

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

April 20, 2007

**VIA FIRST CLASS MAIL**

Marc K. Cohen, Esquire  
Ober, Kaler, Grimes & Shriver  
120 East Baltimore Street  
Baltimore, MD 21202

**RE: Gary L. Weinberg, Ph.D.**

Dear Mr. Cohen:

Enclosed please find the Board of Professional Counselors and Therapists Final Decision and Order in the above-referenced case.

Sincerely,

Aileen Taylor  
Executive Director  
Board of Professional Counselors and Therapists

Enclosure

Cc: Kimberly Cammarata, Esquire  
Noreen Rubin, Board Counsel

IN THE MATTER OF

GARY L. WEINBERG, Ph.D., LCPC

License No. LC1132

Respondent.

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BEFORE THE MARYLAND  
STATE BOARD OF PROFESSIONAL  
COUNSELORS AND THERAPISTS  
Case Number: 2005-1

\* \* \* \* \*

**FINAL DECISION AND ORDER**

**PROCEDURAL HISTORY**

This case arose out of allegations that Gary L. Weinberg, Ph.D., L.C.P.C., ("Dr. Weinberg") engaged in sexual misconduct with a female client, in violation of the Maryland Professional Counselors and Therapists Act, Md. Health Occ. Code Ann. §§ 17-101 *et seq.* (Repl. Vol. 2000). Based upon its investigation into the allegations by Client A,<sup>1</sup> the Board of Professional Counselors and Therapists ("Board") charged Dr. Weinberg with: (1) violating the code of ethics adopted by the Board; (2) being professionally, physically, or mentally incompetent; and (3) violating any rule or regulation adopted by the Board under Md. Health Occ. ("HO") Code Ann. §§ 17-313(4), (7) and (9) (Repl. Vol. 2000). The Board also charged Dr. Weinberg with violating the Board's ethical regulations as follows<sup>2</sup>:

**Code Md. Regs. ("COMAR") tit. 10. § 58.03, Code of Ethics**

**04. Ethical Responsibility**

A. A counselor shall:

<sup>1</sup> For purposes of confidentiality, the client involved in this case is referred to as Client A throughout this Final Decision and Order. Her former husband is referred to as Client A's former husband.

<sup>2</sup> In August, 2005, the Board issued charges referencing the code of ethics provisions of 2001. The Board issued amended charges in July, 2006, to list all relevant code of ethics provisions in effect during the time of the acts alleged in this case, i.e., COMAR 10.58.03.02A(5)(1989); COMAR 10.58.03.03A, B(1), E(1), (2), F (2000); and COMAR 10.58.03.04A(14), B(3), 05(A(2)(a),(d), (B(1)(a), 09A, B(1), E, F (2001). (Exhs. 2, 17)

(14) Take reasonable precautions to protect clients from physical or psychological trauma.

B. A counselor may not:

(3) Enter into a relationship that could compromise a counselor's relationship or create a conflict of interest.

## **05. The Counseling Relationship**

A. Client Welfare and Rights

(2) A counselor may not:

(a) Place or participate in placing clients in positions that may result in damaging the interests and the welfare of clients, employees, employers, or the public.

(d) Foster dependent counseling relationships.

B. Dual Relationships

(1) A counselor shall:

(a) Avoid dual relationships with clients.

## **09. Sexual Misconduct**

**A.** A counselor may not engage in sexual misconduct with a client or supervisee. Sexual misconduct includes but is not limited to:

(1) Inappropriate sexual language;

(2) Sexual exploitation;

(3) Sexual harassment;

(4) Sexual behavior, and

(5) Therapeutic deception.

**B. Concurrent Sexual Relationships.** A counselor may not engage in either forced or consensual sexual behavior with:

(1) A client.

On August 1, 2006, Dr. Weinberg made a preliminary motion to exclude a prior non-public Consent Agreement between Dr. Weinberg and the Board from the hearing proceedings.<sup>3</sup> The Board denied Dr. Weinberg's Motion.

Pursuant to HO § 17-314 and the Administrative Procedure Act, Md. Code Ann., State Gov't ("SG") § 10-201 *et seq.*, the Board conducted a contested case hearing on the merits of the Board's charges on September 15 and October 23, 2006. The Board convened to deliberate in December, 2006. The Board issues this Final Decision and Order after considering the entire record in this case, including all of the testimony and exhibits admitted before the Board.

### **SUMMARY OF THE EVIDENCE**

#### **A. Documents**

At the beginning of the hearing, the parties moved jointly for the admission of the following exhibits into evidence:

- 1: Treatment records of Client A (bates stamped 1-597)

#### **State's Exhibits 2-23**

- 2: Charges (Amended) under the Maryland Professional Counselors and Therapists Act and Letter of Procedure
- 3: Original Licensure Application
- 4: Licensure Screen
- 5: Complaint, July 23, 2004
- 6: Report of Investigation (bates stamped 1-6)
- 7: Transcript of interview - Client A, November 5, 2004
- 8: Transcript of interview - Dr. Weinberg, January 12, 2005

<sup>3</sup> In adjudicating a contested case, the Board may consider evidence of prior discipline. Md. State Gov't Code Ann. § 10-213(a)(2). Dr. Weinberg and the Board entered into a non-public Agreement on December 15, 2000. (Exh. 22) The Agreement is a record of the Board: (1) granting a professional counseling license to Dr. Weinberg; and (2) deferring the filing of charges against Dr. Weinberg pending his satisfactory completion of supervisory and educational conditions outlined in the Agreement. During his therapy sessions with Client A, Dr. Weinberg disclosed to her information about the complaint against him that led to this Agreement. (Exh. 8, p. 52; T. 384) During the Board's investigation of this case, Dr. Weinberg also volunteered information about the underlying factors leading to that complaint as well as the supervisory terms imposed by the Board on his practice. (Exh. 8) In his expert report, Dr. Weinberg referred to his board-ordered supervisor. (Exh. 29)

- 9: E-mail re: Bagel Bin, November 14, 2004
- 10: E-mail re: Gym, November 15, 2004
- 11: Records of Client A, Zella Adams, LCSW-C (bates stamped 1-21)
- 12: Responsive letter from Paul R. Clavelle, Ph.D., October 12, 2004
- 13: Letter from John Lefkowitz, Ph.D., November 8, 2004
- 14: Letters form Diane Pejuan-Stevens, December 1 and 8, 2004
- 15: *Curriculum Vitae*, Magalie Piou-Brewer, Ph.D., LCPC
- 16: Report, Magalie Piou-Brewer, Ph.D., L.C.P.C. (bates stamped 1-6)
- 17: COMAR Code of Ethics; multiple provisions (bates stamped 1-36)
- 18: 1995 American Counseling Association Code of Ethics (bates stamped 1-30)
- 19: 2005 American Counseling Association Code of Ethics
- 20: 1992 APA, Ethical Principles of Psychologists and Code of Conduct
- 21: 2002 APA, Ethical Principles of Psychologists and Code of Conduct
- 22: Consent Order with attachments, December 15, 2000
- 23: National Security Agency, Report of Investigation 07/21/01

### **Respondent's Exhibits 24-29**

- 24: *Curriculum Vitae*, Jill B. Cody, M.A., L.C.P.C.
- 25: Expert Report, Jill B. Cody, M.A., L.C.P.C.
- 26: *Curriculum Vitae*, Deborah Ann Hinton, M.A., L.C.P.C.
- 27: Expert Report, Deborah Ann Hinton, M.A., L.C.P.C.
- 28: *Curriculum Vitae*, Gary L. Weinberg, Ph.D., L.C.P.C.
- 29: Expert Report, Gary L. Weinberg, Ph.D., L.C.P.C. (bates stamped 1-10)

### **B. Witness Testimony**

Client A and her former husband testified on behalf of the State. Magalie Piou-Brewer, Ph.D., L.C.P.C., testified as an expert witness for the State. Gary Weinberg, Ph.D., L.C.P.C., testified on his own behalf and as an expert witness. Deborah Ann Hinton, M.A., L.C.P.C., and Jill B. Cody, M.A., L.C.P.C., testified as expert witnesses for Dr. Weinberg. Dr. Weinberg also called Howard (Rick) Kenney, Board investigator, as a witness.

### **C. Summary of Witness Testimony and Documentary Evidence**

#### **Client A (T. 17-226)**

During the Board's investigation and at the hearing, Client A testified that she sought therapy sessions with Dr. Weinberg because she was depressed and

emotionally traumatized due to her husband's extramarital affair and their separation, and because she wished to learn how to improve her future relationships. (T. 19-25, 214; Exh. 7) Beginning in October, 1999, Client A saw Dr. Weinberg at least 2-3 times a week initially for individual and group therapy, and she stated that he was always completely available when she called him for extra appointments. (T. 46, 73-74, 186; Exh. 1, pp. 193, 276, 489) Client A testified that she saw Dr. Weinberg in his home office and that there was no separate entrance to his office. (T. 21-22)

Dr. Weinberg requested that Client A maintain a daily journal<sup>4</sup> and document important concerns for discussion in their future therapy sessions. (T. 26-27; Exh. 1; Exh. 8, p. 39; Exh. 29, p. 1) During therapy with Dr. Weinberg, Client A discussed the effect of her husband's affair, the end of their marriage, and her anger at her husband and herself.<sup>5</sup> Client A and Dr. Weinberg also discussed her relationships with her mother, stepfather and other family members, her interactions with co-workers, a miscarriage she had suffered the previous February, and her stress caused by surgical treatments for a cervical virus transmitted by her husband. (T. 27-28, 35, 39-40, 154; Exh. 1, pp. 12, 31) Client A declined Dr. Weinberg's suggestion that she see a psychiatrist or take medication for depression. (T. 214; Exh. 1, p. 3)

Client A stated that she was initially uncomfortable, distrustful and tearful during sessions, but gradually became more comfortable and safe with Dr. Weinberg, and felt that her early sessions with him helped her. (T. 49-50, 109) She began to feel affection for Dr. Weinberg and to care for him like a father, brought him something for Father's

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<sup>4</sup> Client A's journal entries are included in her treatment records submitted by Dr. Weinberg. (Exh. 1, pp. 1-597)

<sup>5</sup> Client A testified that despite her anger at her husband, she did not inform his commanding officer of his extra-marital affair. (T. 113)

Day, and sent him an e-mail telling him she loved him. (T. 48-51, 159, 168, Exh. 7, p. 61)

Client A testified about her journal entries to Dr. Weinberg. (T. 65-83, 167-95) She wrote to him that: she wanted him as a friend because she liked him a lot (Exh. 1, p. 176); she wished he was her father (Exh. 1, pp. 202, 236); he was the kind of person with whom she wished she could have had marriage and children (Exh. 1, pp. 256, 269); she felt at a loss because she was unable to be his wife and know him more completely; she didn't want to be his wife and lose him as a therapist (Exh. 1, p. 236); it felt good to have him be protective of her when he told her that any romantic interest of hers should be as good as him or better (Exh. 1, p. 238); it was nice to hear his voice when he phoned her to check on how she was after a medical procedure, and left a phone message to welcome her back from a work trip. (Exh. 1, pp. 238, 359)

Client A's journal entries showed that Dr. Weinberg reviewed letters to her nieces and her correspondence and e-mails to men that she considered dating, and helped Client A to update her resume. (Exh. 1, pp. 246-52, 336, 503-10, 519) In her testimony, Client A stated that she phoned Dr. Weinberg one morning to schedule an appointment around 5 -5:30 a.m., because she had an urgent need to know how to interact with a new friend without making any mistake, and that for her, this was a huge emergency. (T. 211-12, 226)

Client A also told Dr. Weinberg about her dreams involving him, including one in which his wedding ring was square, and wrote that she liked his response "I am married" when she told him of that dream, because she felt very happy and safe that he was warning her off. (Exh. 1, pp. 242, 256)

Client A noted in her journal that she asked Dr. Weinberg if he was worried that she might start caring for him in a non-platonic romantic way, if she did she would tell him and trust him to understand and know the right thing to do. (Exh. 1, p. 223) In her journal, Client A also expressed anger toward Dr. Weinberg because he wasn't there for or cancelled some scheduled appointments, and told him that she felt as if he did not care about her, but that she still cared about him. (Exh. 1, pp. 481-90)

Client A addressed Dr. Weinberg as "Gary" in another journal entry, wrote that she missed him, and would like to see him more but not for therapy, sit in the same room as him, touch him, look at him, listen to him, and breathe him in. (Exh 1, p. 358) At the hearing, Client A explained that this note to Dr. Weinberg was really a fantasy note or love letter she wrote to him, in response to Dr. Weinberg's request that she write down her sexual fantasies about him. (T. 75, 159-60) Client A testified that she wrote the fantasies down in a second journal separate from her regular journal entries, wrote "Dear Gary" on top, came to therapy sessions, read them aloud to him, tore them out and gave them to him.<sup>6</sup> (T. 56, 75, 129-33, 159-60, 216-18) Client A stated that Dr. Weinberg was excited after listening to her describe her fantasies. (T. 60)

Client A testified, and her journal to Dr. Weinberg stated, that around April, 2000, Dr. Weinberg asked Client A what her fantasy relationship with him would be. (T. 66-67; Exh. 1, p. 236) In response, Client A told him she wished that he was her father, and that she also felt a "special loss" at not being able to be his wife. *Id.* According to Client A, Dr. Weinberg also said to her at one point ". . . I fantasize about you." When she

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<sup>6</sup> The record does not contain any of the sexual fantasy notes that Client A stated she wrote to Dr. Weinberg. (T. 160-61) Client A testified that she did not know why they were not part of her treatment records submitted by Dr. Weinberg. (T. 195-97) Client A did not keep any of her entries from her regular journal or the sexual fantasy journal. (T. 216-18)



asked him if he would act on that, he said, "I don't know." (T. 55, 121-22; Exh. 7, pp. 14-15) On another occasion when she arrived for a session, Dr. Weinberg said to Client A "I can imagine you naked in that," but she believed she hadn't heard him right, and discounted his remark. (T. 52; Exh. 7, p. 9) Client A also testified that he didn't answer the door immediately when she arrived once for a therapy session, and he told her that he had been upstairs naked, fantasizing that she would come upstairs to him and they would have sex. (T. 148-49; Exh. 7, p. 47)

Client A further testified that Dr. Weinberg disclosed personal things about his sexual life that were not relevant to her therapy. (T. 119-20) For example, he told Client A that he had persuaded his wife to proposition a colleague at her work to facilitate a sexual threesome, and that his wife had lost her top level security clearance as a result. (T. 33-34; Exh. 7, p. 52) Dr. Weinberg also told Client A that when he was a teenager, his mother put cream on his back after he had sex with a woman who scratched his back badly. (T. 38; Exh. 7, p. 53)

Client A also stated that Dr. Weinberg disclosed his own fantasies including: (1) engaging in sexual threesomes that involved Client A having sex with another woman, specifically an Indian woman he had had an affair with, because that lady was dark skinned and Client A was so light, it would be aesthetically pleasing (T. 45, 56, 129); (2) going to a hotel room with Client A and a friend so he could watch them have sex (T. 56); (3) bondage fantasies that involved him tying up Client A with her hands above her head, and her legs spread and tied down (T. 56-57, 128); (4) watching Client A having sex with a large well-endowed man, because her waist was so thin. (T. 57, 132)

According to Client A, Dr. Weinberg told her that Client A and himself had a really special connection that was existential, and should be acted on; and that although ethically and morally his relationship with her was wrong, it had to be approached as a unique experience without a set of rules. (T. 81-82, 207; Exh. 7. p. 60)

Client A testified that Dr. Weinberg also disclosed to her that a former female client, Client B, with whom he had a special connection just as he had with Client A, had betrayed him and filed a complaint with the Board. (T. 44, 213; Exh. 7, pp. 54-58) He told Client A that the case was ongoing, he was fighting the complaint by saying the client had Borderline Personality Disorder, he was stressed and upset about it and his lack of judgment, felt threatened by Client B, had installed a video camera by his front door in case she came unexpectedly, and had a gun to protect himself and his family from any danger from this client. (T. 44-45; Exh. 7, pp. 54- 55)

In an e-mail sent to Dr. Weinberg in July, 2000, Client A wrote that caring about him made her feel vulnerable, scared and angry. (Exh. 1, p. 377) On cross-examination, Client A explained that she felt vulnerable because she was now in an intimate inappropriate relationship with a man who had power to hurt her. (T. 180-82)

Client A testified that she was hurt when Dr. Weinberg told her she should get a breast enlargement or breast implants. (T. 152-53; Exh. 7, pp. 65-66) She also stated that he told her to get a tan, never cut her hair, not gain weight, and that he liked her being very thin. (T. 61-62, 87-88; Exh. 7, p. 65) Client A testified that Dr. Weinberg did not touch her breasts, and that they never had sex. (T. 117-18, 187-88) She also stated that Dr. Weinberg did not wear shoes during sessions. (T. 142, 209)

After therapy became sexually-oriented, Client A stated that Dr. Weinberg initiated groin and lap touching with Client A and she went along with it. (T. 59, 209-11,

221) During sessions, Dr. Weinberg put his feet in Client A's lap, she massaged his feet, he rubbed his feet in her crotch area, and she would do the same to him, or he sat next to her as she sat on the floor during sessions. (T. 199-200; Exh. 7, p. 39) On one occasion, he reached down and put his fingers inside Client A's vagina for a few seconds; she didn't like it and got up and sat back on the couch. (T. 60, 118, 199-200; Exh. 7, pp. 44-45) Client A testified that another time, Dr. Weinberg had shorts on and asked her to touch him in his genital area over his underwear, which she did. (T. 60; 143; Exh. 7, pp. 37, 46) She also stated that Dr. Weinberg kissed the back of her neck. (T. 60, Exh. 7, p. 43)

Dr. Weinberg and Client A had no formal business arrangement with respect to his fees for her therapy sessions. (T. 26, 224) Initially, because she was unemployed, they had a sliding scale fee arrangement based on her ability to pay, but after she got a job, she paid him increased amounts. (T. 26, 109-11) When Client A fell behind with her payments during the last months of therapy, she told him that she didn't have the money to pay him, and asked if they could stop therapy temporarily or defer payment, he told her to just put it on a tab, and pay him when she could. (T. 182, 218; Exh. 1, pp. 433, 435, 512, 515) In another e-mail to Dr. Weinberg, Client A proposed to pay him \$75 for each session as soon as she was able, and reevaluate the plan at a later date. (Exh. 1, p. 515). In an e-mail response, Dr. Weinberg said "ok." (Exh. 1, p. 516)

Client A testified that she owed money to Dr. Weinberg when she terminated therapy, but because of the sexual focus of their sessions, she felt as if she was paying for therapy that he was not providing. (T. 179, 225) After Client A terminated therapy, she never received a bill from Dr. Weinberg, and in subsequent e-mails and phone calls to Client A, Dr. Weinberg did not request payment of her outstanding fees. (T. 218-20)

Client A described her conflicted state of mind, sometimes wanting to have contact with Dr. Weinberg, sometimes not, sometimes being angry, then feeling in love with him, wanting to see him for therapy, but thinking the sessions weren't real therapy anymore. (T. 77) In response to a question from the Board asking why she continued to come to therapy despite Dr. Weinberg's insertion of his fingers in her vagina, Client A stated that: (1) the therapy sessions were already sexualized by their mutual touching of feet in each others' laps and recounting of sexual fantasies to each other; (2) she was confused by him telling her she was special and that they had a special connection; (3) she felt in love with him; and (4) she didn't want to condemn or question the entire therapeutic experience and kept trying to turn it back into just therapy. (T. 207-08)

In December, 2000, Client A wrote to Dr. Weinberg that she did not feel more special than anyone else, but that it was easy for him to make her believe that because she wanted to believe it. (Exh. 1, p. 489) Client A also told Dr. Weinberg that she did not trust him anymore, but still wanted him as her therapist, and it depressed her to end therapy. (Exh. 1, p. 489-90) In an e-mail to Dr. Weinberg in January, 2001, Client A wrote "I have to discontinue therapy now" and also told him it would be a good time for her to stop being so dependent on him. (Exh. 1, p. 512) Client A testified that Dr. Weinberg pressured her not to leave therapy, but that she terminated her sessions in February, 2001, because Dr. Weinberg told her he wanted to have sex, repeatedly told his fantasies to her, and she felt it wasn't therapy anymore. (T. 83, 157-58)

In a journal entry dated February 22, 2001, Client A wrote to Dr. Weinberg that she was naïve and gullible and felt betrayed, confused and manipulated by Dr. Weinberg, did not trust him, did not know what his motives were or what to do about their relationship. (Exh 1, pp. 555-56) On February 27, 2001, Dr. Weinberg wrote in his

treatment notes that he was comfortable "with her testing out her wings . . ." (Exh. 1, p. 554)

After Client A ended her therapeutic relationship with Dr. Weinberg, she never resumed therapy sessions with him. (T. 85) Around Yom Kippur in 2001,<sup>7</sup> Dr. Weinberg called Client A and asked her to come to his office, and she did. (T. 86, 166) Client A testified that during that meeting, he wanted to put his feet in her lap but she refused, he wanted to know if therapy was over, he told her that he wanted a sexual relationship with her, and have threesomes, and that he knew it wasn't good for her but he couldn't help himself, it was what he wanted. (T. 86-87) When she told him he didn't care about her or he wouldn't have asked her to get a breast enlargement, he asked for her forgiveness because it was Yom Kippur. (T. 86-87) She told him she wasn't interested in a personal relationship with him, and left. (T. 88-89)

When she saw a female therapist in 2002, Client A told that therapist that her prior therapy from 1999-2001 had been sexually-oriented but did not wish to discuss the details or reveal Dr. Weinberg's name. (Exh. 11; T. 89-91, 161-62) The therapist's treatment notes refer to Client A's "sex abuse by therapist." (Exh. 11, p. 7) Client A stated to the Board that she knew her therapy with Dr. Weinberg was inappropriate but was not sure how, or what the rules were, but the female therapist told her it should be reported. (T. 202)

In January, 2004, Dr. Weinberg e-mailed Client A on three occasions. (T. 92) His first e-mail stated "I lost my way of reaching you. I'm sorry. Call me. Gary." His second e-mail stated: "call me . . . I would like to catch up. Gary." In the third e-mail, Dr. Weinberg stated: "Lost you and trying to find you. Call me. Gary." (Exh. 1, pp. 558-60;

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<sup>7</sup> In 2001, Yom Kippur began at sundown on September 26<sup>th</sup>.

Exh. 5, p. 3C) Client A ignored Dr. Weinberg's e-mails. (T. 95; Exh. 5, p. 3C) Dr. Weinberg later called Client A and left phone messages asking her to please call him because he would like to see how she was doing. (Exh. 5, p. 3D, T. 96) Client A testified that following these attempts by Dr. Weinberg to contact her in 2004, she decided to report him and obtained practical advice about how to file a complaint after talking to other professionals in the field. (T. 92-93, 202-07; Exhs. 12,13)

Client A also testified that after she filed the complaint with the Board, she saw Dr. Weinberg at the local Bagel Bin in November, 2004, he stared at her for 10 minutes, and she ignored him. (Exh. 9; T. 97-98) Client A stated that she also saw Dr. Weinberg walking out of her Gym one week later, and that she reported the incident to the Board investigator and felt threatened because Dr. Weinberg had told her about the gun he kept. (Exh. 10; T. 98-99)

Client A's former husband (T. 581-90)

Client A's husband testified that he had an extramarital affair during his marriage to Client A but that they still had a sexual relationship until August or early September of 1999. (T. 582-83) Client A's former husband also confirmed that during their marriage, she had suffered a miscarriage early in 1999. (T. 590) After Client A left him, he asked her to take care of his personal and financial affairs in his absence while he was on a work trip, and she agreed to do so. (T. 585) He stated that he was indebted to her for doing that, and for not telling his supervisor or commanding officer about his affair.<sup>8</sup> (T. 584-85)

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<sup>8</sup> Client A's former husband confirmed Client A's testimony that she had not reported him to his commanding officer. (T. 113)

Magalie Piou-Brewer, Ph.D., L.C.P.C. (T. 228-96)

Magalie Piou-Brewer, Ph.D., L.C.P.C., testified as an expert witness on behalf of the State, and was present throughout the hearing. (T. 228-96) Dr. Piou-Brewer has a doctorate in clinical psychology and is a licensed clinical professional counselor with her own private practice group. (Exh. 15; T. 233-34) Based on her education, training, knowledge and experience in the psychodynamic area, her review of the extensive information contained in the documentary exhibits and relevant academic articles on transference and sexual acting out, Dr. Piou-Brewer testified regarding Client A's mental health history and the client-therapist relationship between her and Dr. Weinberg. (T. 234-96) Dr. Piou-Brewer also submitted an expert report. (Exh. 16)

Dr. Piou-Brewer testified that Client A's treatment records showed that Client A had a significant and troubled personal history, including possible childhood sexual abuse and definitely physical abuse. (T. 243-44, 288-89) Dr. Piou-Brewer opined that Client A's profile was that of someone who had been abused in childhood, and who felt powerless to stop the abuse as a child. (T. 288-89) In Dr. Piou-Brewer's view, Dr. Weinberg failed to do a complete intake history in his initial sessions with Client A, and did not sufficiently probe the client's account of physical molestations within her family. (T. 240, 243-44, 288-89) Dr. Piou-Brewer also opined that Dr. Weinberg ought to have explored more thoroughly all of the red flags raised by Client A. (T. 241, 294-96)

In her testimony, Dr. Piou-Brewer stated that Dr. Weinberg's treatment notes: (1) revealed that Client A had a history of violating other people's boundaries in her interpersonal relationships and of having her own boundaries violated (T. 241-42); and (2) showed that Client A had previous relationships with married men, and had difficulty

with impulse control and trusting other people. (T. 248) Dr. Piou-Brewer testified that Dr. Weinberg did not document an extensive treatment plan for Client A. (T. 245)

In Dr. Piou-Brewer's opinion, Client A's expressed intense feelings in her journal notes toward Dr. Weinberg as a father, a husband and a lover, and transference<sup>9</sup> was a big issue in their therapeutic relationship. (T. 246, 248, 252) Dr. Piou-Brewer stated that Dr. Weinberg's treatment notes were insufficient to determine what discussions he had with Client A about her specific transference and boundary issues, what efforts he made to contain her, how he helped her process her feelings, how she responded or how and if he helped her. (T. 245, 247, 275, 292-94) In addition, Dr. Piou-Brewer opined that Dr. Weinberg should have taken, but did not take, any specific actions to handle Client A's transference or establish appropriate boundaries. (T. 249, 251-52)

According to Dr. Piou-Brewer, Dr. Weinberg had an ethical and professional obligation not only to discourage Client A's emotions and obvious transference, but to exercise great care not to foster or intensify them during therapy, and to set limits and establish strict boundaries. (T. 249-50, 257-58) In her view, it was ethically and professionally inappropriate for Dr. Weinberg to present himself to Client A as a model of an ideal partner for her or to set himself up as someone other than her counselor. (T. 250) Dr. Piou-Brewer stated that Dr. Weinberg inappropriately handled Client A's express desire for him as a husband by emphasizing he was married, because it led the client to focus on him as a married man instead of as her therapist. (T. 257) Given Client A's history of being involved with married men, it was not enough for Dr. Weinberg to just tell her he was married, and his verbalizations regarding boundaries and

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<sup>9</sup> Transference is a natural phenomenon and psychoanalytic concept in which a client's thoughts and feelings may shift from a significant person in the client's past life and experiences to a treating therapist.



transference were insufficient. (T. 249, 251-52, 257-58) Dr. Piou-Brewer opined that Dr. Weinberg should have thought about structuring Client A's sessions differently, renting office space and conducting therapy in a neutral location other than his home, given the intensity of Client A's transference. (T. 251-52, 257-58)

Dr. Piou-Brewer also opined that because Client A had expressed intense feelings toward Dr. Weinberg as a father and a lover, Dr. Weinberg's request to her to tell him openly what her fantasy relationship with him was ethically inappropriate as well as professionally incompetent. (T. 253) In Dr. Piou-Brewer's view, Dr. Weinberg also failed to set limits with Client A by inappropriately giving her extra therapy sessions whenever she wanted initially and allowing her to e-mail him whenever she wanted throughout their therapeutic relationship. (T. 254, 259)

Dr. Piou-Brewer testified that self-disclosure by a counselor to a client should be in the service of the client and be helpful and beneficial, but that Dr. Weinberg's disclosures to Client A were inappropriate, unethical and professionally incompetent. (T. 253-56) First, in Dr. Piou-Brewer's opinion, there was no clinical basis for Dr. Weinberg to share with Client A information about his experience with Client B, and it was both unethical and professionally inappropriate for him to do so. (T. 259-60) By telling Client A that she was special like Client B, Dr. Weinberg fostered and encouraged Client A's feelings and set her up as a special client. (T. 254) According to Dr. Piou-Brewer, Dr. Weinberg's disclosure to Client A that this other special client had betrayed him by suing him, and that he got a gun for protection from her, was intimidating to Client A, had no legitimate or relevant clinical basis, and was unethical and professionally incompetent. (T. 254, 260-61)

Second, Dr. Piou-Brewer opined that there was no clinical basis for Dr. Weinberg: to introduce sexual content into Client A's therapy by disclosing information to her about his sexual threesome history with his wife (T. 255-56); to tell Client A that she would look more rounded if she had larger breasts (T. 261); and to tell Client A that he fantasized about her or could imagine her naked. (T. 262-63) According to Dr. Piou-Brewer, Dr. Weinberg's introduction of that type of sexual content into Client A's therapy was also unethical, as was his request that she share her fantasies with him and his discussion of his own fantasies with Client A. (T. 261, 265) Dr. Piou-Brewer also believed that Dr. Weinberg's statements to Client A to get a tan, not cut her hair and not gain weight were also inappropriate, unethical and professionally incompetent. (T. 261-62) In Dr. Piou-Brewer's opinion, a reasonable, competent professional should handle those feelings by seeking supervision, and should consider his impulses and professional ability to help a client, as well as his responsibility to refer her to a professional who would not have these feelings or fantasies about her. (T. 263-64)

Based on the record evidence, Dr. Piou-Brewer testified that counter-transference was an issue for Dr. Weinberg. In her opinion, Dr. Weinberg had an ethical obligation to deal appropriately with his counter-transference factors, and to refer Client A to another therapist for his own and the client's protection or to seek supervision within a group experience. (T. 278) Dr. Piou-Brewer opined that Dr. Weinberg's counter-transference did not excuse his actions or his sexually-oriented statements to Client A. According to Dr. Piou-Brewer, Dr. Weinberg had the responsibility, power, experience, background and training as the therapist to recognize his feelings and act appropriately to help himself and his client. (T. 290-91)

With respect to any feelings of abandonment that Client A may have experienced regarding referral, Dr. Piou-Brewer opined that Dr. Weinberg could have referred her very early in her treatment. (T. 264) Even if Dr. Weinberg didn't recognize the danger until much later in her treatment, Dr. Piou-Brewer opined that the damage to Client A was more severe by his encouragement of her fantasies and her feelings of being special. In Dr. Piou-Brewer's view, Client A would have been better off with a therapist who did not have these feelings for her. (T. 264-65)

Dr. Piou-Brewer testified that Dr. Weinberg deviated from his own written office policies regarding financial billing, thus fostering Client A feelings of being special, intensifying her transference and loosening boundaries. (T. 258) Dr. Piou-Brewer opined that Dr. Weinberg should have set clear boundaries by billing Client A for all sessions, by not allowing her to run a tab, and by accruing interest on her outstanding bills. *Id.*

In addition, Dr. Piou-Brewer testified that having Client A sit on the floor at Dr. Weinberg's feet was inappropriate and against professional standards and mode of practice. It was also ethically inappropriate for Dr. Weinberg to sit on the same couch as Client A, to sit on the floor with her, or to touch her in a sexual way. (Exh. 16, p. 4; T. 266-68)

Dr. Piou-Brewer disagreed with the conclusions of Dr. Weinberg's experts. (T. 504-54, 555-80; Exhs. 25, 27) Specifically, Dr. Piou-Brewer opposed the idea that Client A fabricated the allegations in this case or that her complaint against Dr. Weinberg was due to anger or retaliation. (T. 268-69, 274) Dr. Piou-Brewer based her opinion on the totality of the evidence in the treatment notes, and the unrefuted testimony regarding Dr. Weinberg's introduction of sexually based material into the therapy. *Id.* From her review of the record, Dr. Piou-Brewer also believed that the fantasy journals described by

Client A were based on reality. (T. 270-71) Dr. Piou-Brewer noted that Client A did not take any drastic measures after terminating her therapy in 2001; did not contact Dr. Weinberg; did not call his house or send e-mails; did not act immediately to file a complaint; but processed her experience by seeking proper information and speaking to others about it. (T. 269-70) It was not until 2004, when Dr. Weinberg attempted repeatedly to contact her again by e-mail and phone calls, that Client A filed her complaint. In Dr. Piou-Brewer's view, there was no reason to think that Dr. Weinberg tried to contact Client A in 2001 or 2004 to collect money. (T. 276-77)

Gary L. Weinberg Ph.D., L.C.P.C. (T. 308-494)

Dr. Weinberg testified regarding his education, his professional experience, his current private counseling practice and his care and treatment of Client A. (Exhs. 1, 8; T. 308-494) At the hearing, Dr. Weinberg also testified as an expert and submitted an expert report. (Exhs. 28, 29) Dr. Weinberg did not dispute Client A's testimony regarding her personal and marital history.<sup>10</sup> (T. 308-18) He described Client A's childhood history as "tragic," and stated that he suspected she had experienced sexual, emotional, physical and verbal abuse, and abandonment. (Exh. 29, p. 9; T. 323, 354-55, 376, 473-74) With respect to Client A's sexual history, Dr. Weinberg told the Board's investigator that he "wouldn't touch [it] with a ten-foot pole," (Exh. 8, pp. 42-43) At the hearing, he testified that he chose not to delve into Client A's sexual history based on advice from other clinicians and supervisors, and that he was uncomfortable discussing sexual issues with women clients. (T. 376-79, 409, 479-80 489-91)

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<sup>10</sup> Dr. Weinberg, however, asserted that Client A reported her husband's infidelity to his superior commander. (T. 318-19, 338) Client A's husband refuted Dr. Weinberg's claim, stating that he was indebted to Client A for not telling his supervisor or commanding officer about the extramarital affair. (T. 584-85)

Dr. Weinberg's treatment plan for Client A included recommending a psychiatrist and a physician for medication, getting psychological tests and obtaining supervision. (T. 379-80) He confirmed that Client A declined to see a psychiatrist or to be evaluated for anti-depressant medication. (T. 320-23) Dr. Weinberg diagnosed Client A with a mood or thought disorder, mixed depression and anxiety, and stated that psychological testing revealed narcissistic and histrionic traits.<sup>11</sup> (Exh. 29, p. 2; T. 319-22, 452-53, 459-62) In Dr. Weinberg's opinion, Client A's diagnosis did not change during her 16 months of therapy.<sup>12</sup> (T. 460) During the Board's investigation, Dr. Weinberg stated that Client A would not have a pre-disposition to fabricate fantasies. (Exh. 8, p. 44)

Dr. Weinberg stated that he did not get Client A's intake document completed because of "the intensity and the dynamics" of their early sessions. (T. 320-21) He further stated that he knew Client A had a problem with boundaries after she told him she had contacted the family of her husband's paramour. (T. 325, 376) When Client A called him at 5 a.m. expecting an immediate appointment for a non-emergent issue, Dr. Weinberg noted that Client A demonstrates "clear transference issues in my role as parent . . . ". (Exh. 1, p. 304; T. 174-75, 356)

In response to Client A's expressed romantic feelings and love for him, Dr. Weinberg stated that he reinforced and reset boundaries in discussions with her, reviewed the concept of transference with her continuously, suggested alternative behaviors and strategies, and did transactional analysis. (T. 324-25, 352, 395-97) With respect to Client A's decision to end therapy with him, Dr. Weinberg testified that she

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<sup>11</sup> Dr. Weinberg opined that Client A's test results may not have been accurate. (T. 322, 354, 461)

<sup>12</sup> Dr. Weinberg testified that he never diagnosed Client A with borderline personality disorder. (T. 482, 492) Dr. Weinberg's treatment notes contain no reference to this diagnosis for Client A. (Exh. 1, pp. 1-597)

wanted to continue therapy, but couldn't afford it, and also wanted to stretch her wings. (T. 347-49) Dr. Weinberg stated that he supported Client A's decision. (T. 341, 349-51)

Based on Client A's journal entries, her e-mail correspondence that she shared with Dr. Weinberg, and their therapy sessions from November, 2000 to February 2001, Dr. Weinberg stated that Client A had multiple, non-platonic relationships with married men at work. (T. 328-48, Exh. 1, pp. 470-542) In Dr. Weinberg's view, these relationships were "highly suspicious" and did not sound "appropriate." (T. 335, 337-39, 346) Dr. Weinberg also stated, however, that he could only speculate on those issues (T. 329), and pointed to no evidence in Client A's e-mails, her journal entries, or in his treatment notes that supported his theories that she engaged in sexual affairs.<sup>13</sup>

Dr. Weinberg testified that Client A's journal entries did not relate any sexual improprieties by him but showed her anger toward him. (Exh. 1, pp. 480-82; T. 332, 335-36, 340, 349-51) According to Dr. Weinberg, Client A was angry because he was non-responsive to her more demanding emotional needs, her anger skewed her view of him, and her complaint was based on "unrequited love" and her hostility toward him as her "idealized love object." (T. 356-357, 362-63) Dr. Weinberg further opined that Client A reacted with disproportionate anger that was comparable to someone with borderline personality disorder or a similar thought disorder. (T. 355)

During his investigative interview and at the hearing, Dr. Weinberg acknowledged that he disclosed details of his treatment of Client B to Client A, telling her that Client B was a former client with borderline personality disorder who had filed a complaint to the

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<sup>13</sup> Dr. Weinberg also implied that Client A's fear of being pregnant in October, 1999, was based on her sexual involvement with someone other than her husband. (Exh. 1, p. 75; T. 334-35) Client A's ex-husband, however, testified that he had a sexual relationship with Client A until August or early September of 1999. (T. 582-83)

Board against him.<sup>14</sup> (T. 382-84; Exh. 8, pp. 52, 65-66) Dr. Weinberg conceded that he also told Client A how the case impacted his practice, and that he had a gun to protect himself and his family as a result. (T. 383) Dr. Weinberg stated that despite his clinical concerns about Client A, he did not refer Client A to another therapist and continued to provide therapy to her. (T. 453-54, 458, 477) According to Dr. Weinberg, he felt he "had something to prove" to himself in treating Client A, and "needed to test [his] own wings" regarding his skills. (T. 454, 479)

Dr. Weinberg disputed Client A's account of sexual harassment, sexual conversations, inappropriate sexual behavior or sexual touching between himself and Client A, stating that he would not have considered sex with her because of her cervical virus. (T. 353, 358, 359) He denied telling Client A that he could imagine her naked or that he would like to watch her have sex with a well-endowed man, denied wearing shorts during therapy sessions, denied asking her to have sex with him, and denied sharing any sexual fantasies with her or asking her to write out or read aloud her sexual fantasies. (350-51, 353, 358, 371-72, 392, 469, 487, 492) Dr. Weinberg stated that he was not aware of any fantasy journals, that he had produced Client A's complete record to the Board, and had not removed any part of her treatment record.<sup>15</sup> (T. 484, 488, 492-93) He further denied telling her that any man she dated had to be as good as him or better, or that he meant to set himself up as a model. (Exh. 1, p. 238; T. 413-14)

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<sup>14</sup> In his investigative interview, Dr. Weinberg stated that Client B had alleged "all kinds of sexual improprieties" that "weren't true." (Exh. 8, p. 66)

<sup>15</sup> The Board, however, did not receive Client A's billing records or her group therapy records from Dr. Weinberg. At the hearing, the Board determined not to include these documents in the evidentiary record. (T. 493-504)

Dr. Weinberg told the Board investigator that he sometimes sat on the same couch with Client A during therapy sessions. (Exh. 8, p. 46) At the hearing, Dr. Weinberg conceded that he offered to transport Client A to and from a medical procedure. (T. 317-18, 463) He also conceded that he phoned her to welcome her home from a work trip, but also testified that he did not think it unusual to do so despite her clearly expressed romantic interest in him. (T. 407-08) He agreed his actions may have fostered her feelings of being special. *Id.* Dr. Weinberg also conceded that he told Client A that he had a gun to protect himself from Client B, and agreed that there was never a good time to share such information with Client A. (T. 414-15)

Dr. Weinberg testified that he allowed Client A to request and obtain extra therapy sessions initially by phoning or e-mailing him. (Exh. 1, pp. 244, 276; T. 400) He opined, however, that Client A did not abuse her e-mail privileges, that he did not believe it appropriate to set e-mail parameters for her, set limits on her extra appointments with him, or make himself less accessible to her. (T. 405-06) Dr. Weinberg also testified that he told Client A that he was married, and conceded that it was inappropriate to set himself up as a married figure with her. (T. 404).

Dr. Weinberg admitted that he asked Client A to describe her fantasy relationship with him, but denied that his question was sexually suggestive. (T. 357, 397-99, 486) Dr. Weinberg also told the Board investigator that he had a discussion with Client A about breast implants, that he told her that figure would be totally rounded out if her breasts were larger, and that he didn't want to say it but "felt as if [he] was against a wall." (Exh. 8, pp. 60-61). At the hearing, Dr. Weinberg denied suggesting breast implants to Client A, but admitted that he told that she looked fine except that the size of her breasts were not "in symmetry with the rest of her figure." (T. 360-61, 480-81)



Dr. Weinberg admitted that he contacted Client A in October, 2001, after she encountered him and his wife on their patio when she was out running. (T. 364, 421, 464-66) He testified that he asked her to come to his office because he was concerned for her safety after 9/11 and about her possible deployment to Iraq, but stated that it was "not a clinical visit." (T. 363-64, 465) Dr. Weinberg also told the Board investigator that "it would have been impersonal" to check on her safety over the phone. (Exh. 8, p. 65) He denied any sexual activity or sexual comments during Client A's visit to his office, and stated that he told her he was disappointed that she did not invite him to her graduation from Officer Candidate School. (Exh. 8, pp. 12-13; T. 364-66) Dr. Weinberg explained to the Board that he "felt a sense of entitlement" and also "felt left out " because Client A did not invite him. (T. 456) Dr. Weinberg acknowledged that his contact with Client A in 2001 was inappropriate. (T. 421)

Dr. Weinberg also conceded that he tried again to contact Client A by e-mail and phone in 2004. (T. 367-68, 424) According to Dr. Weinberg, he did so to observe the American Counseling Association ethical guidelines, and to apologize to Client A in case she was injured or offended in 2001 by his remarks about her graduation from Officer Candidate School. (T. 455-56) Dr. Weinberg also confirmed that he saw Client A at the Bagel Bin and coming out of the gym after she filed her complaint against him in 2004. (T. 368-69)

Dr. Weinberg conceded that, contrary to his customary office policy, he made an exception and allowed Client A to run a tab regarding fee payment, and that he did not maintain strict billing practices with her. (T. 391) Dr. Weinberg also testified that he okayed Client A's proposed modified payment schedule for her outstanding bills at the end of her therapy, that he did not structure this additional agreement in a formal written

payment plan, and that he made no attempts to get payment for Client A's unpaid bills. (Exh. 1, pp. 515-516; T. 341, 343, 430-31, 474) The Board did not receive or review Client A's billing records from Dr Weinberg.<sup>16</sup> (T. 493-96)

According to Dr. Weinberg, he encouraged Client A's independence by advising her not to talk about sex on online. (Exh. 1, p. 528) Dr. Weinberg stated that he reviewed her resume because it was in his area of expertise, reviewed her e-mails from men she considered dating as well as her nieces, and gave her suggestions and strategies for responding to them. (Exh. 1, pp. 246, 336, 403) In Dr. Weinberg's view, his actions helped to foster Client A's independence. (T. 417-20)

Dr. Weinberg stated that he was unconcerned when Client A told him in her journal she would like to be married to someone like him or when she asked him if he was concerned that she might start caring for him in a non-platonic or romantic way. (T. 400-03) In making a disclosure involving his past sexual history to Client A, Dr. Weinberg denied any sexual intent, or holding himself out to her as a sexual being. (T. 410-11) He testified that his disclosure to Client A about a sexual threesome involving himself and his wife was meant as a "metaphorical statement" and an "object lesson" to help Client A get a top secret security clearance, establish boundaries at work, and avoid inappropriate relationships with male colleagues. (T. 409-13) Dr. Weinberg also disagreed that his discussion with Client A about the size of her breasts indicated to her that he saw her as a sexual being. (T. 413) It was Dr. Weinberg's opinion that his

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<sup>16</sup> Dr. Weinberg testified he had produced Client A's billing records to the Board. (T. 389, 493) The only records that the Board received from Dr. Weinberg during its investigation were Client A's treatment records. (Exh. 1, pp. 1-597) The Board did not receive Client A's billing records (or her group therapy records) from Dr. Weinberg. At the hearing, the Board determined not to include these documents in the record. (T. 493-504)

discussions with Client A on these issues were "clinical interventions." Dr. Weinberg did not include his "interventions" in his treatment notes. (T. 469-473)

Howard (Rick) Kenney (T. 436-48)

Rick Kenney, Board investigator, responded to questions from Dr. Weinberg's counsel regarding his investigation and interviews in this case. (T. 436-48)

Deborah Ann Hinton, M.A., L.C.P.C. (T. 504-54)

Deborah Ann Hinton, M.A., L.C.P.C., a clinical manager of an outpatient mental health clinic, testified as an expert witness on Dr. Weinberg's behalf and submitted an expert report. (T. 504-54; Exhs. 26, 27)

Ms. Hinton opined that Client A may have fabricated her complaint to punish Dr. Weinberg to get revenge because she was angry at him for reinforcing boundaries, and because of her history of betrayal and rejection by attachment figures. (T. 507-14) Ms. Hinton agreed, however, that therapy was an appropriate place for Client A to deal with and discuss her anger. (T. 526-28) In Ms. Hinton's view, Client A's allegations regarding Dr. Weinberg's sexual behavior were inconsistent with her journal entries to him. (T. 515) Ms. Hinton also opined that Dr. Weinberg's request for Client A to describe her fantasy relationship with him did not necessarily imply sexual fantasies. (T. 515-17)

Ms. Hinton stated that Dr. Weinberg dealt appropriately with Client A's boundary and transference issues, that he counseled Client A appropriately about her interactions with co-workers, and that his treatment of Client A was ethical, competent and met the standard of care. (T. 507-08, 515, 517, 520-21) Ms. Hinton did not identify any concrete actions taken by Dr. Weinberg to deal with Client A's idealized transference and boundary issues. (T. 531-32) In Ms. Hinton's view, it was appropriate for Dr. Weinberg to allow Client A extra visits, and within the standard of care to see Client A at his house.

(T. 550-51) Ms. Hinton agreed that having an office separate from the home, billing the client, limiting and establishing parameters for e-mails, and not allowing extra appointments when requested would help to establish proper boundaries. (T. 532-33)

In her report, Ms. Hinton also stated that a more detailed treatment plan with specific and measurable goals by Dr. Weinberg would have been helpful. (Exh. 27, p. 1) Ms. Hinton noted that there were no specific group therapy notes on Client A's group therapy sessions. *Id.* p. 2. At the hearing, Ms. Hinton stated that she herself does a very thorough intake. (T. 525) Ms. Hinton opined that Dr. Weinberg's documentation was "adequate" for a therapist in private practice, but at the same time, acknowledged that she "would have done it differently." (T. 523)

Ms. Hinton also agreed that Client A presented with a significant sexual history, that she "would have assessed it differently" than Dr. Weinberg, and would not avoid dealing with a client's sexual history if it was an important part of the therapeutic process. (T. 524-26) At the same time, Ms. Hinton opined that Dr. Weinberg met a standard of care like "other people in private practice. . ." (T. 525) Ms. Hinton also opined that it would have been risky for Dr. Weinberg to take a sexual history on Client A at any point, but that another therapist might have behaved differently. (T. 547-49)

Regarding Client A's sexual fantasy journal entries, Ms. Hinton stated that she would expect that Dr. Weinberg would turn them over to the Board. (T. 528-29) Ms. Hinton opined that any sexual touching or sexual fantasy discussions between Dr. Weinberg with Client A, if true, would be inappropriate. (T. 530)

Ms. Hinton testified that Dr. Weinberg's disclosure of information about a sexual threesome with his wife and her work colleague was not the "smartest" thing to do. She opined, however, that it was appropriate in the context of Client A's work relationships.

(T. 536) Ms. Hinton also opined that Dr. Weinberg's comments to Client A about her breast size were "dumb" but not unethical. (T. 536) Similarly, Ms. Hinton thought it appropriate for Dr. Weinberg to contact Client A in 2001 and in 2004 to express his concern for her well-being. (T. 537-40)

Jill B. Cody, M.A., L.C.P.C. (T. 555-80)

Jill Cody, M.A., L.C.P.C., testified as an expert witness for Dr. Weinberg and submitted an expert report on his behalf. (T. 555-80; Exh. 25) Ms. Cody is a licensed clinical professional counselor in private practice. (Exh. 24; T. 556-58)

Based on her review of the record, Ms. Cody testified that Client A may not have been able to distinguish between her fantasies and her realities. (T. 557-60) Ms. Cody opined that Dr. Weinberg did not reciprocate any of Client A's fantasies, that Dr. Weinberg's compassion led to Client A's transference and feelings for him, and that Client A was resentful and accusatory because she felt abandoned by the end of her therapeutic relationship with Dr. Weinberg. (T. 561-62) In Ms. Cody's view, there was no evidence of an inappropriate relationship between Dr. Weinberg and Client A. (T. 562) Ms. Cody testified that Client A made progress on transference and boundary issues, and that Dr. Weinberg appropriately counseled her regarding dual relationships with work colleagues. (T. 564-66)

Ms. Cody also stated that Dr. Weinberg's treatment notes were very good, complete, and "just fine." (T. 566-67) Ms. Cody further testified that Dr. Weinberg's care and treatment of Client A were appropriate from his "philosophical and theoretical perspective," but not from her own, because "its not the framework from which I see clients." (T. 567-68) At the same time, Ms. Cody testified that Dr. Weinberg met the standard of care and acted ethically towards Client A. (T. 568)

Ms. Cody stated that therapy was a perfect place for Client A to vent her anger against Dr. Weinberg. (T. 573-74) Ms. Cody opined that Client A had sexualized idealized transference, and that Dr. Weinberg fostered her dependency by allowing her extra appointments at will. (T. 574, 576) In Ms. Cody's view, Dr. Weinberg erred in his judgment but was not unethical. (T. 576) According to Ms. Cody, allowing Client A to pay her fees whenever she wanted was also an error of judgment on Dr. Weinberg's part. (T. 577) Ms. Cody agreed that Dr. Weinberg's disclosure of information regarding a sexual threesome with his wife and a colleague to a client with sexual feelings toward him would not be relevant and "not a good thing to say." (T. 578-79) Ms. Cody stated that she did not know if it was professionally competent for Dr. Weinberg to comment on Client A's breast size. (T. 579-80)

#### **FINDINGS OF FACT**

Having reviewed and considered the entire record, including the documentary and testimonial evidence presented by the State and Dr. Weinberg at the hearing, the Board finds the following facts by a preponderance of the evidence:

1. Dr. Weinberg was originally certified by the Board to practice professional counseling in 1989. On December 15, 2000, the Board granted Dr. Weinberg a license as a clinical professional counselor under a non-public Consent Agreement. (Exh. 22) The Agreement deferred the filing of charges against Dr. Weinberg pending his satisfactory completion of supervisory and educational conditions outlined in the Agreement. (Exhs. 3, 8, 22)
2. At all times relevant to the charges in this case, Dr. Weinberg was licensed by the Board to practice as a clinical professional counselor in the State of Maryland. (Exh. 4) Dr. Weinberg maintained a private counseling practice at his home office in Columbia, Maryland. Dr. Weinberg's office did not have a separate entrance. (Exh. 1, pp. 2, 8; Exhs. 5, 8; T. 21-22)
3. In July, 2004, the Board received a complaint from Client A, alleging that Dr. Weinberg engaged in sexual misconduct during therapy sessions with her. (Exh. 5) The Board began an investigation that included taped interviews under oath with Client A and Dr. Weinberg, and obtained Client A's treatment records from

Dr. Weinberg. (Exh. 1, pp. 1-597; Exhs. 6, 7, 8) The Board charged Dr. Weinberg with professional incompetence and with violating the Board's ethical regulations in August, 2005, and issued amended charges in July, 2006. (Exh. 2)

4. The Maryland Professional Counselors and Therapists Act requires licensees to practice counseling and therapy in a competent and ethical manner, and to observe the Board's Code of Ethics and other regulations. Md. Health Occ. Code Ann. § 17-313. (2000 Repl. Vol.)
5. The Board's regulations require that licensees observe appropriate professional and ethical boundaries with clients, by prohibiting sexual behavior and sexual misconduct, including inappropriate sexual language, sexual exploitation, sexual harassment, and therapeutic deception. In addition, the Board's Code of Ethics requires licensees to act reasonably to protect clients from psychological trauma, to avoid dual relationships or associations with clients that could compromise the counseling relationship, and to avoid damaging the interests and welfare of clients. (Exhs. 2, 17; COMAR 10.58.03.02A(5)(1989); COMAR 10.58.03.03A, B(1), E(1), (2), F (2000); and COMAR 10.58.03.04A(14), B(3), 05(A(2)(a),(d), (B(1)(a), 09A, B(1), E, F (2001).
6. Client A began therapy with Dr. Weinberg in October, 1999, and terminated her therapy sessions with him in February, 2001. (Exh. 1, pp. 8, 554)
7. Client A presented with a significant mental health history and psychological trauma due to emotional and physical abuse as a child, her husband's infidelity and their separation, and other events in her life. (Exhs. 16, 27, 29, 1, p. 3; T. 27-28, 35, 39-40, 154; 323, 354-55, 376, 473-74)
8. The standard of care for all licensed professional counselors requires the completion of an adequate intake history and adequate documentation in a client's treatment record. (T. 241, 294-96) Dr. Weinberg did not perform, or document performing, an adequate intake history on Client A. (Exh. 1, pp. 3, 4, 14-29; T. 240, 243-44)
9. Dr. Weinberg did not assess or probe Client A's sexual history. (Exh. 1, pp. 3, 4, 10, 14-33; T. 288-89) Dr. Weinberg stated that he wouldn't touch Client A's sexual history "with a 10-foot pole." (Exh. 8, pp. 42-43)
10. The standard of care requires that a treatment record contain a detailed treatment plan. (T. 245) Dr. Weinberg did not establish or document a comprehensive treatment plan for Client A. *Id.*
11. Dr. Weinberg diagnosed Client A with a mood disorder, attachment disorder, depression and anxiety, and narcissistic and histrionic traits. (Exh. 29, pp. 2, 7; T. 319-22, 452-53, 459-62)

12. Dr. Weinberg requested that Client A maintain a daily journal for discussion in therapy sessions. (Exhs. 1, 8, 29; T. 26-27)
13. Dr. Weinberg did not limit Client A's appointments with him. (Exh. 1, 95, 222, 244, 276, 324, 378, 404; T. 46, 73-74, 186) Dr. Weinberg allowed Client A to e-mail him frequently and did not establish any parameters for that communication. (Exh. 1, pp. 336, 361-65, 375-77, 383-85, 400, 417, 438-39, 478-84, 505-19, 542-553; Exh. 16, pp. 4-5; T. 400)
14. Dr. Weinberg had no formal business arrangement for Client A's fee payments, did not establish or maintain strict billing practices, and allowed her to run a tab without accruing interest throughout therapy. (Exh. 1, pp. 433, 435, 512, 515-16; Exh. 16, p. 5; T. 26, 109-11, 182, 218, 224, 258, 341, 343, 391, 430-31, 474) The Board did not receive Client A's billing records or her group therapy records from Dr. Weinberg during its investigation. (T. 493-504)
15. Dr. Weinberg reviewed letters from Client A to her nieces and her e-mails to friends and men who were interested in her. (Exh. 1, pp. 299, 336, 363, 503-10, 519) Dr. Weinberg helped Client A to update her resume. (Exh. 1, pp. 246-52)
16. Dr. Weinberg was aware that Client A had problems with boundaries and transference. (Exh. 1, p. 304; Exh. 29, pp. 2-3; T. 325, 350, 356, 376) Dr. Weinberg told Client A that calling her former husband's paramour's family was an inappropriate way to deal with her anger. (T. 29-31, 325, 376) Client A phoned Dr. Weinberg one morning to schedule an immediate appointment around 5 -5:30 a.m. (Exh. 1, p. 304; T. 174-75, 211-12)
17. Client A expressed intense feelings for Dr. Weinberg as a father, lover, and husband in her journal and in therapy sessions. (Exh. 1, pp. 176, 202, 236, 256, 269; Exh. 7, p. 61; T. 48-51, 159, 168) Client A e-mailed him she loved him. (T. 48) Client A told Dr. Weinberg of her dreams about him, including one in which his wedding ring was square. He told her he was married and she liked his response because it made her feel safe. (Exh. 1, pp. 242, 256; T. 53, 69-70, 171, 404)
18. Client A asked Dr. Weinberg if he was worried that she might start caring for him in a non-platonic romantic way, and told him that she trusted him to know the right thing to do. (Exh. 1, p. 223; T. 65-66)
19. Dr. Weinberg's treatment notes did not indicate how and if he helped Client A process her feelings of transference toward him. Dr. Weinberg did not take any specific actions to diminish Client A's transference. (Exh. 1, 1-597; T. 245, 247, 249, 251-52, 275, 292-94)
20. Dr. Weinberg told Client A that any romantic interest of hers should be as good as him or better and she told him that it felt nice to have him be protective of her. (Exh. 1, p. 238; T. 68-69)



21. Client A told Dr. Weinberg that she was angry at him for missing or canceling some scheduled appointments. (Exh. 1, pp. 480-90; T. 73-75, 78-79)
22. Client A addressed Dr. Weinberg as "Gary" in a journal entry written to him, wrote that she missed him, and would like to see him more but not for therapy, sit in the same room as him, touch him, look at him, listen to him, and breathe him in. (Exh. 1, p. 358; T. 75, 159-60)
23. It is undisputed that Dr. Weinberg:
  - (a) offered to take Client A to and from a medical procedure. (T. 317-18, 463)
  - (b) phoned Client A to check on how she was after a medical procedure, and left a phone message to welcome her back from a work trip. (Exh 1, pp. 238, 359; T. 407-08)
  - (c) asked Client A to openly express what her fantasy relationship with him would be. (Exh. 1, p. 236; T. 66-67, 357, 397-99, 486)
  - (d) told Client A that she would look more rounded if her breasts were larger. (Exh. 7, pp. 65-66; Exh. 8, pp. 60-61; T. 152-53, 360-61, 480-81)
  - (e) disclosed to Client A that he had persuaded his wife to proposition a colleague at her work to facilitate a sexual threesome, and that his wife had lost her top level security clearance as a result. (Exh. 7, p. 52; Exh. 8, p. 60; T. 33-34, 409-13)
  - (f) disclosed to Client A information regarding a former female client, Client B, whom he said had betrayed him and filed a complaint with the Board. (T. 44, 213, 383; Exh. 7, pp. 54-58; Exh. 8, p. 52)
  - (g) told Client A that he had failed to diagnose Client B with borderline personality disorder, that he had installed a video camera by his front door and had a gun to protect himself and his family from her. (T. 44-45; Exh. 7, pp. 54-55; Exh. 8, pp. 52, 65-66, T. 382-84, 414-15)
24. Dr. Weinberg told the Board that he "felt a sense of entitlement" and also "felt left out" because Client A did not invite him to her graduation from Officer Candidate School. (T. 456) Dr. Weinberg opined that his comments to Client A's about her fantasy relationship with him, her breast size and the sexual threesome with his wife were "clinical interventions." (T. 472) Dr. Weinberg also described his sexual threesome disclosures as "metaphorical statements," "boundary setting," and an "object lesson" to help Client A with boundaries at work. (T. 409-13)
25. Dr. Weinberg's counter-transference was a key factor affecting his treatment of Client A. Based on the undisputed facts, the testimony of Dr. Weinberg and Client

A, and Client A's treatment records, the Board finds that Dr. Weinberg also told Client A that:

- (a) he fantasized about her and said he didn't know if he would act on it; (T. 55, 121-22; Exh. 7, pp. 14-15)
  - (b) he could imagine her naked because of what she was wearing; (T. 52; Exh. 7, p. 9)
  - (c) when she arrived for a therapy session he was upstairs naked entertaining a fantasy and she would come to him and they would have sex; (T. 148-49; Exh. 7, p. 47)
  - (d) she should get a breast enlargement or breast implants; (T. 152-53; Exh. 7, pp. 65-66)
  - (e) she should get a tan, never cut her hair, not gain weight, and that he liked her being very thin; (T. 61-62, 87-88; Exh. 7, p. 65)
  - (f) when he was a teenager, his mother put cream on his back after he had sex with a woman who scratched his back badly; (T. 38; Exh. 7, p. 53)
  - (g) Client A and himself had a really special connection that was existential, and should be acted on; (T. 81-82, 207; Exh. 7, p. 60)
  - (h) she should write her fantasies in a separate fantasy journal, bring them to therapy sessions, and read them aloud to him; (T. 56, 75, 129-33, 159-60, 216-18)
  - (i) his fantasies included: (1) engaging in sexual threesomes that involved Client A having sex with another woman (T. 45, 56, 129); (2) going to a hotel room with Client A and a friend so he could watch them have sex (T. 56); (3) bondage fantasies involved him and Client A (T. 56-57, 128); (4) watching Client A having sex with a large well-endowed man; (T. 57, 132)
26. Dr. Weinberg did not wear shoes during therapy sessions. (T. 142, 209)
27. Dr. Weinberg initiated groin and lap touching with Client A during sessions which involved Client A massaging Dr. Weinberg's feet, Client A and Dr. Weinberg putting their feet in each other's laps and rubbing each other's crotch areas. (T. 59, 209-11, 199-200, 221; Exh. 7, p. 39)
28. On one occasion, Dr. Weinberg inserted his fingers inside Client A's vagina for a few seconds. (T. 60, 118, 199-200; Exh. 7, pp. 44-45)
29. Another time, Dr. Weinberg had shorts on and asked her to touch him in his genital area over his underwear, and she did. (T. 60; 143; Exh. 7, pp. 37, 46)

30. Dr. Weinberg kissed the back of Client A's neck. (T. 60, Exh. 7, p. 43)
31. Dr. Weinberg and Client A never had sex, and he never touched her breasts. (T. 117-18, 187-88)
32. On February 22, 2001, before terminating therapy, Client A wrote to Dr. Weinberg in her journal that she felt betrayed, confused and manipulated by Dr. Weinberg, did not trust him, did not know what his motives were or what to do about their relationship. (Exh 1, pp. 555-56)
33. On February 27, 2001, Dr. Weinberg wrote in his treatment notes that he was comfortable "with her testing out her wings . . ." (Exh. 1, p. 554)
34. Client A never resumed therapy sessions with Dr. Weinberg. (T. 85; Exh. 1)
35. In September, 2001, Dr. Weinberg called Client A and asked her to come to his office, and she did. (T. 86, 166) Dr. Weinberg told Client A he was disappointed that she did not invite him to her graduation form Officer Candidate School. (Exh. 8, pp. 12-13; T. 364-66) He also apologized for his remarks about her breast size during therapy and asked forgiveness because it was Yom Kippur. (Exh. 7, p. 68; Dr. Weinberg told her that he wanted to have a sexual relationship with her. (T. 86-87) Client A refused and left. (T. 88-89)
36. In January, 2004, Dr. Weinberg sent three e-mails to Client A asking her to call him so they could catch up. (Exh. 1, pp. 558-60; Exh. 5, p. 3C; T. 92) Client A ignored Dr. Weinberg's e-mails. (T. 95; Exh. 5, p. 3C) Dr. Weinberg later called Client A and left phone messages asking her to please call him because he would like to see how she was doing. Client A did not return his calls. (Exh. 5, p. 3D; T. 96, 368)
37. Following Dr. Weinberg's attempt to contact her in 2004, Client A filed her complaint with the Board. (T. 93-94, 202-07)

**OPINION AND FURTHER FINDINGS AS TO CREDIBILITY, PROFESSIONALISM  
AND UNETHICAL CONDUCT**

Despite the paucity of information in Client A's intake questionnaire, and her revelations to him regarding her significant mental health history, Dr. Weinberg failed to adequately explore these red flag areas in initial therapy sessions with Client A. As he testified, Dr. Weinberg suspected that Client A's history included possible sexual abuse. Dr. Weinberg, however, chose to ignore this crucial issue altogether in therapy. As the

professional involved in her care, Dr. Weinberg did not discuss with Client A the importance of getting a complete intake history, and did not document a comprehensive treatment plan. His failures to do so were professionally incompetent. One of Dr. Weinberg's expert witnesses, Ms. Hinton, opined that Dr. Weinberg's documentation was adequate for a counselor in private practice as opposed to a counselor in a public mental health system. The Board disagrees. The Professional Counselors and Therapists Act and regulations make no such distinction. All licensed clinical professional counselors are subject to the same standards of care. Even Ms. Hinton, however, stated that she would have documented a more detailed treatment plan and would have assessed Client A's history "differently."

Client A's treatment records were replete with evidence of her troubled history, her dependency, emotional vulnerability, and problems with boundaries, as well as her sexualized idealized transference toward Dr. Weinberg. It was also clear that Client A relied on Dr. Weinberg's knowledge, training and experience as her therapist. The Board disagrees with Dr. Weinberg's experts that Dr. Weinberg helped Client A to contain boundaries or her transference in a competent and ethical manner. Dr. Weinberg did not set limits on Client A's extra appointments with him, allowed her to e-mail him whenever she wanted, and generally made himself readily accessible to her. Dr. Weinberg failed to set up clear parameters, or any protective measures or procedures regarding Client A's long distance counseling by e-mail. Ms. Cody, one of Dr. Weinberg's experts, opined that Dr. Weinberg fostered Client A's dependency by allowing her extra appointments at will.

Regarding fee payment, Dr. Weinberg deviated from his own written office policies, failed to maintain strict billing practices with Client A, allowed her to run a tab

without accruing interest, and simply okayed her proposal regarding her outstanding bills at the end of her therapy. Dr. Weinberg nevertheless insisted, inexplicably, that his failure to adopt and adhere to strict billing practices with Client A was motivated by his compassion as a therapist. The Board rejects Dr. Weinberg's claim. His lax approach to Client A's fee payments not only loosened the necessary therapist-client boundaries but intensified Client A's transference. The Board did not receive Client A's billing records from Dr. Weinberg during its investigation.

Dr. Weinberg's vague treatment notes were insufficient to show how he helped Client A to process her expressed intense feelings towards him as a father, lover, and husband. Client A's treatment record clearly showed that Dr. Weinberg did little to clarify her transference or her confusion. In his testimony, Dr. Weinberg was unable to point to any concrete actions he took to diminish the intensity of Client A's emotions or her obvious transference. The Board agrees with Dr. Piou-Brewer that discussion of Client A's transference and boundary issues was not enough. Dr. Weinberg should have set more strict limits and considered structuring her therapy in a neutral office space separate from his home.

As a seasoned therapist entrusted with Client A's treatment, Dr. Weinberg had an ethical and professional duty not only to discourage and contain her transference, but to take great care not to intensify it. Dr. Piou-Brewer opined that Dr. Weinberg's professional incompetence and unethical behavior fostered the intensity of Client A's transference. The Board agrees. Throughout Client A's therapy sessions, Dr. Weinberg compounded and encouraged her strong feelings and idealization and failed to understand his role as therapist in her healing process.

Dr. Weinberg told the Board investigator that he wouldn't touch Client A's sexual history "with a 10-foot pole." Dr. Weinberg did not dispute, however, that he asked Client A to openly express her fantasy relationship with him, commented on the size of her breasts, and disclosed a sexual threesome incident involving himself and his wife. The Board finds no clinical basis for injecting such unethical and professionally inappropriate sexual discussions into the therapeutic relationship. Given Client A's history of being involved with married men, it was also professionally inappropriate for Dr. Weinberg to simply emphasize that he was married, because it led Client A to focus on him as a married man instead of as her therapist.

Dr. Weinberg also did not dispute that he disclosed information to Client A about Client B, a former client. Dr. Weinberg had no credible explanation for making this disclosure. The Board rejects his claim that a diagnosis of borderline personality disorder was relevant to Client A's case. Even if Dr. Weinberg had clinical concerns regarding Client A, he had a professional and ethical obligation to refer her to a skilled and experienced mental health specialist. Instead, Dr. Weinberg attempted treatment himself because he "had something to prove" to himself regarding his own skills. In the Board's view, Dr. Weinberg's improper revelations reinforced Client A's feelings of being another special client, and intimidated Client A. The Board agrees with Dr. Piou-Brewer that this disclosure was neither helpful nor beneficial in the therapeutic context, and was professionally inappropriate, unethical and without a clinical basis.

At the hearing, Dr. Weinberg contradicted his earlier testimony to the Board investigator and denied that he told Client A to get breast implants. Dr. Weinberg also defended his disclosures about Client B and his sexualized comments about threesomes, Client A's fantasy relationship with him, and her breast size as "clinical

interventions." Dr. Weinberg's treatment notes contain no reference to these so-called "interventions" with Client A. Dr. Weinberg also described his sexual threesome disclosures as "boundary setting," "metaphorical statements," and an "object lesson" for Client A with regard to a security clearance. It strains credulity that such sexually-focused revelations by a therapist to a client could be so construed. The Board rejects Dr. Weinberg's contradictory testimony and his far-fetched therapeutic rationale for these clear violations of the ethical standards of counseling practice.

In the Board's view, Dr. Weinberg's testimony and opinions during direct and cross-examination and to the Board's questions showed an astonishing lack of basic professional competence. His review of Client A's resume, e-mails and correspondence to others fostered her dependency. Dr. Weinberg testified that: he was unconcerned about Client A's non-platonic feelings for him when she wrote about that possibility in her journal; he did not think it unusual to phone Client A and welcome her home from a work trip despite her clearly expressed romantic interest in him; he "felt left out" because Client A did not invite him to her Officer graduation. It was also Dr. Weinberg's opinion that: asking Client A to describe her fantasy relationship with him was not sexually suggestive; his personal disclosure to Client A about his sexual threesome history did not portray him as a sexual being; his comments about the size of Client A's breasts did not indicate to Client A that he saw her as a sexual being; and he did not set himself up as a model when he told Client A that any man she dated had to be as good as him or better. The Board rejects Dr. Weinberg's opinions as implausible and illogical. His statements to Client A not only distorted client-therapist boundaries but showed poor professional judgment.

The record does not support Dr. Weinberg's claims that Client A fabricated her complaint to punish him because she was angry and vengeful. Nor does the record support his claims that he reinforced proper boundaries and rejected Client A. Rather, Client A herself terminated therapy with Dr. Weinberg and never resumed sessions with him despite his attempts to initiate contact with her in 2001 and 2004. Dr. Weinberg pursued Client A by telephone in September, 2001, and after one visit to his office, Client A did not return. Again, in 2004, Dr. Weinberg tried to initiate contact with his former client by e-mail on three occasions. Client A did not respond at all to these invitations, nor did she respond to his subsequent phone calls. Dr. Weinberg's excuses for his attempts to reestablish his relationship with Client A are not credible to the Board. Even if true, his actions would still constitute unethical and unprofessional boundary violations. Dr. Weinberg's overtures to his former client are also utterly inconsistent with his claims that Client A's feelings were unrequited.

Dr. Weinberg's repeated efforts to track down Client A in 2001 and 2004, his request asking her to describe her fantasy relationship with him, and his discussions with her about sexual threesomes and her breast size, exemplify Dr. Weinberg's counter-transference with respect to Client A. Dr. Weinberg's offer to take Client A to and from a medical appointment and his call to welcome her back from a work trip further demonstrate that his counter-transference was a key factor underlying his treatment of Client A. These undisputed facts are utterly at odds with Dr. Weinberg's denial of Client A's other allegations including sexual touching, his sexual and other remarks to her about her physique to her during therapy sessions, their discussions of mutual fantasies and the existence of her sexual fantasy journal. The Board finds that Client A's treatment record does not wholly reflect the reality of what transpired during



Dr. Weinberg's treatment sessions with Client A. Dr. Weinberg's denial of sexual misconduct with Client A is inconsistent with the other proven facts in this case, and is not credible.

Based on Dr. Weinberg's testimony and his expressed opinions, it was clear to the Board that Dr. Weinberg ignored the dynamics of transference and counter-transference and subordinated the emotional needs of Client A to his own self-gratification. Dr. Weinberg had an ethical obligation to refer Client A to another therapist for his own and the client's protection or to seek peer group supervision with colleagues. Moreover, at the time he treated Client A, Dr. Weinberg had the opportunity to avail of the benefit of Board-mandated supervision of his practice. Dr. Weinberg's counter-transference did not excuse Dr. Weinberg's actions or his sexually-oriented conduct with Client A. The Board finds that Dr. Weinberg failed to address his counter-transference in an ethical and competent manner. As the therapist, Dr. Weinberg had the responsibility, power, experience, background and training to recognize his feelings and act appropriately to help himself and his client. He did neither.

In the Board's view, Client A's treatment notes showed that she exhibited the typical ambivalent feelings and thought process associated with a client who has been abused physically or sexually. She continued to attend sessions with Dr. Weinberg despite her misgivings about the sexually-oriented content of her therapy. Dr. Weinberg provided no credible evidence that Client A was having other sexual relationships during her therapy with him.

Client A confided very personal information to Dr. Weinberg from the start of her therapy. Dr. Weinberg's knowledge of Client A's thoughts and emotional reactions to him as her therapist was derived from his professional relationship with her. Client A trusted

Dr. Weinberg to know the right thing to do. Using his information of Client A's abusive past history and her emotional vulnerability, Dr. Weinberg, however, exploited the inherent power differential of the therapeutic relationship. Dr. Weinberg also exploited the knowledge and trust derived from his therapeutic association with Client A, and took advantage of her pathology to gratify his own personal desires. Dr. Weinberg's actions facilitated a dual relationship with Client A and usurped her autonomy.

By confiding details of a sexual threesome with his wife, and by commenting about Client A's breast size, Dr. Weinberg not only injected sexual content into therapy sessions, but sexually exploited Client A. Based on these facts alone, the Board finds that Dr. Weinberg violated the statute and regulations. In addition, Dr. Weinberg engaged in sexual fantasy discussions and sexual contact with Client A. The totality of Dr. Weinberg's sexual misconduct with Client A damaged her interests and welfare, compromised the counseling relationship, and subjected her to further emotional and psychological trauma. Dr. Weinberg's sexual misconduct with Client A was ethically inappropriate, professionally incompetent, predatory, and expressly prohibited by the Board's regulations. Dr. Weinberg's actions violated the Professional Counselors and Therapists Act and the ethical standards of his profession.

#### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, and after considering the entire record in this case, the Board concludes that Dr. Weinberg: entered into a dual relationship with Client A; compromised his counseling relationship with her; subjected Client A to psychological trauma; damaged her interests and welfare; fostered her dependency on him; introduced inappropriate sexual content into the counseling relationship by engaging in inappropriate sexual language, sexual exploitation, sexual harassment,

sexual behavior, and therapeutic deception with Client A, in violation of Md. Health Occ. Code Ann. § 17-313 (4), (7) and (9), and COMAR 10.58.03.02A(5)(1989); COMAR 10.58.03.03A, B(1), E(1), (2), F (2000); and COMAR 10.58.03.04A(14), B(3), 05(A(2)(a),(d), (B(1)(a), 09A, B(1), E, F (2001).

### **SANCTION**

Dr. Weinberg's sexually-oriented behavior towards Client A occurred during the direct, contemporaneous delivery of therapy with her, was unquestionably incompetent, completely unethical, and inherently exploitative. It was incumbent on Dr. Weinberg to recognize the impact of Client A's particular history on her emotional vulnerability and to comply with the ethical guidelines of the American Counseling Association and the Board's Code of Ethics. Dr. Weinberg instead exploited the opportunity created by the therapeutic alliance with his client and violated the Professional Counseling and Therapists' statute and regulations. His incompetent and unethical management of Client A's transference and his own counter-transference was truly egregious.

Dr. Weinberg's professional counseling license confers no entitlement to use his counseling practice as a springboard to personal or sexual relationships. Nor does Dr. Weinberg's license grant a privilege to indulge in therapy geared to his own sexual gratification. Dr. Weinberg's injection of sexual content into his therapeutic discussions with Client A was inimical to ethical standards of counselor behavior, and dishonors the reputation of the great majority of counselors in the State who practice with integrity.

From the facts of this case, it is obvious that the Board's prior intervention did not substantially alter Dr. Weinberg's unethical conduct or improve his deficient professional judgment. The Board finds it alarming that Dr. Weinberg, after receiving supervision of his practice and completing the educational conditions of his Consent Agreement in

2000 and 2001, would engage in serious errors of professional judgment and in outright sexual misconduct with a female client. There is no reason to believe that similar Board action would deter Dr. Weinberg from future sexual exploitation of clients. His disregard of Client A's obvious risk factors highlights Dr. Weinberg's inability to operate in accordance with Maryland law.

As a professional counselor licensed by the Board, Dr. Weinberg is subject to the standards and policies adopted by the Board and embodied in the law and regulations. The Board's compelling interest in client safety and in the integrity of the profession in Maryland requires that the Board protect clients from similar predatory conduct and exploitation by counselors and therapists. To safeguard counseling clients in the State of Maryland, the Board will revoke Dr. Weinberg's professional counseling license.

**ORDER**

It is this 20<sup>th</sup> day of April, 2007, by a majority of the members of the Board:

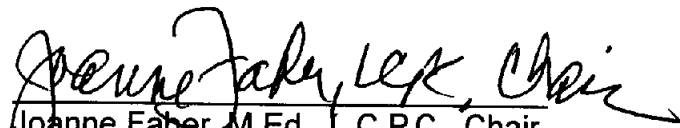
**ORDERED** that the Board's charges against Gary L. Weinberg, Ph.D., L.C.P.C., License No. LC1132, under Md. Code Ann., HO § 17-313 (4), (7) and (9), and COMAR 10.58.03.02A(5)(1989); COMAR 10.58.03.03A, B(1), E(1), (2), F (2000); and COMAR 10.58.03.04A(14), B(3), 05(A(2)(a),(d), (B(1)(a), 09A, B(1), E, F (2001), be **UPHELD**; and it is further

**ORDERED** that the license of Gary L. Weinberg, Ph.D., L.C.P.C., License No. LC1132, be **REVOKED** under Md. Health Occ. Code Ann. § 17-313, beginning **twenty-one (21) days** from the execution of this Final Decision and Order; and it is further

**ORDERED** that this is a Final Order and as such is a **PUBLIC** document pursuant to Md. State Gov't Code Ann. §§ 10-611 et seq. (1999 Repl. Vol.)

4/20/2007

Date



Joanne Faber, M.Ed., L.C.P.C., Chair  
Maryland State Board of Professional  
Counselors and Therapists

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Health Occ. Code Ann. § 17-315, Dr. Weinberg has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann., § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Dr. Weinberg files an appeal, the Board is a party and must be served with the court's process. In addition, Dr. Weinberg is requested to send a copy to the Board's counsel, Noreen M. Rubin, Esq., at the Office of the Attorney General, 300 W. Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is no longer a party to these proceedings at this point and need not be served or copied.