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FILED
11/21/12
STATE OF NEW JERSEY
BOARD OF MARRIAGE AND FAMILY THERAPY EXAMINERS
PROFESSIONAL COUNSELOR EXAMINERS COMMITTEE

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

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF **John Avella, LPC** LICENSE No. TO PRACTICE PROFESSIONAL COUNSELING IN THE STATE OF NEW JERSEY	Administrative Action CONSENT ORDER

This matter was opened to the Professional Counselor Examiners Committee of the New Jersey State Board of Marriage and Therapy Examiners ("Committee") upon receipt of information indicating that respondent John Avella ("respondent") failed to return phone calls from his client J.M., who had a history of major depression and suicidal ideation. J.M.'s mother allegedly reached out to

respondent via telephone in August 2011, after J.M. was hospitalized and recommended for follow up with respondent, and received no response. It is also alleged that J.M. attempted through several telephone calls to make an appointment with respondent in November 2011, but his calls were not returned for five days.

Respondent appeared pro se before the Committee for an investigative inquiry on May 3, 2012, and testified that he started counseling client J.M. in his capacity as a school psychologist at a local high school, in or about 2005, and counseled J.M. approximately twice per month. Subsequent to J.M.'s graduation in 2010, respondent began seeing J.M. in his private practice for counseling. Respondent testified that he met with J.M. twice per month in October and November of 2010, and after a several month lapse, met with J.M. again in April 2011. J.M. did not show and/or cancelled several appointments in April and May. J.M. left phone messages for respondent between August and November of 2011, and respondent claimed he left return phone messages and one message with respondent's girlfriend in November 2011. Additionally, respondent testified that he never terminated J.M., engaged in any discharge planning for him, or sent him any correspondence indicating that he was attempting to reach J.M. However, proper termination includes prompt notification in writing, and the transfer, referral or continuation of service in relation to the

client's needs and preferences. The Committee also reviewed respondent's initial intake and case notes for J.M., which the Board found insufficient.

Having reviewed the entire record, it appears to the Committee that respondent has failed to appropriately terminate a client in violation of N.J.A.C. 13:34-30.5(a)-(c) and therefore has violated N.J.S.A. 45:1-21(h).

It appearing that the respondent desires to resolve this matter without further proceedings, and the Committee finding this Consent Order to be adequately protective of the public interest, and other good cause appearing;

IT IS ON THIS 21st DAY OF November, 2012

ORDERED:

1. Respondent is hereby reprimanded for failing to terminate a client in accordance with N.J.A.C. 13:34-30.5(a), for neglecting a client in need of professional services without making reasonable arrangements for the continuation of such care or offering to help the client find alternative sources of assistance in violation of N.J.A.C. 13:34-30.5(b), and for failing to provide written notice of termination and provide a transfer, referral or continuation of services in violation of N.J.A.C. 13:34-30.5(c).

2. Within nine (9) months of the date of this Order, Respondent shall fully attend and successfully complete a three (3) credit graduate course pre-approved by the Committee in Foundations

of Counseling, to include recordkeeping. Respondent shall submit written documentation to the Committee, on or before March 31, 2013 demonstrating the that he fully attended and successfully completed the course. This course is in addition to the biennial hours of continuing education required pursuant to N.J.A.C. 13:34-15.1.

3. For a period of one (1) year from the date of this Order, Respondent shall be limited in any private practice of professional counseling to practice under the supervision of a supervisor who is an LPC and is pre-approved by the Committee. The supervisor shall meet with respondent face-to face a minimum of once per week, in order to discuss notes and review cases. Respondent shall not engage in *any* private practice that is unsupervised until he has completed a minimum of one year under supervision. The supervisor shall review, sign and submit a copy of this Consent Order agreeing to the terms pertaining to supervision and reporting prior to respondent resuming private practice as a professional counselor. In the event the supervisor ceases supervising respondent, respondent shall cease and desist from engaging in the private practice of professional counseling unless and until a new supervisor is approved by the Committee and submits a signed copy of the Consent Order to the Committee. Respondent shall immediately (within 24 hours of occurrence) notify the Committee in writing of any change in supervision. Respondent shall cause his supervisor, or any successor supervisor, to submit quarterly

reports directly to the Committee which shall include the number of hours of supervision, the number of cases and treatment records that were reviewed during the supervision, an indication of any issues that arose during treatment and/or any deficiencies in respondent's treatment records or practice including but not limited to deficiencies regarding termination and discharge planning, and a statement regarding respondent's compliance with the supervisor's recommendations, if any. The supervisor shall immediately (within 24 hours of awareness) report to the Committee in writing any violation of this Order, or any indication that respondent has violated the statutes or regulations governing the practice of professional counseling. An unfavorable report shall be a sufficient basis for extending restrictions on respondent's license to practice professional counseling, or other such actions as the Committee deems appropriate.

4. Respondent shall pay a civil penalty in the amount of $500.00. Payment shall be made by certified check or money order, payable to the "State of New Jersey" and sent to Terri Goldberg, Acting Executive Director, Professional Counselor Examiners Committee, P.O. Box 45044, Newark, New Jersey 07101. Providing that respondent fully complies with the terms of this Consent Order including successful completion of the year of supervision required by Paragraph 3, as well submission of the documentation required by Paragraph 2 and 5, the civil penalty shall be stayed in its

entirety.

5. Respondent shall submit to the Committee certificates of completion for all continuing education for the last two biennial renewal periods no later than November 30, 2012.

6. Upon completion of one year of supervision as required by this Order, respondent may apply to have the limitation on his license terminated, upon a demonstration that he is fit and competent to practice without any restrictions and has complied with all the terms of this Order and upon the Committee's consideration of the reports of respondent's supervisor's, including an assessment of respondent's ability to practice without supervision.

7. Any deviation by respondent from the terms of this Consent Order, without prior written consent of the Committee, shall be grounds for disciplinary action as the Committee may determine.

8. All costs associated with respondent's supervision under the terms of this Order shall be the sole responsibility of respondent.

PROFESSIONAL COUNSELORS EXAMINERS COMMITTEE OF THE NEW JERSEY STATE BOARD OF MARRIAGE AND FAMILY THERAPY EXAMINERS

MS LRC

William F. Green, M.S., LRC
Chair

I have read the above Order and I understand and agree to abide by its terms. Consent is hereby given to the Professional Counselor Examiners Committee of the State Board of Marriage and Family Therapy Examiners to enter this Order.

John Avella, LPC

I have read the above Order and I agree to the supervision and reporting requirements contained herein.

Supervisor

MARTIN SULLIVAN, M.A., LPC