

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
BOARD OF LICENSED
PROFESSIONAL COUNSELORS

IN THE MATTER OF:)
)
KERRY LYNN NICOL, 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 December 7, 2012, pursuant to a charge letter issued by the Board on September 25, 2012, 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 admits that she engaged in an inappropriate sexually intimate relationship with a former client, Mr. X. She provided professional counseling services to Mr. X during 2009 and 2010. At the end of December 2011, Respondent entered into a sexually intimate relationship with Mr. X. Respondent has subsequently terminated her relationship with Mr. X.
3. Respondent received a BA degree in communications from North Carolina State University (“NCSU”) in 1990. In May 2005 Ms. Respondent received a Master’s Degree in counselor education from NCSU. After graduating from NCSU, Respondent passed the board exam and became a licensed professional counselor. While attending NCSU, Respondent was trained on the 1995 edition of the ACA Code of Ethics. Rule A.7 of the 1995 ACA Code, states, in part:

Former Clients. Counselors do not engage in sexual intimacies with former clients within a minimum of 2 years after terminating the counseling relationship. Counselors who engage in such relationship after 2 years following the termination have the responsibility to examine and document thoroughly that such relations did not have an exploitative nature, based on factors such as duration of counseling, amount to time since counseling, termination circumstances, client’s personal history and mental status, adverse impact on the client, and actions by the counselor

suggesting a plan to initiate a sexual relationship with the client after termination.

4. After Respondent graduated from NCSU, North Carolina adopted the 2005 ACA Code of Ethics. One of the changes to the Code of Ethics was an extension of the prohibited period for relationships with former clients from two years to five years. Respondent was not aware of this change and until 2012 believed that the two year rule was still in effect.
5. Respondent admits that her conduct violates Section A 5b of the American Counseling Association Code of Ethics and N.C.G.S. § 90-340 (a)(9) of the Licensed Professional Counselors Act.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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. Respondent's license as an LPC shall be placed under the following CONDITIONS:
 - a. Respondent shall complete three 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. Respondent shall complete this continuing education within six months of the execution of this Consent Order.

- b. Respondent shall be supervised for a period of one year by a Board approved supervisor for one hour of individual face to face supervision for every 40 hours of counseling practice, with no less than one supervision session per month. Respondent must file a supervision contract and the supervisor must be approved by the Board prior to the beginning of supervision. 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 her supervisor in order to be released from the supervision. At the conclusion of the one year of supervision, so long as Respondent's ratings are average or above, the Board Chair shall provide her with written approval of her release from supervision. Any costs and associated expenses of this supervision shall be borne by the Respondent.

II. Upon successfully completion of the conditions set forth in Roman Numeral I A and B, Respondent shall be released from the conditions of this Consent Order.

III. 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.

IV. The Board shall maintain this Consent Order as a public record pursuant to N.C.G.S. §§ 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.

CONSENTED TO:

NORTH CAROLINA BOARD
OF LICENSED PROFESSIONAL
COUNSELORS


LoriAnn Stretch, LPCS
Board Chairperson

12/7/12

DATE

CONSENTED TO:


Kerry Lynn Nicol, Respondent

11/20/12
DATE

CONSENTED TO:


J. Matthew Little
Teague Campbell Dennis & Gorham, L.L.P.
Attorneys for Respondent

11-09-12
DATE

CERTIFICATE OF SERVICE

I, Sondra C. Panico, Assistant Attorney General, hereby certify that I have this date delivered a copy of the foregoing **CONSENT ORDER** upon the following by first class mail on this day, addressed as follows:

Ms. Kerry Nicol
121 Rosewell Lane
Cary, North Carolina 27540

J. Matthew Little
Teague Campbell Dennis & Gorham
PO Box 19207
Raleigh, NC 27619

This the 10th day of December, 2012.



Sondra C. Panico
Assistant Attorney General