

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

IN THE MATTER OF:

Case Number: 2016-53

**AMY BROWN
License No.: LPCC CCMH0176461 (Exp.);**

Respondent.

DECISION AND ORDER

THIS MATTER came before the New Mexico Counseling and Therapy Practice Board (hereinafter, “Board”) during its regularly scheduled meeting on March 2, 2018, for a decision in the above-referenced case. With a quorum present and a vote in the affirmative, the Board voted to render this Decision and Order.

FINDINGS OF FACT

1. On or about February 7, 2018, the Board, issued a Notice of Contemplated Action (“NCA”) to AMY BROWN. The NCA stated that the Board had sufficient evidence to justify suspending or revoking Respondent’s license. Respondent was also informed that the Board could impose administrative penalties against a licensee pursuant to the Counseling and Therapy Practice Act, NMSA 1978, Section 61-9A-26(A)(4)(6) and the Uniform Licensing Act, NMSA 1978, Section 61-1-1 to 61-1-31.

2. The NCA stated that Respondent’s alleged conduct, unless explained or rebutted at a formal hearing, justified the Board in suspending or revoking Respondent’s license and take any other action provided for in the Uniform Licensing Act.

3. The NCA further informed Respondent that, if she would like the opportunity for a formal hearing in this matter she must **“within twenty (20) days after receipt of this**

Notice of Contemplated Action . . . request 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

4. On or about February 13, 2018, the U. S. Postal Service (“USPS”) received an envelope containing the NCA that was sent to Respondent’s last known addresses, as shown in the Board’s records, via certified mail, return receipt requested (No. 9171-9690-0935-0076-8828-59). On or about February 20, 2018, the certified return receipt envelope was returned unopen the Board marked by the USPS tracking system as “return to sender, not deliverable as addressed, unable to forward”.

5. Respondent did not request a hearing within twenty (20) days of service of, the last attempted delivery of, or Respondent’s refusal to accept delivery of, the NCA as contemplated by Sections 61-1-4(D)(3) (2003) and 61-1-5 (1957) of the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -34 (1957, as amended through 2013) (“ULA”).

6. Respondent failed to otherwise respond to the NCA.

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Board reaches the following Conclusions of Law:

1. The Board has jurisdiction over Respondent and the subject matter of this proceeding pursuant to the ULA.

2. When served by certified mail, the NCA is deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery of the NCA

to the addressee or refusal of the addressee to accept delivery of the NCA. NMSA 1978, § 61-1-5.

3. Service of the NCA upon Respondent via certified mail was accomplished in accordance with Sections 61-1-4 and 61-1-5 of the ULA.

4. The Board may take the action contemplated in the NCA if the Respondent does not deposit in the mail a certified return receipt requested letter addressed to the Board containing a request for a hearing within twenty (20) days after service of the NCA. NMSA 1978, §§ 61-1-4(D)(3) and (E).

5. More than twenty (20) days have passed since Respondent was served, or deemed to have been served, with the NCA and Respondent has failed to request a hearing. Thus, the Board is authorized to take the action contemplated in the NCA pursuant to Section 61-1-4(E) of the ULA.

6. The Board has complied with all notice and other procedural requirements of the Counseling and Therapy Practice Act and the ULA.

7. The Board may suspend or revoke a license pursuant to Section 61-9A-26(A)(4)(6) of the Counseling and Therapy Practice Act for the conduct described below:

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:

(4) is found guilty of unprofessional or unethical conduct;

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

8. The Board's Decision and Order in this matter is final and is not subject to judicial review. NMSA 1978, § 61-1-4(E).

ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board renders this Order.

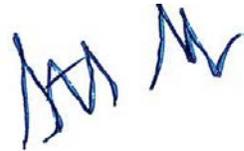
IT IS THEREFORE ORDERED that Respondent's license is hereby **REVOKED**;

IT IS FURTHER ORDERED Respondent Amy Brown may not apply for or receive a New Mexico counseling or therapy license until the NCA has been answered and resolved.

IT IS SO ORDERED.

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

**NEW MEXICO COUNSELING AND
THERAPY PRACTICE BOARD**



Stewart Sroufe, Chair

5/14/2018
DATE

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

IN THE MATTER OF

AMY BROWN

License Number: LPCC CCMH0176461(Exp.)

CASE NO. 2016-53

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(A)(4)(6). 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:

(4) is found guilty of unprofessional or unethical conduct;

(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:

NMAC 16.27.18.16(B) PROFESSIONAL COMPETENCE, CONDUCT & INTEGRITY:

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.

NMAC 16.27.18.18(D) RESPONSIBILITY TO CLIENTS:

D. A licensed or registered individual shall not enter into a sexual or other dual relationship with a client, as specified in Section 16.27.18.16 D of this code of ethics.

NMAC 16.27.18.19(E) RESPONSIBILITY TO THE PROFESSION:

E. Licensed or registered individuals shall be familiar with this code of ethics, and its application to counselors or therapists' work. Lack of awareness or misunderstanding of the conduct standards is not itself a defense to a charge of unethical conduct.

FACTUAL BASIS FOR THE ALLEGED VIOLATIONS

1. On or about June 21, 2016, the New Mexico Board of Counseling and Therapy Practice received a Complaint from Respondent, who self-reported an ethical violation.
2. Respondent admitted to having a sexual relationship with a client.

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: 7th day of Feb, 2018



Chairperson
New Mexico Counseling and Therapy
Practice Board

Administrative Prosecutor:
/s/Julia White
Julia White
Assistant Attorney General
Litigation Division
408 Galisteo Street
Santa Fe, NM 87501

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Contemplated Action was mailed to the Respondent on this 13 day of February 2018, via certified mail return receipt requested.

Respondent Name: Amy Brown
Address: 704 Las Marias Dr. SE
Rio Rancho, nm 87124

Certified Mail No.: 9171 9690 0935 0076 8828 59
Return Receipt Requested

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

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CERTIFIED MAIL™



9171 9690 0935 0076 8828 59

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02/13/2018
US POSTAGE \$005.63
FIRST-CLASS MAIL
ZIP 87505
011E12650291

RECEIVED
FEB 20 2018

Amy Brown
704 Las Marias Dr. SE
Rio Rancho, NM 87124

BY:

NIXIE 871 FEB 1 18C9662/17/18
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
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