

**BEFORE THE STATE OF NEW MEXICO COUNSELING  
AND THERAPY PRACTICE BOARD**

**IN THE MATTER OF:**

**MELISSA ZELLNER**  
License Number: LPCC #0112181

**CASE NO. 2015-27**

**Respondent.**

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**DEFAULT ORDER**

**THIS MATTER**, having come before the Counseling and Therapy Practice Board (the "Board"), on Monday, November 17, 2017, the Board finds the following:

1. A Notice of Contemplated Action ("NCA") was issued by the Board on March 23, 2017.
2. The NCA was sent certified mail return receipt (No. 9171 9690 0935 0079 1171 25) to the Respondent's address on file with the Board on March 23, 2017.
3. The certified return receipt for the envelope containing the NCA was returned signed by Melissa Zellner to the Board on March 24, 2017.
4. The NCA was issued to the Respondent in compliance with the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 *et seq.*
5. The NCA informed the Respondent of her right to a hearing and that the Respondent must respond to the Board in writing requesting a hearing within twenty (20) days after service of the NCA. NMSA 1978, Section 61-1-4(D).
6. The NCA informed the Respondent that failure to respond to the NCA will result in the Board taking the contemplated action. NMSA 1978, Section 61-1-4(E).
7. Respondent did not mail a request for hearing within the time and manner required by NMSA 1978, Sections 61-1-4(D) and (E).

8. The Board is "expressly vested with the power and authority to make and enforce rules to carry out the provisions of NMSA 1978, Section 61-9A-26A(4) and (6) which state in pertinent part as follows:
- A. In accordance with the procedures established by the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to 31, the Board may deny, suspend or revoke any license or registration held or applied for under the Counseling and Therapy Practice Act, NMSA 1978, Sections 61-9A-1 to 30, or take any action provide for in the Uniform Licensing Act , upon grounds that the licensee, registrant or applicant: (6) has violated any provision of the Counseling and Therapy Practice Act or regulation adopted by the Board.
9. A license or registered individual, when interacting with a client or former client to whom the counselor or therapist has at any time within the previous 60 months rendered counseling or therapy, shall not: (1) engage in sexual intercourse, contact or other physical intimacies with the client; or (2) enter into a financial or potentially exploitive relationship with the client. 16.27.18.12 and 16.27.18(16)(B).
10. The Board can "impose a civil penalty on any person who is found, through a court or administrative proceeding, to have acted in violation of Chapter 61, Article 9A NMSA 1978. Such action may include the imposition of fines, costs or any other penalty authorized by NMSA 1978, Section 61-1-3 and may be subject to payment of all costs of disciplinary proceedings pursuant to NMSA 1978, Section 61-1-3.2.
11. The Board's Decision and Order is final and not subject to judicial review.  
NMSA 1978. Section 61-1-4(E).

**IT IS ORDERED THAT** Respondent Melissa Zellner's license is revoked and she may


not apply for or receive a New Mexico counseling or therapy license until the NCA has been answered and resolved.

Chairman Stewart Sroufe is designated by the Board to sign this Order on behalf of the Counseling and Therapy Practice Board.

**IT IS SO ORDERED.**

Signed: 2/22/18

**COUNSELING AND THERAPY  
PRACTICE BOARD OF NEW MEXICO**

  
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Chairman Stewart Sroufe

**BEFORE THE STATE OF NEW MEXICO  
COUNSELING AND THERAPY PRACTICE BOARD**

**IN THE MATTER OF**

**MELISSA ZELLNER**

**License Number: LPCC # 0112181**

**CASE NO. 2015-27**

**RESPONDENT.**

**NOTICE OF CONTEMPLATED ACTION**

YOU ARE HEREBY NOTIFIED that the New Mexico Counseling and Therapy Practice Board (the "Board") has before it sufficient evidence that, if not rebutted or explained at a formal hearing, will justify the Board in disciplining you. Contemplated disciplinary measures permitted by sections 61-1-3 (E) through (M) of the Uniform Licensing Act include revoking, suspending, or limiting your professional license, or other discipline. The Board also contemplates imposing upon you the costs of conducting a hearing, as allowed by rule.

**APPLICABLE LAW**

This matter arises pursuant to the New Mexico Counseling and Therapy Act, codified at New Mexico Statutes Annotated ("NMSA") 1978, § 61-9A-1 through -30 (the "Act"), pursuant to the rules of the Board contained in the New Mexico Administrative Code in Title 16, Chapter 27, and under the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 through 61-1-33 (the "ULA").

Such contemplated action exists pursuant to the following relevant provisions of the Act, specifically §§ 61-9A-26A(4) and (6) which state in pertinent part as follows:

**§ 61-9A-26. License and registration; denial, suspension and revocation.**

A. In accordance with the procedures established by the Uniform Licensing Act (61-1-1 to 61-1-31 NMSA 1978), the Board may deny, suspend or revoke any license or registration held or applied for under the Counseling and Therapy Practice Act (61-9A-1 to 61-9A-30 NMSA 1978), or take any other action provided for in the Uniform Licensing Act, upon grounds that the licensee, registrant or applicant:

(6) has violated any provision of the Counseling and Therapy Practice Act or regulations adopted by the Board;

Evidence indicates that Respondents may have violated the above cited statutes, as well as the Counseling and Therapy Practice Board's Rules and Regulations:

<p>NMAC 16.27.18.12</p>	<p><b>16.27.18.16(B)(1&amp;2) PROFESSIONAL COMPETENCE, CONDUCT &amp; INTEGRITY:</b>          B. A licensed or registered individual, when interacting with a client or former client to whom the counselor or therapist has at anytime within the previous 60 months rendered counseling or therapy, shall not:          (1) engage in sexual intercourse, contact or other physical intimacies with the client;          or          (2) enter into a financial or other potentially exploitive relationship with the client.</p>
<p>NMSA 61-9A-26A(6)</p>	<p><b>License and registration; denial, suspension and revocation.</b>   <b>A. In accordance with the procedures established by the Uniform Licensing Act [61-1-1 through 61-1-31 NMSA 1978], the board may deny, suspend or revoke any license or registration held or applied for under the Counseling and Therapy Practice Act, or take any other action provided for in the Uniform Licensing Act, upon grounds that the licensee, registrant or applicant:</b>  <b>(6) has violated any provision of the Counseling and Therapy Practice Act or regulations adopted by the board;</b></p>

**FACTUAL BASIS FOR THE ALLEGED VIOLATIONS**

1. On or about July 22, 2015, the New Mexico Board of Counseling and Therapy Practice received a Complaint from Rana Cordova against Respondent.

2. Respondent is the Mother of Respondent's patient. Complainant alleges that Respondent starting psychotherapy to Complainant's daughter on or about October or November of 2012.
3. Complainant further alleges that Respondent developed a sexual relationship with Complainant's daughter, and that Respondent began dating her patient in March 2013.
4. Complainant alleges that Respondent engaged in other manipulative conduct with the patient, and that after her patient broke up with her, Respondent threatened to kill herself and threatened the patient.
5. The Board sent a copy of the Complaint to Respondent. In response, Respondent sent a letter to the Board, dated July 25, 2015, denying the allegations.
6. Upon information and belief, Respondent may be in violation of the aforementioned rules and regulations.

### **RESPONDENT'S RIGHT TO A HEARING**

The hearing, if requested, will be conducted in accordance with the ULA. The ULA at NMSA 1978, § 61-1-3 provides as follows:

#### **§ 61-1-3. Opportunity for licensee or applicant to have hearing.**

Every licensee or applicant shall be afforded notice and an opportunity to be heard, before the board has authority to take any action, which would result in:

\* \* \*

- E. suspension of a license;
- F. revocation of a license;
- G. restrictions or limitations on the scope of a practice;
- H. the requirement that the applicant complete a program of remedial education or treatment;
- I. monitoring of the practice by a supervisor approved by the board;

- J. the censure or reprimand of the licensee or applicant;
- K. compliance with conditions of probation or suspension for a specific period of time; [or]

\* \* \*

- M. corrective action, as specified by the board; or
- The ULA at NMSA 1978, § 61-1-8 further provides:

**§ 61-1-8. Rights of person entitled to hearing.**

A. A person entitled to be heard under the Uniform Licensing Act shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefore to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.

B. Upon written request to another party, any party is entitled to:

- (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
- (2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.

C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.

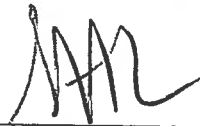
**CONCLUSION**

The evidence before the Board, summarized above, if not rebutted or explained at a formal hearing, is sufficient to justify the Board in revoking, or imposing other disciplinary measures upon, the professional license of the Respondent, and in imposing the costs of the administrative hearing, if any.

**The Board shall take these actions unless, within twenty (20) days after receipt of this Notice of Contemplated Action, the Respondent requests a formal hearing by certified mail, return receipt requested. Such a request for a formal hearing should be mailed to:**

**Sheila Harris  
Compliance Liaison  
New Mexico Counseling and Therapy Practice Board  
2550 Cerrillos Road  
Santa Fe, NM 87505-3260**

DATED: March 23, 2017



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Chairperson  
New Mexico Counseling and Therapy  
Practice Board

**Administrative Prosecutor:**  
Julia V. White  
Assistant Attorney General  
Litigation Division  
408 Galisteo Street  
Santa Fe, NM 87501  
(505) 490-4878  
jwhite@nmag.gov



**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Notice of Contemplated Action was mailed to the Respondent on this 23 day of March 2017, via certified mail return receipt requested.

MELISSA ZELLNER  
2233 Portafino Avenue SE  
Rio Rancho, NM 87124

Certified Mail No.: 917 9690 0935 007911 7125  
Return Receipt Requested

By: Sheila Harris  
Sheila Harris, Compliance Liaison  
New Mexico Counseling and Therapy Practice Board

Melissa Zellner  
2233 Portafino Avenue SE  
Rio Rancho, NM 87124  
#2015-27

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SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	A. Signature <b>X</b> <i>Melissa Zellner</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
1. Article Addressed to:  <div data-bbox="261 1062 688 1272" style="border: 1px solid black; padding: 5px; margin: 10px 0;"><p>Melissa Zellner 2233 Portafino Avenue SE Rio Rancho, NM 87124 #2015-27</p></div>	B. Received by (Printed Name)	C. Date of Delivery <i>3/24/17</i>
2. Article Number (Transfer from service label)	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
PS Form 3811, July 2013	3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
	9171 9690 0935 0079 1171 25	

PS Form 3811, July 2013

Domestic Return Receipt