

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
BOARD OF LICENSED
PROFESSIONAL COUNSELORS

IN THE MATTER OF:)
)
JERRY EARNHARDT, LPC)
Respondent.)

CONSENT ORDER

THIS CAUSE, coming on to be heard and being heard before the North Carolina Board of Licensed Professional Counselors ("the Board"), at its meeting on MAR 12, 2013, pursuant to a charge letter issued by the Ethics Review Committee of the Board on March 18, 2013, which is now pending; and

IT APPEARING to the Board that the Respondent has stipulated to certain facts and to the entry of a Consent Order in conformity therewith;

IT IS HEREBY STIPULATED by the undersigned Respondent and the Board that:

1. Respondent was at all times relevant to this cause a licensed professional counselor and is subject to the Board's jurisdiction pursuant to the North Carolina Licensed Professional Counselors Act, Chapter 90, Article 24 of the North Carolina General Statutes.
2. Respondent became an applicant for licensure with this Board on or about January 4, 1996, and was licensed as an LPC on February 20, 1999. During 1998, Respondent began providing professional counseling services to patient X, who was 16 years of age at that time. Some of the issues that Respondent worked on with patient X during treatment included sexual abuse, which began when she was 5 years of age.
3. Respondent met with patient X once a week and sometimes every other week for counseling sessions. In the Fall of 1999, when patient X moved away to attend college three hours away, Respondent would visit her on a weekly basis and continued to provide her with counseling services. Around Christmas 1999, Respondent began engaging in sexually inappropriate contact with patient X during counseling sessions with her. In addition to counseling sessions, Respondent and patient X communicated using instant messaging.
4. In 2000-2001, Respondent and his wife relocated to the town where patient X was attending college and Respondent continued counseling patient X and engaging in a sexually intimate relationship with her. Respondent would also leave gifts and cards for her on her car and left her several voice mail messages daily. Patient X attempted to end the relationship with Respondent, but Respondent would not let her.
5. In September 2003, patient X moved to another State and she wrote to Respondent ending all communication. When patient X moved away she entered into a residential treatment program and

Respondent wrote a letter to the program as her LPC. In the letter, Respondent provided a summary of counseling for patient X, stating that the dates of counseling were from 3/98 through 12/99, and Respondent provided a diagnosis for patient X. Respondent did not create any records of his counseling services to patient X.

6. Respondent contends that he was not engaged in the practice of counseling as an LPC with patient X, but served as her pastor. He does not deny that a sexually intimate relationship took place between himself and patient X.

7. Respondent admits that his conduct violates the following sections of the American Counseling Association Code of Ethics (1995), which were in effect during his treatment of patient X: A 7a, A 7b, B 4a., and violations of N.C. Gen. Stat. § 90-340(3) & (8) (1993) of the Licensed Professional Counselors Act.

8. The Board and Respondent wish to avoid the time and the costs associated with full litigation of this matter and, in lieu of any proceedings, enter into this Consent Order.

9. Respondent expressly waives notice of hearing, a hearing, the making of findings of fact and conclusions of law, and all further proceedings before the Board to which the Respondent may be entitled by law. Respondent further agrees that presentation of this Consent Order to the Board for approval shall not constitute improper ex parte communication between the Board and its counsel, or the Board and its staff, nor require the recusal of the members of the Board from consideration of this matter before the full Board, should a hearing be required in this case.

10. Respondent forever releases the State of North Carolina, the North Carolina Board of Licensed Professional Counselors, and all its members, officials, agents, representatives and employees, both past and present, in their individual or official capacities from any and all liability, suits, claims, and causes of action, arising prior to or as a result of the execution of this Consent Order.

11. Respondent waives the right to seek judicial review or to otherwise challenge the validity of this Consent Order in any court. Respondent understands and agrees that this Consent Order shall be effective only after approval by the full Board and signature of its Chairperson.

12. This Consent Order contains the entire agreement between the undersigned, there being no agreement of any kind, verbal or otherwise, which varies, alters, or adds to this Consent Order.

Based upon the record and the foregoing stipulations,

NOW, THEREFORE IT IS HEREBY ORDERED as follows:

I. The license of the Respondent, Jerry Earnhardt, is hereby SUSPENDED for one year beginning on August 1, 2013.

II. On August 1, 2013, Respondent shall terminate services to all of his patients/clients and make provisions for the appropriate transition of his patients/clients to another therapist, as appropriate. Respondent shall also cease to engage in any other activities that meet the definition of the practice of counseling in N.C. Gen. Stat. § 90-330(a)(3), including the supervision of any other professionals that are engaged in activities that meet the definition of the practice of counseling. Respondent shall provide a signed affidavit (a written statement made under oath or affirmation taken before a person having authority to administer such oath or affirmation) to the Board no later than August 15, 2013, attesting that on August 1, 2013, he terminated and transferred all of his patients/clients and terminated supervision with all of his supervisees. He shall further attest that he is no longer engaged in the practice of counseling in any way.

III. During the suspension of Respondent's license he shall undergo a fitness for practice evaluation by a Board designated evaluator. Once the evaluation is complete, the Board, within its discretion, based upon the evaluation report, will determine whether to place additional conditions on Respondent's license during the Probationary period set forth in Roman Numeral V. All costs associated with this fitness for practice evaluation shall be borne by Respondent. The fitness for practice evaluation must be completed during the one year suspension, otherwise the suspension shall remain in effect until it is completed.

IV. During the suspension of Respondent's license, Respondent shall complete 6 hours of continuing education in the area of ethics. Respondent shall not begin this coursework until it is approved by the Board. Upon successful completion of this continuing education coursework, Respondent shall submit a certification of completion provided by the continuing education sponsor to the Board. This requirement shall be in addition to the continuing education coursework required for all licensees under Board rule. All costs associated with this continuing education shall be borne by Respondent.

V. Once the suspension is lifted, Respondent may resume the practice of counseling, and his license shall be on PROBATION for a one year period during which he shall successfully complete the following:

A. For a period of one year, Respondent shall be supervised by a Board approved supervisor, with whom he has no pre-existing relationship, for one hour of individual face to face supervision no less than on a bi-weekly basis. The purpose of this supervision shall be to monitor Respondent's supervision of his supervisees and to monitor his practice and to ensure that he conducts himself in accordance with the ACA Code of Ethics and the NC Licensed Professional Counselors Act. Respondent must file a supervision contract and the supervisor must be approved by the Board prior to the beginning of supervision. Respondent's Board approved supervisor shall file quarterly supervision reports with the Board. At the conclusion of the one year of supervision, Respondent's Board approved supervisor shall submit a Final Supervision Report to the Board. Respondent must receive at least average ratings from his supervisor in all of the supervision reports in order to be released from the supervision. If his ratings are not at least average, the period of time for which he did not receive average ratings shall not count toward the one year period of

supervision, and he shall continue in supervision until he receives at least average ratings for one year. At the conclusion of the one year of supervision, so long as Respondent's ratings are average or above on all supervision reports, the Board Chair shall provide him with written approval of his release from supervision. Any costs and associated expenses of this supervision shall be borne by the Respondent.

B. The Board may require additional conditions, within its discretion, based upon the fitness for practice evaluation.

VI. If the fitness for practice evaluator finds that Respondent is not fit to practice, then the Board may revoke Respondent's license. Respondent shall be entitled to a hearing to contest such revocation.

VII. Upon successful completion of the conditions of probation set forth in Roman Numeral V A and B, Respondent shall be released from probation by the Board.

VIII. The failure of Respondent to abide by any provisions of this Consent Order, if proven true by a preponderance of the evidence following notice and an opportunity for hearing, shall result in the suspension, revocation, or other disciplinary action against Respondent's license, in the discretion of the Board.

IX. The Board shall maintain this Consent Order as a public record pursuant to N.C. Gen. Stat. §§132-1 and 90-340(f) and shall provide copies to the American Counseling Association and the National Board of Certified Counselors, and to other agencies or individuals as required by law.

This the 12 day of June, 2013.

CONSENTED TO BY:

NORTH CAROLINA BOARD OF
LICENSED PROFESSIONAL COUNSELORS

BY:

[Signature]
Denuvo Robinson, Ph.D., LPC date
Board Chairperson

[Signature] Jerry Eamhardt, LPC 6/7/13
Jerry Eamhardt, LPC date
Respondent

[Signature] 6/10/2013
Robert O. Crawford date
Crawford & Crawford
Attorney for Respondent