

IN THE MATTER OF:)
FRANCES FINAMORE)
Case No. 1511)
Respondent.)

FINAL DECISION

The North Carolina Board of Licensed Professional Counselors ("Board") heard this cause on September 18, 2015. A Notice of Hearing was served on Respondent on July 30, 2015, notifying her that the hearing would take place on September 18, 2015, at 9 am or as soon thereafter as possible at 7 Terrace Way, Greensboro, North Carolina 27403. Respondent was present and not represented by counsel at the hearing. Sondra C. Panico, Assistant Attorney General, appeared on behalf of the Board.

At the hearing of this matter, the Board heard testimony from Randy Yardley, Board investigator, client FL, and Ms. Finamore and accepted exhibits into evidence in a closed session. After hearing the evidence, the Board retired into an executive session to deliberate, during which deliberations it made the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The Board finds, by a preponderance of the evidence, that the following facts are true and relevant:

1. At all relevant times the Respondent was a licensed professional counselor (LPC) licensed by the Board.
2. On June 24, 2015, the Ethics Review Committee of the Board issued a charge letter alleging that Respondent did not release client records when provided with a valid release form from client FL's new therapist. In addition, the letter alleged that Respondent engaged in a friendship and personal relationship with client FL during the time that she was FL and FL's children's counselor. (Board Exhibit Number 3).
3. A complaint was filed with the Board against Respondent, to which Respondent filed a written response with the Board. (Board Exhibit Numbers 4 and 7).
4. Client FL is disabled. She filed the complaint against Respondent because Respondent would not release her client records. (T p 10).

5. FL first met Respondent in 2007, when her two sons, who were 7 and 10 years of age at the time, were referred to her for counseling at Heritage Counseling. (T p 11).
6. At that time Don, who was 10, was diagnosed with ADHD and depression. (T p 12).
7. David, who was 7, was diagnosed with ADHD and minor depression and some anger issues. (T p 13).
8. FL's sons saw Respondent for about one year at Heritage Counseling. (T p 13).
9. Then the agency closed and FL and her son, Don, began to see Respondent at Prodigious Counseling for counseling services from about 2012 through 2013. (T pp 13-14).
10. Respondent then left Prodigious and opened an office out of her home. She saw FL and both of her sons at her home office for counseling services from May until August, 2014. (T p 15).
11. Respondent did not bill for FL's counseling services, she accepted her as a pro bono case. (T p 15).
12. Either FL or her two sons saw Respondent during three separate periods of time for counseling services between 2007 and 2014. (T p 16).
13. FL described her relationship with Respondent outside of counseling. It began in 2007 when on occasion FL would give Respondent a ride home, then they started going shopping together or FL would take Respondent to the veterinarian with her animals. FL started thinking of Respondent as a mother toward her and a grandmother toward her children. Respondent looked at FL as a daughter. (T p 17).
14. Respondent attended FL's wedding and the night before the wedding, Respondent cooked dinner for FL and they had a glass of wine and went to a movie. Respondent helped FL decorate for her wedding, helped serve at the wedding, and helped clean up afterwards. It was a family type relationship. (T p 17).
15. When Respondent got hurt FL took her to the hospital and Respondent listed FL as her emergency contact. (T p 18).
16. Respondent and FL exchanged gifts at Christmas and for birthdays. (T p 23).
17. When Respondent had to put her cat to sleep, FL was with her and helped her through it. Respondent was upset and crying and FL stayed with her and talked to her. (T p 25).
18. This all occurred during the time that Respondent was providing counseling to FL and at least one of her sons. (T p 18).

19. FL helped to take care of Respondent and once the relationship ended FL felt severely hurt. (T p 19).

20. The counseling relationship ended when Respondent has trouble receiving payment from insurance claims for FL's sons and Respondent demanded payment from FL. (T p 19).

21. Respondent sent FL an email in which she stated that since she was providing services for free that she would not turn over her records to FL's new therapist. "I am under no legal obligation to provide any documentation for any work that I had done for free and so your new therapist can do the work to evaluate you, provide therapy for you, and (hopefully) bill and get paid for providing you with services." (T pp 22-23; Board Exhibit Number 4).

22. FL's records have never been sent to her current therapist, Kerry Hopson, even though Respondent has been provided with a release of information for her records of counseling services to be released to Ms. Hopson. (T p 23; Board Exhibit Number 10).

23. Randy Yardley, Board investigator, testified at the hearing. (T p 45).

24. Mr. Yardley discussed the harm that can occur to a client when there is a lack of boundaries. He explained that the therapist has a responsibility to provide a service, not receive a service. From what FL and Respondent described, Respondent received many services from FL to the extent that there was a total blurring of any boundaries in their relationship. (T pp 49-50).

25. Respondent testified at the hearing. (T p 54). Respondent explained that she got her LPC in 2012 and began working as an LPC for Daymark and then after that went into private practice in 2014. She explained that she provided counseling services to FL and her sons in 2007 at Heritage; then in 2011 at Prodigious.

26. The last time she provided them with counseling services was from May through August 2014. (T p 55). Respondent admitted that FL took her to the veterinarian three times and to put her cat to sleep. (T p 66).

27. Respondent explained that she carried her cat cremains with her for at least six months. (T p 85).

28. Respondent stated that FL's husband helped to fix her computer and made a shortcut for her to access Blue Cross Blue Shield. (T p 66).

29. Respondent explained that if FL drove her somewhere she took FL to eat or gave her money for gas. (T p 66).

30. Respondent explained that in 2012 she went to FL's house so she could type her Professional Disclosure Statement. It was dirty and cluttered so Respondent cleaned it for her.

The other time Respondent went to FL's house was after FL took her back from the hospital and she fell asleep in the chair. (T p 68).

31. Respondent admitted that she gave FL a \$100 check for her wedding. (T pp 36, 68)

32. In Respondent's professional disclosure statement which she provided to FL, it states "our relationship will be professional and not personal. Contact will be limited to counseling sessions only." (T p 75).

33. Respondent is also a certified rehabilitation counselor. (T p 80).

CONCLUSIONS OF LAW

I. The Board has jurisdiction of the subject matter of this contested case and over the Respondent.

II. N.C. Gen. Stat. § 90-340(a)(9) states:

Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection or in the current code of ethics of the American Counseling Association. However, if any provision of the code of ethics is inconsistent and in conflict with the provisions of this Article, the provisions of this Article shall control.

III. The Respondent's conduct violated N.C. Gen. Stat. § 90-340(a)(9), which alone warrants the disciplinary action taken by the Board.

IV. N.C. Gen. Stat. § 90-340(a)(10) states:

Has practiced professional counseling in such a manner as to endanger the welfare of clients.

V. The Respondent's conduct violated N.C. Gen. Stat. § 90-340(a)(10), which alone warrants the disciplinary action taken by the Board.

VI. N.C. Gen. Stat. § 90-340(a)(13) states:

Has exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the licensed professional counselor associate, licensed professional counselor, or a third party.

VII. The Respondent's conduct violated N.C. Gen. Stat. § 90-340(a)(13), which alone warrants the disciplinary action taken by the Board.

VIII. Section A.4.a. of the American Counseling Association Code of Ethics (2014) states: Counselors act to avoid harming their clients, trainees, and research participants and to minimize or to remedy unavoidable or unanticipated harm.

IX. The Respondent's conduct violated A.4.a. of the American Counseling Association Code of Ethics (2014), alone warrants the disciplinary action taken by the Board.

X. Section A.5.d. of the American Counseling Association Code of Ethics (2014) states: Counselors are prohibited from engaging in counseling relationships with friends or family members with whom they have an inability to remain objective.

XI. The Respondent's conduct violated A.5.d. of the American Counseling Association Code of Ethics (2014), alone warrants the disciplinary action taken by the Board.

XII. Section A.6.a. of the American Counseling Association Code of Ethics (2014) states: Counselors consider the risks and benefits of accepting as clients those with whom they have had a previous relationship. These potential clients may include individuals with whom the counselor has had a casual, distant, or past relationship. Examples include mutual or past membership in a professional association, organization, or community. When counselors accept these clients, they take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs.

XIII. The Respondent's conduct violated A.6.a. of the American Counseling Association Code of Ethics (2014), alone warrants the disciplinary action taken by the Board.

XIV. Section A.6.b. of the American Counseling Association Code of Ethics (2014) states: Counselors consider the risks and benefits of extending current counseling relationships beyond conventional parameters. Examples include attending a client's formal ceremony (e.g., a wedding/commitment ceremony or graduation), purchasing a service or product provided by a client (excepting unrestricted bartering), and visiting a client's ill family member in the hospital. In extending these boundaries, counselors take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no harm occurs.

XV. The Respondent's conduct violated A.6.b. of the American Counseling Association Code of Ethics (2014), alone warrants the disciplinary action taken by the Board

XVI. Section A.6.c. of the American Counseling Association Code of Ethics (2014) states: If counselors extend boundaries as described in A.6.a. and A.6.b., they must officially document, prior to the interaction (when feasible), the rationale for such an interaction, the potential benefit, and anticipated consequences for the client or former client and other individuals significantly involved with the client or former client. When unintentional harm occurs to the client or former client, or to an individual significantly involved with the client or former client, the counselor must show evidence of an attempt to remedy such harm.

XVII. The Respondent's conduct violated A.6.c. of the American Counseling Association Code of Ethics (2014), alone warrants the disciplinary action taken by the Board.

XVIII. Section A.10.f. of the American Counseling Association Code of Ethics (2014) states: Counselors understand the challenges of accepting gifts from clients and recognize that in some cultures, small gifts are a token of respect and gratitude. When determining whether to accept a gift from clients, counselors take into account the therapeutic relationship, the monetary value of the gift, the client's motivation for giving the gift, and the counselor's motivation for wanting to accept or decline the gift.

XIX. The Respondent's conduct violated A.10.f. of the American Counseling Association Code of Ethics (2014), alone warrants the disciplinary action taken by the Board.

XX. Section B.6.e. of the American Counseling Association Code of Ethics (2014) states: Counselors provide reasonable access to records and copies of records when requested by competent clients. Counselors limit the access of clients to their records, or portions of their records, only when there is compelling evidence that such access would cause harm to the client. Counselors document the request of clients and the rationale for withholding some or all of the records in the files of clients. In situations involving multiple clients, counselors provide individual clients with only those parts of records that relate directly to them and do not include confidential information related to any other client.

XXI. The Respondent's conduct violated B.6.e. of the American Counseling Association Code of Ethics (2014), alone warrants the disciplinary action taken by the Board.

XXII. Section A.4.a. of the American Counseling Association Code of Ethics (2005) states: Counselors act to avoid harming their clients, trainees, and research participants and to minimize or to remedy unavoidable or unanticipated harm.

XXIII. The Respondent's conduct violated A.4.a. of the American Counseling Association Code of Ethics (2005), alone warrants the disciplinary action taken by the Board.

XXIV. Section A.5.c. of the American Counseling Association Code of Ethics (2005) states: Counselor-client nonprofessional relationships with clients, former clients, their romantic partners, or their family members should be avoided, except when the interaction is potentially beneficial to the client.

XXV. The Respondent's conduct violated A.5.c. of the American Counseling Association Code of Ethics (2005), alone warrants the disciplinary action taken by the Board.

XXVI. Section A.10.e. of the American Counseling Association Code of Ethics (2005) states: Counselors understand the challenges of accepting gifts from clients and recognize that in some cultures, small gifts are a token of respect and showing gratitude. When determining whether or

not to accept a gift from clients, counselors take into account the therapeutic relationship, the monetary value of the gift, a client's motivation for giving the gift, and the counselor's motivation for wanting or declining the gift.

XXVII. The Respondent's conduct violated A.10.e. of the American Counseling Association Code of Ethics (2005), alone warrants the disciplinary action taken by the Board.

NOW, THEREFORE, the NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS ORDERS:

- I. The license of the Respondent, FRANCES FINAMORE, is hereby REVOKED.
- II. Respondent shall turn in her license to practice counseling in North Carolina to the Board no later than January 10, 2016. She shall mail her original license to: North Carolina Board of Licensed Professional Counselors, Post Office Box 77819, Greensboro, North Carolina 27417.
- III. No later than January 10, 2016, Respondent shall terminate services to all of her clients and make provisions for the appropriate transition of her 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). 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 January 15, 2016, attesting that she has terminated and transferred all of her clients by January 10, 2016. She shall further attest that she is no longer engaged in the practice of counseling in any way.
- IV. Respondent shall provide client FL with a copy of all of the mental health records that are in Respondent's possession for client FL and her children within 15 days of receipt of this decision.
- V. The Board shall maintain this Final Decision 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 the Commission on Rehabilitation Counselor Certification, and to other agencies or individuals as required by law.
- VI. The Board shall provide a copy of this decision to Blue Cross Blue Shield and other all other health insurance companies that engage in business in North Carolina.

This the 10th day of December, 2015.

NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS

BY: Katherine H. Glenn, PhD, LPCS
KATHERINE H. GLENN, PH.D., LPCS
BOARD CHAIRPERSON

APPEAL

Pursuant to N.C. Gen. Stat. § 150B-45, any party wishing to appeal this Final Decision may commence their appeal by filing a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. The party seeking review must file the petition within 30 days after being served with a written copy of this Final Decision.

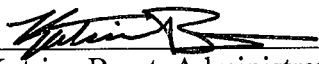
CERTIFICATE OF SERVICE

I, Katrina Brent, Administrator of the North Carolina Board of Licensed Professional Counselors, do hereby certify that I have this day served a copy of the foregoing **FINAL DECISION** upon the following by depositing a copy of same in the United States mail, postage prepaid addressed as follows:

Frances Finamore
710 Parham Street
Henderson, North Carolina 27536

Sondra C. Panico
Assistant Attorney General
Service to State Agencies
Post Office Box 629
Raleigh, North Carolina 27602

This the 11 th day of December, 2015.



Katrina Brent, Administrator
North Carolina Board of Licensed
Professional Counselors