

BEFORE THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

WILLIAM J. MALLOT,)
Petitioner,)
vs.) Case No. 23AC-CC00381
MISSOURI STATE COMMITTEE OF)
PSYCHOLOGISTS,)
Respondent.)

JUDGMENT

The Court takes the above cause for ruling, having considered the record as a whole as well as the arguments made and authorities cited by counsel. Being duly advised in the premises, the Court finds as follows:

1. Before this Court is a petition for judicial review of the decision of the Administrative Hearing Commission (the AHC”) and the Missouri State Committee of Psychologists (the “Committee”) finding grounds for and imposing discipline upon the professional license of the Petitioner. *See § 621.145 RSMo.*
2. The Court has considered the argument that the AHC portion of the decision was not supported by competent and substantial evidence upon the whole record. Albeit sparse, there is substantial and competent evidence in the record to support the decision of the AHC finding grounds for discipline¹. Furthermore, there is no constitutional requirement that the AHC was required to advise the Petitioner of the perils of self-representation, including the right to subpoena witnesses or how to object². Petitioner was provided

¹ Review of the record was significantly hampered by the way it was assembled and presented to the Court. There was no index and the pages were not numbered. It was difficult to determine what documents were and were not admitted as evidence.

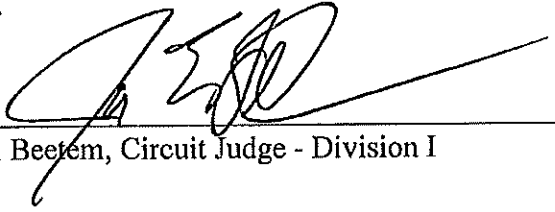
² There may have been further instruction about hearing procedures in the correspondence accompanying the AHC complaint served upon Petitioner, but the Court was unable to find these

notice and opportunity to be heard which satisfies due process.

The Court finds that the AHC weighed the evidence differently, focusing on the statements of the Petitioner. That is their privilege.

3. Upon a review of the whole record, the Court finds that the AHC and Board's decision is:
 - a. Not in violations of any constitutional provisions;
 - b. Not in excess of the AHC and Board's statutory authority or jurisdiction;
 - c. Supported by competent and substantial evidence upon the whole record;
 - d. Was authorized by law;
 - e. Was made upon lawful procedure and with a fair trial;
 - f. Was not arbitrary, capricious, nor unreasonable; and
 - g. Not an abuse of discretion.
4. The decision is affirmed in all respects.
5. Costs taxed to Petitioner.

SO ORDERED this 11th day of June, 2024.



Jon E. Beetem, Circuit Judge - Division I

documents.

**BEFORE THE MISSOURI
STATE COMMITTEE OF PSYCHOLOGISTS**

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|---------------------|---|------------------|
| STATE COMMITTEE OF, |) | |
| PSYCHOLOGISTS |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. 21-2768 |
| |) | |
| WILLIAM J. MALLOT, |) | |
| |) | |
| Respondent. |) | |

**ORDER OF THE MISSOURI
STATE COMMITTEE OF PSYCHOLOGISTS
DISCIPLINING THE PSYCHOLOGIST LICENSE OF
WILLIAM J. MALLOT**

On or about October 26, 2022, the Administrative Hearing Commission entered its Decision in the case of *State Committee of Psychologists v. William J. Mallot*, Case No. 21-2768. In that Decision, the Administrative Hearing Commission found that Respondent William J. Mallot’s (“Licensee” or “Mallot”) psychologist license (license # 2006036625) is subject to disciplinary action by the Board pursuant to § 337.035.2(5), (6), and (15), RSMo.¹

The Committee has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Decision of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 337.035.3, RSMo, the Committee held a hearing on December 8, 2022, at approximately 1:45 p.m., at the Embassy Suites Hotel, 2 Convention Center Plaza, St. Charles, Missouri, for the purpose of determining the appropriate disciplinary

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

action against Respondent's license. The Committee was represented by Assistant Attorney General Amanda Mellott. Respondent received proper notice and opportunity to appear and appeared in person. After being present and considering all of the evidence presented during the hearing, the Committee issues the following Findings of Facts, Conclusions of Law and Order.

I.

Based upon the foregoing the Board hereby states:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The State Committee of Psychologists ("Committee") is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo, for the purpose of executing and enforcing the provisions of Sections 337.010 through 337.345, RSMo.
2. The Committee hereby adopts and incorporates by reference the Decision of the Administrative Hearing Commission in *State Committee of Psychologists v. William J. Mallot*, Case No. 21-2768, in its entirety.
3. The Committee set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion.
4. Mallot appeared at the December 8, 2022 hearing in person and without legal counsel.

II.

CONCLUSIONS OF LAW

5. This Committee has jurisdiction over this proceeding pursuant to §§ 621.110 and 337.035.3, RSMo.
6. The Committee expressly adopts and incorporates by reference the Conclusions of Law contained in the Decision issued by the Administrative Hearing Commission on October 26,

2022, in *State Committee of Psychologists v. William Mallot*, Case No. 21-2768, and hereby enters its Conclusions of Law consistent therewith.

7. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Order on October 26, 2022, Licensee's psychologist license is subject to disciplinary action by the Committee pursuant to § 337.035.2(5), (6), and (15), RSMo.

8. The Committee has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

Having fully considered all the evidence before the Board, and giving full weight to the Decision of the Administrative Hearing Commission, it is the **ORDER** of the Committee that the psychologist license of William J. Mallot (license no. 2006036652) is hereby **REVOKED**. Licensee shall return all indicia of licensure to the Committee immediately.

This Order does not bind the Board or restrict the remedies available to it concerning any violation by Respondent of the terms and conditions of this Order, Chapter 337, RSMo, or the regulations promulgated thereunder.

The Committee will maintain this Order as an open, public record of the Committee as provided in Chapters 337, 610 and 324, RSMo.

SO ORDERED, EFFECTIVE THIS 29 **DAY OF** December, 2022.



STATE COMMITTEE OF PSYCHOLOGISTS

Pamela Groose

Pamela Groose, Executive Director

Before the
Administrative Hearing Commission
State of Missouri



STATE COMMITTEE
OF PSYCHOLOGISTS,

Petitioner,

vs.

WILLIAM J. MALLOT,

Respondent.

No. 21-2768

DECISION

William J. Mallot is subject to discipline due to the improper dual relationships he maintained with his patient.

Procedure

On October 28, 2021, the State Committee of Psychologists (Committee) filed a complaint seeking to discipline Mallot. On December 3, 2021, Mallot filed an answer. On May 20, 2022, we held a hearing. Assistant Attorney General Amanda R. Mollett represented the Committee. Mallot represented himself. On June 27, 2022, the Committee filed its memorandum in support of its proposed findings of fact and conclusions of law (Memorandum). On June 29, 2022, Mallot filed his brief. This matter became ready for decision on June 30, 2022, the date that briefs were due.

Findings of Fact

1. At all relevant times, Mallot was licensed by the Committee as a psychologist and worked at Burrell Behavioral Health (Burrell) in Springfield, Missouri.
2. While working at Burrell, Mallot treated E.S., a single female, for depression, anxiety, and compulsive lying from November 2014 until January 2018.
3. In January 2018, Mallot allowed E.S. to borrow his car, and E.S. had an accident while operating Mallot's car. Mallot reported this information to Burrell the same day of the car accident.
4. Upon learning that Mallot loaned his car to his existing patient, E.S., Burrell reassigned E.S. to a different psychologist at Burrell.
5. In August 2018, Mallot signed a one-year lease as guarantor for E.S. at Maple Gardens Apartment (Apartment) that lasted from August 7, 2018 to August 6, 2019 (the Lease).
6. B.M. and J.M. were roommates with E.S. at the Apartment.
7. During the Lease, Mallot:
 - a. came over to the Apartment at least once per week;
 - b. kissed and held hands with E.S.;
 - c. told E.S. that he loved her;
 - d. took E.S. grocery shopping about once a week;
 - e. possessed a key to the Apartment;
 - f. kept his prescription medication at the Apartment;
 - g. touched E.S. in a sexual manner; and
 - h. engaged in sexual intercourse with E.S.
8. Mallot maintained a financial relationship with E.S. during the time he counseled her as a psychologist and a sexual relationship within 24 months of termination of their professional counseling relationship.

9. Mallot utilized the alias Jason Cloude when interacting with individuals who knew E.S.

10. In January 2020, Burrell terminated Mallot's employment after learning that Mallot maintained sexual and financial relationships with E.S.

11. On June 5, 2020, an investigator for the Committee received an email from Mallot admitting to having an improper dual relationship with E.S. and expressing remorse about the situation. Tr. at 26-28 (Resp.'s Exhibit A at 9 and 24).

Conclusions of Law

We have authority to hear this case. Section 621.045.¹ The Committee bears the burden of proving that Mallot committed an act for which the law allows discipline by a preponderance of the evidence. *See Kerwin v. Mo. Dental Bd.*, 375 S.W.3d 219, 229-30 (Mo. App., W.D. 2012) A preponderance of the evidence is evidence showing, as a whole, that "the fact to be proved [is] more probable than not." *Id.* at 230.

The Committee argues there is cause for discipline under § 337.035.2(5), (13), and (15), which provide in relevant part:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(13) Violation of any professional trust or confidence;

¹ Statutory references, unless otherwise noted, are to the 2016 Revised Statutes of Missouri.

(15) Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as adopted by the committee and filed with the secretary of state.

Count II: Violations of Ethical Rules of Conduct –§ 337.035.2(15)

The Committee argues Mallot violated 20 CSR 2235-5.030,² which is not only the Committee's regulation, but also the Committee's adopted Ethical Rules of Conduct. The Ethical Rules of Conduct state in relevant part:

(1) General Principles.

(A) Purpose. The ethical rules of conduct constitute the standards against which the required professional conduct of a psychologist is measured.

(D) Violations. A violation of these ethical rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of either original licensure, reinstatement or renewal of licensure.

(6) Multiple Relationships.

(A) Impaired Psychologist. The psychologist shall not undertake or continue a professional relationship with a client when the competency of the psychologist, is or could reasonably be expected to be impaired due to mental, emotional, physiologic, pharmacologic or substance abuse conditions. If a condition develops after a professional relationship has been initiated, the psychologist shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination and shall assist the client in obtaining services from another professional.

(B) Multiple Relationship Affecting Psychologist's Judgment. The psychologist shall not undertake or continue a professional relationship with a client when the objectivity or competency of the psychologist is, or could reasonably be expected to be impaired because of the psychologist's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative or legal relationship with the client or a relevant person associated with or related to the client. If a dual relationship develops or is discovered after the professional relationship has been initiated, the psychologist shall terminate the professional relationship in an appropriate manner, shall notify the client in writing of this

² The Complaint alleges a violation of 20 CSR 2235-5.030(15); however, the Committee did not raise this regulation in its Memorandum. Therefore, the argument is abandoned, and we do not address it.

termination and shall assist the client in obtaining services from another professional.

(C) Prohibited Relationships.

1. The psychologist, in interacting with any current client or with a client to whom the psychologist has at anytime within the previous twenty-four (24) months rendered counseling, psychotherapeutic or other professional psychological services for the treatment or amelioration of emotional distress or behavioral inadequacy, shall not enter into a financial or other potentially exploitative relationship with him/her/them.

2. The psychologist, in interacting with any current client or with a person to whom the psychologist at any time within the previous sixty (60) months has rendered counseling, psychotherapeutic or other professional psychological services for the treatment or amelioration of emotion distress or behavioral inadequacy shall not –

A. Engage in sexual intercourse, which includes any genital contact of the psychologist with the client or the client with the psychologist. This specifically prohibits sexual intercourse, sodomy - oral, anal copulation, or both; or any penetration of the anal opening by any one (1) part or object;

B. Engage in kissing with the mouth, lips or tongue of the psychologist with the client or the client with the psychologist;

C. Touching or caressing by either the psychologist or the client of the other's breasts, genitals or buttocks;

D. Engage in any deliberate or repeated comments, gestures or physical contact of a sexual nature that exploits the professional relationship with the client[;]

G. Engage in any verbal or physical behavior toward him/her which is sexually seductive, demeaning, or harassing.

3. Prohibited exploitation in professional relationships. The psychologist shall not exploit, sexually or otherwise, his/her professional relationship with clients, supervisees, students, employees, research participants or others.

(7) Client Welfare.

(B) Sexual or Other Multiple Relations With a Client. The psychologist shall not enter into a sexual or other multiple relationship with a client, as specified in subsections (6)(B) and (C) of these ethical rules of conduct.

(9) Protecting Confidentiality of Clients.

(B) Safeguarding Confidential Information. The psychologist shall safeguard the confidential information obtained in the course of practice, teaching, research or other professional duties. Psychologists who offer services, products or information via electronic transmission shall inform clients/patients of the risks to privacy and limits of confidentiality.

(C) Disclosure of Confidential Information. The psychologist shall disclose confidential information to others only with the informed written consent of the client with the exceptions as set forth here.

1. Disclosure without informed written consent. The psychologist may disclose confidential information without the informed written consent of the client when the psychologist judges that disclosure is necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or on another person. In that case, the psychologist shall disclose the confidential information only to appropriate professional workers, public authorities, the potential victim, the family, or both, of the client. When the client is an organization, disclosure shall be made only after the psychologist has made a reasonable and unsuccessful attempt to have the problems corrected within the organization.

A. Impaired Psychologist - Ethical Rules of Conduct, Subsection (6)(A)

The Committee argues that the relationship Mallot maintained with E.S. violated 20 CSR 2235-5.030(6)(A). We disagree. The regulation requires that a psychologist terminate all professional relationships with clients when the competency of the psychologist becomes impaired "due to mental, emotional, physiologic, pharmacologic or substance abuse conditions." The Committee submitted no evidence of mental, emotional, physiologic, pharmacologic, or substance abuse. Because no evidence was submitted in support of this allegation, the Committee failed to establish that Mallot violated the Ethical Rules of Conduct in 20 CSR 2235-5.030(6)(A).

B. Relationships and Client Welfare – Ethical Rules of Conduct,
Subsections (6)(B), (6)(C) and (7)(E)

The Committee argues that the financial, emotional, and sexual relationship Mallot maintained with E.S. impaired his competency as a psychologist in violation of 20 CSR 2235-5.030(6)(B), (6)(C) and (7)(E). We agree. Regulation 20 CSR 2235-5.030(6)(C)1 prohibits financial relationships for 24 months after a professional relationship ends. Subsection (6)(C)2 prohibits sexual relationships for 60 months after a professional relationship ends. Subsection (6)(C)3 prohibits exploitative relationships. Subsection (6)(B) requires a psychologist to terminate the professional relationship with a client when that psychologist enters into financial, emotional, or sexual relationships with that client. Subsection (7)(E) prohibits sexual and multiple relationships with clients due to the concern for client welfare.

Mallot admitted to maintaining multiple relationships with E.S. Tr. at 27-28 (quoting from Tr. Ex. A at 9). Mallot maintained a financial relationship with E.S. by loaning her his car, signing as guarantor on the Lease, and taking E.S. grocery shopping weekly. Mallot maintained an emotional relationship with E.S. by visiting her at the Apartment weekly, holding hands with her, kissing her, and telling her numerous times that he loved her. Mallot possessed a key to the Apartment and kept his prescription medication there. Mallot maintained a sexual relationship with E.S. by touching her in a sexual manner and engaging in sexual intercourse with E.S. All of this occurred either during Mallot's treatment of E.S. or within 24 months of the termination of Mallot's professional relationship with E.S. in January 2018.

While the Committee submitted no evidence of exploitation, there was ample evidence of the financial, emotional, and sexual relationship Mallot maintained with E.S. The financial, emotional, and sexual relationship between Mallot and E.S. impaired Mallot's competency as a psychologist. After entering into any of these relationships with E.S., Mallot had a duty to terminate the patient-psychologist relationship. He failed to do so, and his professional

relationship with E.S. was only terminated after Mallot's employer, Burrell, intervened and reassigned E.S. to another psychologist. Because Mallot failed to terminate his professional relationship with E.S. after forming a financial, emotional, and sexual relationship with E.S., he violated the Ethical Rules of Conduct in 20 CSR 2235-5.030(6)(B), 6(C), and 7(E). Because Mallot violated the Ethical Rules of Conduct, there is cause for discipline under § 337.035.2(15).

C. Client Confidentiality – Ethical Rules of Conduct, Subsections (9)(B) and (C)

The Committee argues that Mallot's conduct violated 20 CSR 2235-5.030(9)(B) and (C) by disclosing the confidential information of E.S. without written informed consent. We agree. On October 2, 2018, Mallot sent B.M. Facebook messages under his alias Jason Cloud, stating that E.S. was admitted to the ICU at Mercy and was on a ventilator. B.M. visited E.S. at the hospital the same day. On July 3, 2019, Mallot sent B.M. Facebook messages under his alias, stating that E.S. was in the intensive care unit. Mallot lacked written informed consent from E.S. to disclose such health information. Mallot breached client confidentiality and violated the Ethical Rules of Conduct in 20 CSR 2235-5.030(9). Because Mallot violated the Ethical Rules of Conduct, there is cause for discipline under § 337.035.2(15).

Count II: Professional Standards – § 337.035.2(5)

The Committee argues that Mallot's action constituted incompetency, misconduct, or gross negligence pursuant to § 337.035.2(5). We agree. "Incompetency" is "a state of being" in which a professional is "unable or unwilling" to function adequately in the profession. *Luscombe v. Mo. State Bd. of Nursing*, 2013 WL68899 at *14 (Mo. App. W.D. Jan. 8, 2013),³ quoting

³ After the court of appeals issued its opinion in *Luscombe*, the Supreme Court accepted transfer of the case, but the appeal was dismissed before the Supreme Court issued a decision. "The decision of the court of appeals in a case subsequently transferred is of no precedential effect." *Philmon v. Baum*, 865 S.W.2d 771, 774 (Mo. App. W.D.1993). Nonetheless, the discussion of incompetency in *Luscombe* is instructive and consistent with the discussions in *Tendai v. Mo. State Bd. of Regis'n for the Healing Arts*, 161 S.W.3d 358 (Mo. banc 2005), *overruled on other grounds by Albanna v. Mo. State Bd. of Regis'n for the Healing Arts*, 293 S.W.3d 423 (Mo. banc 2009). The discussion of gross negligence in *Luscombe* is likewise founded on established case law.

Albanna, 293 S.W.3d at 435. Misconduct is the intentional commission of a wrongful act. *Grace v. Mo. Gaming Comm'n*, 51 S.W.3d 891, 900 (Mo. App. W.D. 2001). Gross negligence involves “reckless conduct done with knowledge that there is a strong probability of harm and indifference as to that likely harm.” *Boyer v. Tilzer*, 831 S.W.2d. 695, 698 (Mo. App. E.D. 1992), quoting *Duncan v. Mo. Board for Architects*, 744 S.W.2d. 524, 533 (Mo. App. E.D. 1988).

By maintaining a sexual and financial relationship with E.S., Mallot acted with incompetence by failing to function adequately in the psychologist profession. Mallot maintained his relationship with E.S. intentionally. Mallot knew his relationship with E.S. was prohibited and knew that there was a strong probability of harm to E.S., as demonstrated by his use of an alias when interacting with acquaintances of E.S. For these reasons, there is cause for discipline under § 337.035.2(5).

Count III: Professional Trust or Confidence – § 337.035.2(13)

The Committee alleges Mallot violated professional trust and confidence under § 337.035.2(13). The phrase “professional trust or confidence” is not defined in Chapter 335, nor has the phrase been defined in the case law. Absent a statutory definition, the plain meaning of words used in a statute, as found in the dictionary, is typically relied on. *E&B Granite, Inc. v. Dir. of Revenue*, 331 S.W.3d 314, 318 (Mo. banc 2011). The dictionary definition of “professional” is

of, relating to, or characteristic of a profession or calling...[;]... engaged in one of the learned professions or in an occupation requiring a high level of training and proficiency...[; and]...characterized or conforming to the technical or ethical standards of a profession or occupation....

WEBSTER’S THIRD NEW INT’L DICTIONARY 1811 (unbar. 1986). “Trust” is

assured reliance on some person or thing [;] a confident dependence on the character, ability, strength, or truth of someone or something...[.]


Id. at 2456. “Confidence” is a synonym for “trust.” *Id.* at 475 and 2456.

As discussed earlier, the professional standards of the psychologist profession prohibit financial and sexual relationships with patients. By maintaining financial and sexual relationships with E.S., Mallot violated professional standards and professional trust and confidence. 20 CSR 2235-5.030(1)(D) considers violation of the Ethical Rules of Conduct to be unprofessional conduct, and Mallot, as stated earlier, violated several Ethical Rules of Conduct. There is cause for discipline under § 337.035.2(13).

Summary

There is cause for discipline under § 337.035.2(5), (13), and (15).

SO ORDERED on October 26, 2022.


SPENCER F. BARTLETT
Commissioner