

BOARD OF MARRIAGE AND FAMILY
THERAPY EXAMINERS
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FILED

11/14/02 DEY

*complaint#
20373*

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MARRIAGE AND FAMILY
THERAPY EXAMINERS

IN THE MATTER OF :

NINITA L. BIRBILIS :

Unlicensed to Practice in: :
the State of New Jersey :

Administrative Action
CONSENT ORDER

This matter was opened to the State Board of Marriage and Family Therapy Examiners ("Board") upon information which disclosed that Ninita Birbilis ("respondent") has been engaged in providing unlicensed psychotherapy services in New Jersey in an independent private practice since approximately 1993. On May 9, 2002, respondent and her counsel, George Horiates, Esq., appeared before the Board for an investigative inquiry.

Respondent admitted that she has been offering and providing marital and family therapy to individuals, couples, and families in a for-profit, private practice setting in New Jersey since 1993. Respondent stated that she sees approximately ten clients a week

for sessions lasting fifty to sixty minutes. For the record, respondent identified her appointment card (Exhibit 1) which states "Marital & Family Therapist" underneath her name; her letterhead stationary (Exhibit 2) which states "Certified Family Therapist" underneath her name; and her Intake Form (Exhibit 3) which respondent fills out for each client, including "Diagnosis" and "Treatment Plan". Respondent admitted that she provides clients with bills/receipts for marital and family therapy service (Exhibit 4); and on the bill/receipts, she assigns a diagnostic code and a "CPT" code. Last, respondent identified six client records (Exhibit 5-Exhibit 10), each record being composed of progress notes describing months of therapy provided by respondent.

Respondent informed the Board that she does not hold any professional license or certification in the State of New Jersey nor in any other state. Despite this fact, respondent has offered and provided marriage and family therapy for approximately ten years. In her testimony, respondent attempted to characterize the service she provides as "coaching" rather than "therapy". The Board found respondent's claim to be in direct contradiction to the weight of the evidence. Changing the label for particular conduct does not change the substantive nature of the conduct; and respondent has clearly been engaged in the unlicensed practice of marriage and family therapy.

Pursuant to N.J.S.A. 45:8B-1, the Legislature declared that the practice of marriage and family therapy affects the public

safety and welfare; and therefore, is subject to regulation and control to protect the public, in part, from unauthorized and unqualified practice. Upon review of the entire record, including respondent's testimony, the Board finds that respondent is engaged in the unlicensed practice of marriage and family therapy in violation of N.J.S.A. 45:8B-5.

It appearing that the respondent desires to resolve this matter without further proceedings, and the Board finding the entry of the Consent Order to be in the public interest,

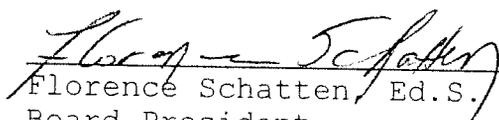
IT IS ON THIS *14th* DAY OF *November* 2002,

HEREBY ORDERED AND AGREED THAT

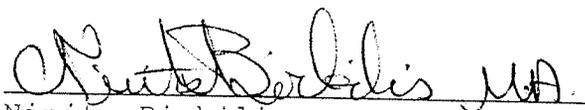
1. Respondent agrees to come under the jurisdiction of the Board in this matter.
2. Respondent shall immediately cease and desist from any conduct in violation of N.J.S.A. 45:8B-1 et seq. and N.J.A.C. 13:34-1.1 et seq.
3. Respondent shall be required to divest herself as owner of her private practice of marital and family therapy in full compliance with the attached directives which are incorporated in full hereto.
4. Respondent is hereby assessed a civil penalty in the amount of ten thousand dollars (\$10,000.00) for practicing marriage and family therapy without a license.
5. Respondent shall pay the costs of the investigation of this matter in the amount of four hundred dollars (\$400.00).

6. Respondent shall pay the above penalty and costs, totaling ten thousand, four hundred dollars (\$10,400.00), in twenty (20) monthly installments with each monthly installment being in the amount of five hundred and twenty dollars (\$520.00) per month. The first payment shall be due by the first day of the month following the entry of the within Consent Order, and all subsequent payments are due every month on or before the first day of the month until the total amount is paid. All payments shall be by certified check or money order, payable to the State of New Jersey, and sent to Dennis Gonzalez, Executive Director, State Board of Marriage and Family Therapy Examiners, 124 Halsey Street, Sixth Floor, New Jersey 07101. If any payment is not timely, the full amount shall become immediately due and payable.

STATE BOARD OF MARRIAGE AND
FAMILY THERAPY EXAMINERS


Florence Schatten, Ed.S.
Board President

I have read the within Consent Order and understand its terms. I hereby consent to its entry and to be bound by the Consent Order's terms.


Ninita Birbilis

DIRECTIVE REGARDING FUTURE ACTIVITIES
OF RESPONDENT AND USE OF THE PROFESSIONAL PREMISES

Respondent shall conduct herself as follows:

- 1) Desist and refrain from any practice contrary to N.J.S.A. 45:8B-1 et seq. and N.J.A.C. 13:34-1.1 et seq. in any form, including as principal or as employer or as employee or agent of a licensee or other health care provider.
- 2) Inform each patient of the cessation of therapy services by respondent. When a new licensee is selected by a patient, the respondent shall promptly make available the original or a complete copy of the existing patient record to the new licensee. If no new licensee is selected, the record shall be made available to the patient.
- 3) Desist and refrain from furnishing professional therapy services, giving a professional opinion as to the practice of therapy or its application or any advice with relation thereto; from holding herself out to the public as being entitled to practice or in any way assuming to be a practicing professional such as a marriage and family therapist, social worker, professional counselor, psychologist, psychotherapist, psychoanalyst, or other mental health care worker; or from advertising or writing in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice therapy/counseling. This prohibition includes refraining from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing. This prohibition further shall include the preparation of any report or appearance before any court or tribunal as an expert witness. This prohibition does not include any experience required for licensure as a marriage and family therapist pursuant to N.J.S.A. 45:8B-1 et seq. and N.J.A.C. 13:34-1.1 et seq.
- 4) Cease to use any stationery where respondent's name appears as a therapist in practice.
- 5) Do not share in any fee for therapy services performed by any licensee.
- 6) The respondent may allow another licensee to use the office premises formerly occupied by the respondent on the following conditions only:
 - (a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.