

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

In the Matter of:)	Notice of Intent to Assess Civil Penalty
)	and Impose Additional Discipline
Milligan, Lynette)	Notice of Right to Request a Hearing
STB-T-10130007)	
)	
Respondent)	File No. 17-8494

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

- 1) Assess a civil penalty against the Respondent in the amount of \$2,500
- 2) The Respondent's license is on probation for a period of 18 months and the \$2,500 civil penalty is stayed with the following conditions:
 - 2.1. The Respondent violates no laws or Oregon Administrative Rules for a period of 18 months from the date this notice becomes final.
 - 2.2. Respondent completes an Office approved course in ethics. Respondent is responsible for identifying a course and submitting the courses for approval by the Office.
 - 2.3. 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.
 - 2.4. 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.
- 3) 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.
- 4) 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).

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

4 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.

6 2. **Between March 14, 2016, and June 7, 2017**, Respondent met with R.M., who had not been
8 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
10 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
12 treatment. During Respondent's interviews of R.M., Respondent gathered background
information to make this determination, evaluated and assessed this information, and referred
14 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
16 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
18 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
20 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
22 such services, constitutes unprofessional conduct, a violation of ORS 676.612.(2)(j) a cause
for discipline under ORS 676.612(2)(m).¹

24
26 **APPLICABLE LAW**

28 **675.365 Definitions for ORS 675.360 to 675.410. As used in ORS 675.360 to 675.410:**

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

32 (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,
34 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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¹ The statutes referenced were the statute in effect between March 14, 2016 and June 7, 2017.

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

ORS 676.612(2)(j) Unprofessional conduct, negligence, incompetence, repeated violations or any 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.

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 at the direction of the Sex Offender Treatment Board, the Health Licensing Office may impose a 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.

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

* * *

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

PROPOSED ORDER

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:

- 5) Assess a civil penalty against the Respondent in the amount of \$2,500
- 6) The Respondent's license is on probation for a period of 18 months and the \$2,500 civil penalty is stayed with the following conditions:
 - 6.1. The Respondent violates no laws or Oregon Administrative Rules for a period of 18 months from the date this notice becomes final.
 - 6.2. Respondent completes an Office approved course in ethics. Respondent is responsible for identifying a course and submitting the courses for approval by the Office.
 - 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
be represented by an attorney at hearing and you may subpoena and cross-examine witnesses. If you
10 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
12 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
for the purpose of proving a prima facie case. The Health Licensing Office may issue a final order by
16 default and impose the above sanctions against you. If Licensee fails to request a hearing within 30 days,
or fails to appear at the scheduled hearing, the HLO may issue a final order by default and impose the
18 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.

20 **Appeal Rights:** You have the right to appeal this order to the Oregon Court of Appeals pursuant to ORS
22 183.482. To appeal you must file a petition for judicial review with the Court of Appeals within 60 days
from the day this order was served on you. If this order was personally delivered to you, the date of
24 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
26 time period, you will lose your right to appeal.