

**BEFORE THE BEHAVIORAL HEALTH PROFESSIONALS BOARD
OF THE STATE OF IOWA**

IN THE MATTER OF

**JAMES WAGNER
402 W. 19th Street
South Sioux City, NE 68776**

RESPONDENT

CASE NO.: 23-0239

**VOLUNTARY SURRENDER OF
LICENSE THROUGH CONSENT
ORDER**

COME NOW the Iowa Behavioral Health Professionals Board (“Board”) and James Wagner (“Respondent”), and enter into this Voluntary Surrender of License through Consent Order (“Voluntary Surrender”) pursuant to Iowa Code §§ 17A.10(1) and 272C.3(4).

A. JURISDICTION AND BACKGROUND

1. **Iowa License.** Respondent was issued Iowa mental health counselor license no. 00771 on December 11, 2001. Respondent’s Iowa mental health counselor license will next expire on September 30, 2024.
2. **Jurisdiction.** The Board has jurisdiction in this matter pursuant to Iowa Code § 154D.

B. STATEMENT OF CHARGES

COUNT I

3. Respondent is charged under 645 IAC 33.1(1) with failure to comply with the American Counseling Association Code of Ethics.

COUNT II

4. Respondent is charged under 645 IAC 33.2(29)(2) with unethical conduct, specifically with making suggestive, lewd, lascivious, or improper remarks or advances to a client.

C. FACTUAL CIRCUMSTANCES

5. On or about the date of May 15, 2023, a patient ("Patient") of the Respondent's contacted Seasons Behavioral Health Center ("Seasons") in Spencer, Iowa. Patient related to staff at Seasons that she had been contacted by Respondent on multiple occasions via text message communication. Patient provided the text message communications to Seasons. Subsequent investigation revealed that the content of these communications was romantic or sexual in nature.

D. SETTLEMENT AGREEMENT

6. Without admission of wrongdoing, Respondent does not contest the violations alleged in the above-stated statement of charges.

7. Respondent acknowledges that they have a right to a hearing before the Board on the merits of the charges. By freely and voluntarily entering into this Voluntary Surrender, Respondent waives their right to a hearing and all attendant rights, including the right to seek judicial review. This Voluntary Surrender constitutes the final agency order in this contested case.

8. Respondent agrees that the Assistant Attorney General may present this Voluntary Surrender to the Board of Behavioral Health Professionals and may have *ex parte* communications with the Board of Behavioral Health Professionals while presenting it. Respondent waives any right of notice of this meeting or any right that the Respondent might have to participate in the discussion of this Voluntary Surrender among the Board of Behavioral Health Professionals and the Assistant Attorney General.

9. This Voluntary Surrender shall be part of the disciplinary record and permanent licensure file of Respondent and shall be considered by the Board of Behavioral Health Professionals in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations of the laws and rules governing the practice of mental health counseling by the Respondent.

10. Respondent shall at all future times fully and promptly comply with all pertinent orders of the Board and the statutes and Board rules regulating the practice of the Board of Behavioral Health Professionals. Failure to comply with the terms of this Voluntary Surrender shall be *prima facie* evidence of a violation of Iowa Code § 272C.3(2)(a) and shall be grounds for further disciplinary action. However, no action may be taken against Respondent for violations of this Voluntary Surrender without a hearing, or waiver of hearing.

11. This Voluntary Surrender is not binding on Respondent or the Board of Behavioral Health Professionals until it has been formally approved by a majority of the Board of Behavioral Health Professionals members.

(a) In the event that this Voluntary Surrender is rejected by the Board of Behavioral Health Professionals it shall be of no force or effect to either party and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Board of Behavioral Health Professionals approves this Voluntary Surrender, it shall fully dispose of all issues in this case.

13. Upon acceptance by both the Board and Respondent, this Voluntary Surrender shall be a public record available for inspection and copying in its entirety in accordance with the requirements of Iowa Code § 22.

14. Respondent understands that the Board will report this matter to the National Practitioner Databank.

15. Respondent shall submit a copy of this Voluntary Surrender to all licensing boards where Respondent holds a license, whether active or not, within **THIRTY days** of the date of the Board approval of this Voluntary Surrender.

CONSENT ORDER

IT IS THEREFORE ORDERED:

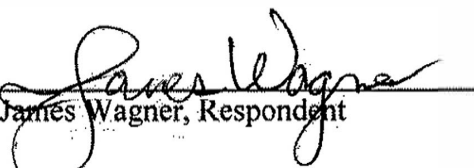
A. VOLUNTARY SURRENDER: The Respondent voluntarily agrees to surrender his Iowa License no. 00771 to the Iowa Board of Behavioral Health Professionals as sanction for the above-admitted violation. The effective date of the license surrender shall be the date this Voluntary Surrender is accepted by the Board.

B. LICENSEE REAPPLICATION: Reinstatement of Respondent's Iowa license shall be governed by Iowa Code § 272C.15. Respondent specifically acknowledges that pursuant to this agreement, Respondent shall not be eligible to seek reinstatement of their license for a minimum of one year from the date his license surrender is effective.

WHEREFORE, the terms of this Voluntary Surrender of License through Consent Order is agreed to by the Iowa Board of Behavioral Health Professionals and Respondent.


FOR THE RESPONDENT:

Voluntarily agreed to and accepted by James Wagner on this 25 day of September, 2024.


By: James Wagner, Respondent

FOR THE IOWA BOARD OF BEHAVIORAL HEALTH PROFESSIONALS:

Voluntarily agreed to and accepted by the **IOWA BOARD OF BEHAVIORAL HEALTH PROFESSIONALS** on this 12th day of December, 2024

Signed by:

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Aaron Culley, Chair
Iowa Board of Behavioral Health Professionals