

**BEFORE THE HEALTH LICENSING OFFICE  
SEX OFFENDER TREATMENT BOARD**

12 Under ORS 676.606, 676.607, 675.385, and 675.410, the Health Licensing Office (*formerly*  
13 Oregon Health Licensing Agency (HLO or office)), with the direction of the Oregon Sex Offender  
14 Treatment Board, is the State Office charged with licensing and disciplining certified Sex Offender  
15 Therapist. Pursuant to ORS 676.992(1)(i) and (2), OAR 331-020-0060, and OAR Chapter 800-  
16 850, the Health Licensing Office (HLO), Sex Offender Treatment Board, hereby proposes to:

18 1) Assess a civil penalty against the Respondent in the amount of \$2,500

20 2) The Respondent's license is on probation for a period of 18 months and the \$2,500 civil  
22 penalty is stayed with the following conditions:

24 2.1. The Respondent violates no laws or Oregon Administrative Rules for a period of 18  
26 months from the date this notice becomes final.

28 2.2. Respondent completes an Office approved course in ethics. Respondent is responsible  
30 for identifying a course and submitting the courses for approval by the Office.

32 2.3. Respondent must have client records for all sex offender treatment services provided  
34 during her probation reviewed quarterly, no more than five case files per case review.  
36 The reviewer must be a licensed psychologist who is also a certified clinical sex offender  
38 therapist approved by the Office. The reviewer must submit evidence of that review to  
40 the Office on a quarterly basis.

42 2.4. If the Respondent has not provided any sex offender treatment services, the Respondent  
44 will attest to that fact to the Office on a quarterly basis.

46 3) If Respondent fails to meet any conditions of probation, the Office will assess the full \$2,500  
48 civil penalty and her clinical sex offender therapist license will be suspended until such time  
50 the conditions of probation are met.

52 4) For these violations, HLO proposes to assess against Respondent all of HLO's costs of this  
54 disciplinary process and action, including but not limited to all legal costs from the Department  
56 of Justice, all hearing costs from the Office of Administrative hearings, all costs associated  
58 with any expert or witness, and all administrative costs specific to this proceeding, in an  
60 amount not to exceed \$5,000, pursuant to ORS 676.992(2).

## **PROPOSED FINDINGS OF FACT & CONCLUSIONS OF LAW**

1. At all relevant times Respondent held Sex Offender Therapist license STB-T-10130007, issued by the HLO through the grandfathering pathway. At all relevant times, Respondent did not hold any other mental health license in Oregon.
2. **Between March 14, 2016, and June 7, 2017**, Respondent met with R.M., who had not been adjudicated of a sex crime or sex offense and mandated by a court or other releasing authority to successfully complete a sex offender treatment program, in order to determine if Respondent could provide sex offender related treatment services for R.M. Respondent met with R.M. on at least six occasions in order to evaluate whether he was a candidate for sex offender treatment. During Respondent's interviews of R.M., Respondent gathered background information to make this determination, evaluated and assessed this information, and referred R.M. for a polygraph to determine whether he was a candidate for further sex offender treatment. Respondent had R.M. sign consent forms to share his "treatment progress and results of assessments and evaluations of myself for the purpose of continuity and integration of treatment services." Providing evaluation and assessment services to an unadjudicated client constitutes sex offender treatment that is outside the scope of the Respondent's license and is prohibited under ORS 675.385(2)(e). Providing evaluation and assessment services to an unadjudicated client constitutes sex offender treatment that is outside the scope of the Respondent's license, and for which Respondent has no other mental health license authorizing such services, constitutes unprofessional conduct, a violation of ORS 676.612.(2)(j) a cause for discipline under ORS 676.612(2)(m).<sup>1</sup>

#### APPLICABLE LAW

## 675.365 Definitions for ORS 675.360 to 675.410. As used in ORS 675.360 to 675.410:

(3) "Certified sex offender therapist" means a certified clinical sex offender therapist or a certified associate sex offender therapist.

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(6) "Sex offender" means a person convicted or adjudicated of a sex crime, as defined in ORS 163A.005, or a sexual offense, as provided in ORS 163.305 to 163.467, and mandated by a court, a releasing authority, including the Oregon Youth Authority, or the Oregon Health Authority to successfully complete a sex offender treatment program.

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<sup>1</sup> The statutes referenced were the statute in effect between March 14, 2016 and June 7, 2017.

2 (7) "Sex offender treatment" means the process of evaluation, assessment and reformation of sex offenders.

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6 **ORS 676.612(2)(j)** Unprofessional conduct, negligence, incompetence, repeated violations or any  
8 departure from or failure to conform to standards of practice in performing services or practicing in a regulated occupation or profession subject to the authority of the boards and councils listed under ORS 676.583.

10 **675.385 Disciplinary authority of Health Licensing Office; grounds for discipline; authorized sanctions.** (1) In the manner prescribed in ORS chapter 183 for contested cases, and  
12 at the direction of the Sex Offender Treatment Board, the Health Licensing Office may impose a  
14 form of discipline listed in ORS 676.612 against any certified sex offender therapist for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 675.360 to 675.410, or the rules adopted thereunder.

16 (2) The office may impose disciplinary sanctions against a certified sex offender therapist for any of the following reasons:

18 \* \* \*

20 (e) The person has practiced beyond the scope of the person's certification under ORS 675.380.

## 22 PROPOSED ORDER

24 Pursuant to ORS 676.992(1)(i) and (2), and OAR 331-020-0060, the Health Licensing Office, Oregon Board of Sex Offender Treatment propose to:

26 5) Assess a civil penalty against the Respondent in the amount of \$2,500  
28 6) The Respondent's license is on probation for a period of 18 months and the \$2,500 civil  
30 penalty is stayed with the following conditions:

32 6.1. The Respondent violates no laws or Oregon Administrative Rules for a period of 18 months from the date this notice becomes final.

34 6.2. Respondent completes an Office approved course in ethics. Respondent is responsible  
36 for identifying a course and submitting the courses for approval by the Office.

38 6.3. Respondent must have client records for all sex offender treatment services provided during her probation reviewed quarterly, no more than five case files per case review. The reviewer must be a licensed psychologist who is also a certified clinical sex offender

therapist approved by the Office. The reviewer must submit evidence of that review to the Office on a quarterly basis.

6.4. If the Respondent has not provided any sex offender treatment services, the Respondent will attest to that fact to the Office on a quarterly basis.

7) If Respondent fails to meet any conditions of probation, the Office will assess the full \$2,500 civil penalty and her clinical sex offender therapist license will be suspended until such time the conditions of probation are met.

8) For these violations, HLO proposes to assess against Respondent all of HLO's costs of this disciplinary process and action, including but not limited to all legal costs from the Department of Justice, all hearing costs from the Office of Administrative hearings, all costs associated with any expert or witness, and all administrative costs specific to this proceeding, in an amount not to exceed \$5,000, pursuant to ORS 676.992(2).

DATED August 15, 2019

Robert Bothwell

Robert Bothwell, Manager  
HLO Regulatory Operations Division  
for Sylvie Donaldson, Director  
Health Licensing Office  
Board of Sex Offender Treatment

Enclosures: Option form, Notice of Contested Case Rights and Procedures

CERTIFIED MAIL: 70180340 000068149137

#### **NOTICE OF RIGHT TO REQUEST A HEARING AND FINAL ORDER UPON DEFAULT**

You have the right to a hearing to contest this order. The hearing, if requested, will be conducted according to the Administrative Procedures Act, ORS chapter 183. A **request for hearing** must be in writing and **must be received** by the Health Licensing Office **within 30 days** from the date this Notice was mailed to you. The written request for a hearing must be sent to the Health Licensing Office, 1430 Tandem Ave. NE, Suite 180, Salem, Oregon 97301-2192.

If you request a hearing, you **may be required to provide, with your request, an answer to** each factual matter alleged in the Notice and a short and plain statement of any **affirmative defense** you will raise at the hearing. Please see OAR 331-020-0020. If a specific response is required, factual matters alleged in the notice and not denied in the answer shall be presumed admitted; failure to raise a particular defense in the answer will be considered a waiver of such defense; new matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the HLO; and evidence shall not be taken on any issue not raised in the notice and the answer. You may be represented by an attorney. If you cannot afford an attorney, you may contact Oregon's Legal Aid providers to attempt to obtain free or low-cost representation.

2 If you are an active duty service member you have the right to request a stay of proceedings under the  
4 federal Service members Civil Relief Act and may contact the Oregon State Bar toll-free at (800) 452-  
6 8260, or the Oregon Military Department at (503) 452-8260, or the nearest United States Armed  
Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military  
Department does not have a toll-free telephone number.

8 You will be notified of the date, time and place of the hearing. If you request a hearing you may  
10 be represented by an attorney at hearing and you may subpoena and cross-examine witnesses. If you  
12 cannot afford an attorney, you may contact an Oregon legal aid office to apply for assistance. If you  
request a hearing, you will also be given information on the procedures, right of representation and other  
rights relating to the conduct of the hearing before the commencement of the hearing.

14 If you do not file a timely request for a hearing, the Offices' file may be made part of the record  
16 for the purpose of proving a *prima facie* case. The Health Licensing Office may issue a final order by  
18 default and impose the above sanctions against you. If Licensee fails to request a hearing within 30 days,  
20 or fails to appear at the scheduled hearing, the HLO may issue a final order by default and impose the  
above sanctions against Licensee. The office file will serve as the record in this case for the purpose of  
proving a *prima facie* case upon default.

22 **Appeal Rights:** You have the right to appeal this order to the Oregon Court of Appeals pursuant to ORS  
24 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days  
26 from the day this order was served on you. If this order was personally delivered to you, the date of  
service is the day you received the Order. If this Order was mailed to you, the date of service is the day it  
was *mailed*, not the day you received it. If you do not file a petition for judicial review within the 60-day  
time period, you will lose your right to appeal.