

FILED

July 17, 2008

STATE OF NEW JERSEY
BOARD OF MARRIAGE AND FAMILY THERAPY EXAMINERS
ALCOHOL AND DRUG COUNSELOR COMMITTEE

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
ALCOHOL AND DRUG COUNSELOR COMMITTEE
OF THE STATE BOARD OF MARRIAGE AND
FAMILY THERAPY EXAMINERS

IN THE MATTER OF THE	:	
APPLICATION OF	:	Administrative Action
JOHN CONWAY	:	
	:	FINAL ORDER OF DENIAL
FOR LICENSURE TO PRACTICE	:	OF LICENSURE
ALCOHOL AND DRUG COUNSELING	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened before the Alcohol and Drug Counselor Committee of the New Jersey State Board of Marriage and Family Therapy Examiners (hereinafter "the Committee"), upon receipt of a complaint that John Conway, the applicant, engaged in professional and sexual misconduct and engaged in conduct beyond the scope of alcohol and drug counseling. The Committee has carefully reviewed John Conway's application for initial licensure and all relevant documentation submitted, including but not limited to the testimony before the Committee of E.S. on August 24, 2007, Andrew Raizin, M.D. on September 21, 2007, the applicant on October 26, 2007, and client records, billing statements, checks and e-mail correspondence, a letter from his attorney dated March 25, 2008 and a letter from Elaine DeMars, Executive Director, dated April 25, 2008. The Committee makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. John Conway submitted an application for licensure as a clinical alcohol and drug counselor on or about March 26, 2004 pursuant to the "Grandfather Provision."

2. Respondent was certified by the Addiction Professionals Certification Board of New Jersey (APCBNJ) to perform alcohol and drug counseling in New Jersey from May 27, 1998 to May 27, 2000.

3. Respondent has been certified to practice alcohol and drug counseling in New York from 1984 until the present.

4. Respondent works at Northern Valley Associates, 401 Washington Avenue, Dumont, New Jersey 07628, is the sole owner and lists himself as a therapist.

5. Respondent admitted that he has treated clients who did not present with addiction related issues.

6. Respondent was supervised by Dr. Andrew Razin, M.D., Consulting Psychiatrist from 1992 until April 2007 and then was supervised by Susan Braun, LPC, CSW, LCADC.

7. On April 7, 2004 respondent was advised by the Committee by letter that he did not qualify for licensure or certification pursuant to the "Grandfather Provision," N.J.A.C. 13:34C-2.1(b) and (c), because he was not certified in New Jersey on or before January 9, 1998. Respondent was advised that he could apply for licensure or certification pursuant to the regular application process. N.J.S.A. 45:2D-4, N.J.S.A. 45:2D-5, N.J.A.C. 13:34C-2.2, N.J.A.C. 13:34C-2.3

8. Respondent did not submit an application pursuant to N.J.S.A. 45:2D-4 or N.J.S.A. 45:2D-5, the regular application process.

9. Respondent admitted that from 2000 until the present he has not held any license or certification authorized by law to engage in mental health counseling and/or alcohol and drug counseling in the State of New Jersey.

10. Respondent admitted that he treated E.S. individually from February 19, 1997 until August 2005 and during February 2007.

11. Respondent admitted he also treated E.S. for a short time during 2005 in couples therapy with E.S.'s wife, F.F.

12. Respondent admitted that he treated E.S. for a depression disorder when E.S. did not have addiction related issues.

13. Respondent admitted E.S. paid for each session with respondent. The payments were payable to "NVA" (Northern Valley Associates).

14. Respondent admitted he also treated E.S.'s minor daughter, M.S.

15. Respondent admitted M.S. did not have any addiction related issues.

16. Respondent admitted he charged a fee for treatment sessions with M.S.

17. Respondent admitted he also treated F.F., (wife of E.S.) individually, for a depression disorder.

18. Respondent admitted F.F. did not have any addiction related issues.

19. Respondent admitted F.F. paid for sessions with respondent.

20. Respondent admitted that during his treatment sessions with F.F., he discussed his personal life.

21. Respondent admitted that during the time he was treating F.F., he met her on "a purely social level."

22. Respondent admitted he sent F.F. romantic e-mail messages.

23. Respondent admitted he engaged in a sexual relationship with F.F.

24. Respondent admitted he engaged in sexual intercourse with F.F. four or five times in his office.

25. Respondent admitted during the period he treated E.S. and his family members, he went out socially with E.S. and his wife, F.F.

26. Respondent admitted he did not have his clients sign any documents acknowledging that his practice was being supervised.

CONCLUSIONS OF LAW

Respondent knowingly engaged in the unlicensed practice of alcohol and drug counseling by continuing to practice for years after his Addiction Professionals Certification Board of New Jersey (APCBNJ) certification had expired on May 27, 2000 and without the benefit of a New Jersey license or certification to engage in mental health therapy and/or alcohol and drug counseling, in violation of N.J.S.A. 45:2D-8. Respondent was advised by letter, dated April 7, 2004 that he did not qualify for licensure pursuant to the "grandfather provision" and that he could apply through the normal application process. However, respondent failed to submit an application for licensure through the normal application process. Despite notice from the Committee that respondent was not qualified for licensure pursuant to the "grandfather provision" and respondent's own failure to submit an application for licensure pursuant to the normal application process, respondent knowingly continued to engage in the unlicensed practice of mental health therapy in a private practice setting absent any New Jersey mental health therapy license, certification or authorization. Exacerbating the unlicensed practice was his conduct beyond the scope of practice

of a licensed alcohol and drug counselor, sexual misconduct with a client and multiple boundary violations.

At a time when respondent's certification from a professional association in New Jersey had expired and after respondent was denied licensure pursuant to the "grandfather provision," and without any other mental health license or certification as required by law, respondent engaged in what would be professional misconduct for a licensee by diagnosing or treating non-addiction related mental health disorders in a private practice. Such conduct in and of itself provides grounds for the denial of licensure and/or certification to practice clinical alcohol and drug counseling as these acts if conducted by a licensee would constitute gross negligence, repeated acts of negligence, professional misconduct and are acts relating adversely to the practice of alcohol and drug counseling in violation of N.J.S.A. 45:1-21(c), (d), (e) and (h), N.J.S.A. 45:2D-8 and N.J.A.C. 13:34C-1.8(b)3, 4 and 5ii.

Furthermore, this respondent has admitted under oath that he engaged in a sexual and romantic relationship with a client, while he was treating her, as well as numerous boundary violations by socializing with clients and sending romantic e-mail correspondence to a client which for a licensee would be a violation of N.J.A.C. 13:34C-3.3(b), (c) and (f). Additionally respondent failed to terminate treatment with F.F. when he was discussing his own personal problems during therapy and it was apparent that the therapeutic relationship no longer served the needs of the client. The respondent's admitted acts violate every ethical code and standard of conduct for a licensee. The negative impact of his behavior is

aggravated by knowingly practicing absent a license or certification. Sexual contact between a current client undermines the very foundation of the therapeutic relationship.

Respondent is not qualified for licensure pursuant to the "grandfather provision." N.J.S.A. 45:2D-16(c) and N.J.A.C. 13:34C-2.1. In order to qualify for licensure pursuant to the "grandfather provision," an applicant was required to have practiced as an alcohol and drug counselor for at least five (5) years and be certified in New Jersey by the Alcohol and Drug Counselor Certification Board of New Jersey, Inc. (APCBNJ) as an alcohol and drug counselor on the enactment date of the Act. N.J.S.A. 45:2D-16(c). The enactment date was January 9, 1998. N.J.A.C. 13:34-1.2. Respondent by his own admission acknowledges that he was first certified in New Jersey on May 27, 1998 and was not certified on January 9, 1998.* Accordingly, he did not qualify for licensure pursuant to the "grandfather provision." Despite notification from the Committee, respondent did not submit an application pursuant to N.J.S.A. 45:2D-4 or N.J.S.A. 45:2D-5, the regular application process.

Although there is no entitlement to a hearing before the issuance or denial of an alcohol and drug counselor license or certification [Valdes v. New Jersey State Bd. of Medical Examiners,

*Although respondent has asserted that he was certified as an alcohol and drug counselor in New York since 1984, the "grandfather provision" of the New Jersey Act states that an applicant had to be certified in New Jersey by the Alcohol and Drug Counselor Certification Board of New Jersey, Inc. as an alcohol and drug counselor on the enactment date of the Act.

205 N.J.Super. 398, 405 (App. Div. 1985)], Mr. Conway did appear before the Committee, with counsel, Robert J. Conroy, Esq., on October 26, 2007 and had an opportunity to be heard and to give testimony, including an opportunity to submit additional information that he wished the Committee to consider. Additionally, after the filing of the Provisional Order of Denial he was provided with another opportunity to submit additional documentation for consideration by the Committee. Respondent merely submitted a two paragraph letter from his attorney denying the form of the allegations, requesting a hearing and failed to provide any additional documentation for consideration by the Committee. On March 25, 2008 the Executive Director on behalf of the Committee sent respondent's attorney a letter offering respondent an additional ten (10) days to submit additional documentation to the Committee. Respondent chose not to submit any additional information to the Committee.

DISCUSSION

As the legislature has stated, the profession of alcohol and drug counseling profoundly affects the lives and public safety of the people of the State of New Jersey. N.J.S.A. 45:2D-2. Therefore the public interest requires the establishment of professional licensing and certification standards to protect the citizens of the State. Licensing and certification provides assurance that professionals engaged in alcohol and drug counseling meet acceptable standards of

education, experience, ethics and competency in practice which promotes quality treatment and rehabilitation for drug and alcohol abuse clients.

Respondent has admitted that he engaged in a sexual relationship with a client, in the office setting, in the context of treatment, and demonstrated insensitivity to numerous boundary violations. He has also admitted engaging in the unlicensed practice of alcohol and drug counseling, as well as, practicing beyond the scope of practice for an alcohol and drug counselor by treating clients who did not have addiction related issues. Such egregious conduct demonstrates that the respondent should not be allowed to provide counseling services to vulnerable clients. Further when notified that he did not qualify pursuant to the "grandfather provision," he chose not to submit an application pursuant to the normal application process, N.J.S.A. 45:2D-4 and/or N.J.S.A. 45:2D-5. Yet respondent blatantly continued to flout the licensing laws and continued to practice in New Jersey without a New Jersey license or certification.

Not only did he continue to practice alcohol and drug counseling and mental health counseling in the State of New Jersey after he was notified by the Committee on April 7, 2004 that he was not qualified for licensure, during the period of unauthorized practice of alcohol and drug counseling and mental health therapy, he engaged in grossly inappropriate conduct. During respondent's testimony before the Committee on October 26, 2007 he admitted that he engaged in numerous

boundary violations and sexual contact with client F.F., yet he failed to take responsibility for his conduct and testified that he had a personal and business relationship with client F.F. Respondent failed to express remorse for his misconduct and failed to demonstrate an understanding of the significance of the damage to the client caused by the numerous boundary violations and sexual conduct. In addition to respondent's lack of insight or remorse, respondent further failed to demonstrate that he was in treatment, had taken any steps to rehabilitate himself or engage in additional professional training.

On February 14, 2008 the Committee filed a Provisional Order of Denial of License ("POD"). Respondent's attorney, Robert J. Conroy, Esq., submitted a two paragraph response, dated March 25, 2008 which denied "in the form alleged all of the allegations contained in the POD and hereby request(ed)" a hearing for respondent. Respondent submitted no other information or any rationale as to why the Committee's provisional findings of fact and conclusions of law were not valid.

On April 15, 2008 the Executive Director sent respondent's attorney a letter stating that the Committee had reviewed his March 25, 2008 letter. The Executive Director's letter advised the respondent that "there is no specific statutory entitlement to a hearing before the issuance or denial of an alcohol and drug counselor license or certification." The letter further advised that

the Order was subject to finalization on the 30th business day following entry of the Provisional Order of Denial unless the respondent requested modification or dismissal of the Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal to the Committee, setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting the applicant's request for consideration and reasons therefor or in mitigation of the terms in the Provisional Order of Denial. The April 25, 2008 letter further stated that counsel's March 25, 2008 letter did not set forth any reason why the findings and/or conclusions should be modified or dismissed and did not include any documents or written evidence supporting a request for consideration and/reasons therefor or in mitigation of the proposed Order or any information that would cause the Committee to engage in further proceedings. The letter provided respondent with an additional ten (10) days to provide a response and documentation. The Committee did not receive any correspondence or any additional documentation from respondent in response to the April 25, 2008 letter. In the present matter, there are no mitigating circumstances. Respondent was not licensed to practice in New Jersey, treated clients that were not within the scope of practice for an alcohol and drug counselor and took advantage of client F.F.

for his own sexual and personal gratification while she was still his client.

The Committee is bound to protect the vulnerable consumer from an unlicensed individual whose judgment is so flawed as to blatantly practice unlicensed and in the context of that practice to abuse the client's trust of a therapist by engaging in a sexual relationship with a client and treating beyond the scope of the practice Act.

The within Order provides respondent an opportunity to reapply for licensure or certification in the future through the regular process upon demonstration of rehabilitation and competence.

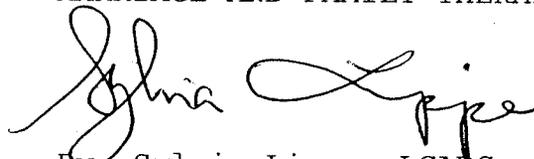
ACCORDINGLY, IT IS on this 17th day of July 2008,

ORDERED THAT:

1. Respondent's application for licensure to practice clinical alcohol and drug counseling in the State of New Jersey is denied.
2. Respondent shall immediately cease and desist from offering or engaging in alcohol and drug counseling and/or mental health counseling, in violation of N.J.S.A. 45:2D-8 unless and until he is licensed or certified by the Committee or otherwise licensed or certified in the State of New Jersey to provide mental health counseling.
3. The Committee shall not entertain an application pursuant to N.J.S.A. 45:2D-4 or N.J.S.A. 45:2D-5 for licensure or certification pursuant to the regular application process from the

respondent for a period of three (3) years. Such application shall affirmatively demonstrate clear and convincing evidence of rehabilitation and that respondent is competent to practice alcohol and drug counseling in the State of New Jersey. Respondent shall certify that during the three (3) year period he has not engaged in any mental health and/or alcohol and drug counseling in any setting or jurisdiction. The application shall include an up-to-date report, signed and dated by a mental health professional pre-approved by the Committee (with copy of the mental health professional's curriculum vitae) who was respondent's treating mental health professional regarding a clinical opinion that applicant is fit and able to re-enter the practice of alcohol and drug counseling. Respondent shall also provide evidence that he is competent to practice alcohol and drug counseling.

ALCOHOL AND DRUG COUNSELOR COMMITTEE
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MARRIAGE AND FAMILY THERAPY EXAMINERS

A handwritten signature in cursive script, appearing to read "Sylvia Lippe".

By: Sylvia Lippe, LCADC
Committee Vice-Chair