretion; and he had the burden of proof to show the Board that he was worthy of reinstatement.

III. CURRENT APPLICATION FOR REINSTATEMENT

In January, 2007, Mr. Shipley filed an application for reinstatement of his LCPC license in Maryland. The Board then requested that Mr. Shipley file a written response to the following questions:

1. What is your understanding of the nature and circumstances of your conduct which resulted in the revocation of your LCPC license, and what is your understanding of the concerns of the Board with respect to your conduct?

2. Have you accepted responsibility for the actions resulting in the revocation of your certification and what steps have you taken to lessen the likelihood of recurrence?

3. What are your plans for returning to the practice as an LCPC in the State of Maryland, and what are the circumstances of your proposed practice setting?

4. What efforts have you made to maintain your competency to practice as a LCPC (e.g. continuing education credits)?

In his written response to Question 1, Mr. Shipley stated that he been charged with the crime of Unnatural and Perverted Sexual Practices with an 11-12 year-old male, and briefly described some of the subsequent personal and legal consequences, including his plea agreement, probation, house arrest, and counseling sessions. Mr. Shipley also stated that he understood the Board's responsibility to be concerned about his fitness for duty and any risk he might pose to the public, including children.

Mr. Shipley responded to Question 2 by stating: "I believe in my innocence," but also stated that he was "responsible for [his] own actions" and regrets any statement, action or misjudgment on [his] part that may have caused harm to the young man in question." In addition, Mr. Shipley described his job in information technology and his evaluations by a licensed psychologist.

Regarding Question 3, Mr. Shipley proposed to practice counseling part-time and do volunteer work in Baltimore City with a focus on relationship and family counseling. Mr. Shipley also described his interest in bipolar conditions and Alzheimer's disease, as well as conflict resolution among families with deaf children. Mr. Shipley also planned to fulfill his continuing education obligations while still working full-time in his present information technology career. On Question 4, Mr. Shipley provided names of books he had read related to the counseling profession and stated that he had completed 12 credits in "Jay Carter" seminars.

IV. CONSIDERATION OF APPLICATION

Pursuant to the terms of the Mr. Shipley's Letter of Surrender, reinstatement following surrender is a discretionary act on the part of the Board. As specified in his Letter of Surrender, the burden is on Mr. Shipley to demonstrate to the Board that he possesses the requisite qualities to be reinstated. To that end, in assessing the propriety of reinstating a licensee, the Board considers the following four factors:[2]

1. The nature and circumstances of the applicant's original misconduct;
2. his subsequent conduct and reformation;
3. his present character; and
4. his present qualifications and competence to practice.

[2] The Board notes that the Maryland Court of Appeals has considered these four factors in attorney discipline cases involving reinstatement.

One of the critical issues, therefore, is Mr. Shipley's understanding of the nature and circumstances of his criminal misconduct with the 11-12 year boy who stayed at his home under his supervision. An equally critical issue is whether his understanding and rehabilitation subsequent to his license surrender and his present character assure the Board that Mr. Shipley has genuinely reformed and has truly accepted responsibility for the egregious criminal acts that led to the surrender of his L.C.P.C. license in 2001.

Mr. Shipley's answers to the Board failed to acknowledge the true nature of his criminal offenses. Most significantly, his belief in his innocence is inconsistent with any acceptance of meaningful responsibility for the egregious acts to which he pled guilty. His attempt to minimize his responsibility for his crimes shows that he still does not appreciate their nature and seriousness or understand the Board's concerns about the danger he may represent to patients. In terms of his present character, his written responses and his responses to the Board's questions reflected denial of responsibility for his past criminal conduct, not meaningful accountability.

Based on Mr. Shipley's evasive answers to the Board regarding his relationship with the young male victim and the circumstances of his sexual criminal violations, it appears that Mr. Shipley has learned little, if anything, from his criminal conviction or his disciplinary history with the Board. Moreover, Mr. Shipley's mere regret for any statement, action or misjudgment on his part does not address the harm he may have caused to the young male victim in this case. Mr. Shipley's written and oral responses to the Board's questions show that he has not yet come to terms with the seriousness of his criminal conduct. Nor do his responses show any insight into the causes of and nature of his criminal offenses. The Board is not persuaded that Mr. Shipley is truly

remorseful or understands the Board's serious view of his crimes, and rejects Mr. Shipley's claim that he has accepted responsibility for his actions.

The 2000 and 2007 reports from Mr. Shipley's psychologist consist of generalized statements lauding Mr. Shipley's character and intelligence. The reports gloss over and are completely dissociated from the underlying facts and circumstances of Mr. Shipley's guilty plea and conviction. Given the egregious nature and implications of Mr. Shipley's sexual crimes with a young 11-12 year old boy, the reports are simply not supported by the facts in this case. As such, they provide no meaningful guidance to the Board in assessing the risk that Mr. Shipley may pose to the public if allowed to practice. Given its mission of public protection, however, the Board must ensure that its licensees pose no public risk. In addition, the Board must maintain the integrity of the professional counseling profession in the State of Maryland.

Moreover, at this time, Mr. Shipley's limited continued education efforts since his surrender over 7 years ago, as outlined in his answers to Questions 3 and 4, do not qualify him to return to the practice of licensed clinical professional counseling.

In summary, the Board is not persuaded that reinstatement of Mr. Shipley's L.C.P.C. license under these conditions would reflect honorably on the L.C.P.C. profession or on the Board's responsibility to protect the integrity of a health occupation that it regulates. Having considered all of the foregoing information, the Board concludes that Mr. Shipley has failed to meet his burden to satisfy the Board that he is fit to return to practice as an L.C.P.C. at this time or any time in the future. The Board will not entertain any further applications for reinstatement from Mr. Shipley.

ORDER

Accordingly, the Board hereby **ORDERS** that the Petition for Reinstatement of Thomas R. Shipley, former license number LC0541, is **DENIED**; and it is further

ORDERED that the Board will not accept any further applications for reinstatement from Mr. Shipley; and it is further

ORDERED that this **FINAL ORDER ON APPLICATION FOR REINSTATEMENT OF L.C.P.C. LICENSURE** is a **PUBLIC** document under Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2004).

So **ORDERED** this 17th day of October, 2008.

Lisa R. Jackson-Cherry, Ph.D.
Lisa Jackson-Cherry, Ph.D., L.C.P.C., Chair
Maryland State Board of Professional Counselors & Therapists