

PSM

Final Order No. DOH-07-2509-5-MOA
FILED DATE - 11-20-07
Department of Health
By: Rachel B...
Deputy Agency Clerk

**STATE OF FLORIDA
BOARD OF CLINICAL SOCIAL WORK, MARRIAGE AND FAMILY THERAPY,
AND MENTAL HEALTH COUNSELING**

DEPARTMENT OF HEALTH,

Petitioner,

vs.

**Case No.: 2001-08810
License No.: MH 6016**

ALAN E. KENNEDY, L.M.H.C.,

Respondent.

_____ /

FINAL ORDER

This matter appeared before the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, pursuant to Sections 120.569 and 120.57(4), Florida Statute, at a duly-noticed public meeting on October 26, 2007, in Tampa, Florida, for consideration of a Voluntary Relinquishment of License (attached hereto as Exhibit "A") executed by the Respondent in this cause. Petitioner was represented by Denise O'Brien, Assistant General Counsel. Respondent was not present. Upon consideration of the Voluntary Relinquishment, the documents submitted in support thereof, the arguments of the parties and otherwise being advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the voluntary relinquishment is accepted as a resolution of this case.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 19th day of November, 2007.

Cynthia Ritter for
Susan J. Foster, Executive Director
For the Board of Clinical Social Work,
Marriage and Family Therapy, and Mental
Health Counseling

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **ALAN E. KENNEDY, L.M.H.C., 1515 Michelin Ct., Lutz, FL 33549**; by interoffice mail to **Joy A. Tootle**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Cynthia Jakeman**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 this 20th day of November, 2007.

Jackie Ryce
Deputy Agency Clerk

McKenzie, Robin L

From: Foster, Sue
Sent: Monday, November 19, 2007 11:13 AM
To: Robison, Helaine; Sanders, Sylvia (MQA)
Cc: Robison, Stephanie; Ramer, Dee; McKenzie, Robin L; Ritter, Cynthia
Subject: Delegated Authority

While I am out of the office on November 19, 2007, Cindy Ritter is delegated authority to act on my behalf.

Susan J. Foster, Executive Director
Department of Health-Medical Quality Assurance
850/245-4474-telephone
850/921-5389-fax
www.doh.state.fl.us/mqa
sue_foster@doh.state.fl.us

How am I communicating? [Please contact my manager](#)

Learn more about MQA's online services by visiting us at www.flhealthsource.com

Mission: Promote, protect and improve the health of all people in Florida.

Vision: A healthier future for the people of Florida.

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v.

DOH Case No. 2001-08810

ALAN E. KENNEDY, L.M.H.C.,

Respondent.

VOLUNTARY RELINQUISHMENT OF LICENSE

Respondent, Alan E. Kennedy, L.M.H.C., license No. MH 6016, hereby voluntarily relinquishes Respondent's license to practice mental health counseling in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Clinical Social Work, Marriage & Family Therapy, and Mental Health Counseling (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes.
2. Respondent agrees to never reapply for licensure under Chapter 491, Florida Statutes.
3. Respondent agrees to voluntarily cease practicing mental health counseling in the State of Florida immediately upon executing this Voluntary Relinquishment. Respondent further agrees to refrain from the practice of mental health counseling until

such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

4. In order to expedite consideration and resolution of this action by the Board in a public meeting, Respondent, being fully advised of the consequences of so doing, hereby waives the statutory privilege of confidentiality of Section 456.073(10), Florida Statutes, and waives a determination of probable cause, by the Probable Cause Panel, or the Department when appropriate, pursuant to Section 456.073(4), Florida Statutes, regarding the complaint, the investigative report of the Department of Health, and all other information obtained pursuant to the Department's investigation in the above-styled action. By signing this waiver, Respondent understands that the record and complaint become public record and remain public record and that information is immediately accessible to the public. Section 456.073(10), Florida Statutes.

5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this

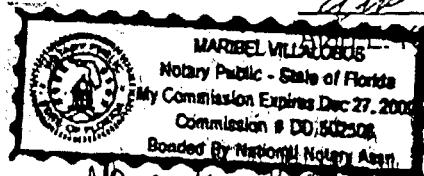
Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.

DATED this 14 day of September, 2007.

Alan E. Kennedy

Kennedy, L.M.H.C.

STATE OF:
COUNTY OF:



Before me, personally appeared Alan E. Kennedy (Alan E. Kennedy) whose identity is known to me by PL DL exp 10/21/07 (type of identification) and who, under oath, acknowledges that his signature appears above. Sworn to and subscribed before me this 14th day of Sept, 2007.

Alan E. Kennedy

NOTARY PUBLIC

My Commission Expires:

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH, BOARD OF CLINICAL SOCIAL
WORK, MARRIAGE AND FAMILY THERAPY AND
MENTAL HEALTH COUNSELING,

Petitioner,

vs.

Case Number: 2001-08810

ALAN EDWARD KENNEDY, LMHC,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Department of Health, hereinafter referred to as "Petitioner," by and through undersigned counsel, and files this Administrative Complaint before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling against ALAN EDWARD KENNEDY, hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the state agency charged with regulating the practice of mental health counseling pursuant to section 20.43, Florida Statutes; Chapter 456, Florida Statutes (formerly Chapter 455, part II; see Chapter 2000-160, Laws of Florida), and Chapter 491, Florida Statutes.
2. Respondent is, and has been at all times material hereto, a licensed Mental Health Counselor in the State of Florida, having been issued license number MH 6016.
3. The last address of record for the Respondent is 19127 Gunn Highway, Odessa, Florida 33556.
4. In the early 1990's, Patient MS had received counseling services from the Respondent.

COUNT I

5. Petitioner realleges and incorporates paragraphs one (1) through four (4) as if fully set forth herein.

6. In approximately January 2001, MS sought treatment and counseling with the Respondent. MS sought counseling to address issues related to past sexual abuse.

7. On approximately January 19, 2001, the Respondent consulted with MS's psychiatrist about MS's treatment. On approximately February 12, 2001 and March 12, 2001, Respondent accompanied MS to her sessions with her psychiatrist. The Respondent discussed MS's treatment with the psychiatrist at the February 12, 2001 session.

8. The therapeutic relationship between the Respondent and MS ended in approximately June 2001.

9. In approximately January or February 2001, the Respondent and Patient MS began a sexual relationship. Respondent engaged in sexual relations with MS at his home and in his vehicle.

10. Section 491.009 (2)(k), Florida Statutes (2000), states that a licensee may be subject to discipline for committing any act upon a patient or client which would constitute sexual misconduct as defined in section 491.0111, Florida Statutes, and 64B4-10.002 (2), Florida Administrative Code. Section 491.0111, Florida Statutes, states that sexual misconduct shall be defined by rule. Rule 64B4-10.002(1), Florida Administrative Code, states:

It is sexual misconduct for a psychotherapist to engage, attempt to engage, or offer to engage a client in sexual behavior, or any behavior, whether verbal or physical, which is intended to be sexually arousing, including kissing; sexual intercourse, either genital or anal; cunnilingus; fellatio; or the touching by the psychotherapist or the client of the other's breasts, genital areas, buttocks, or thighs, whether clothed or unclothed.

11. The Respondent is subject to discipline for violating Section 491.009(2)(k), Florida Statutes (2000), by committing any act that is defined as sexual misconduct by Section 491.0111, Florida Statutes, and 64B4-10.002, Florida Administrative Code.

COUNT II

12. Petitioner realleges and incorporates paragraphs one (1) through four (4) and six (6) through eight (8) as if fully set forth herein this Count II.

13. Respondent failed to maintain records of the counseling sessions that he had with patient MS from the period of approximately January 2001 through June 2001.

14. The Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling has promulgated Rule 64B4-9.001(1) and (2), Florida Administrative Code, that requires licensees to maintain psychotherapeutic records relating to the treatment provided to patients for a period of seven years. Rule 64B4-9.002(1),(2) and (3), Florida Administrative Code, defines a psychotherapeutic record; sets forth the minimum information that should be contained in a psychotherapeutic record; and defines who is a client.

15. The Respondent is subject to discipline for violating Section 491.009(2)(q), Florida Statutes (2000), violating provisions of this chapter, or of chapter 456, or any rules adopted pursuant thereto, by failing to maintain records as defined and required in Rule 64B4-9.001(1) and (2), and Rule 64B4-9.002(1), (2) and (3), Florida Administrative Code.

COUNT III

16. Petitioner realleges and incorporates paragraphs one (1) through four (4), six (6) through ten (10), and thirteen (13) and fourteen (14) as if fully set forth herein this Count III.

17. Respondent met patient MS for lunch dates during the time that counseling was occurring. Meeting a client for lunch dates creates an inappropriate dual relationship and does not meet the minimum standards of performance in professional activities.

18. Respondent met patient MS for counseling sessions in restaurants. Conducting counseling in restaurants fails to meet the minimum standards of performance because confidentiality of the patient's disclosures cannot be assured.

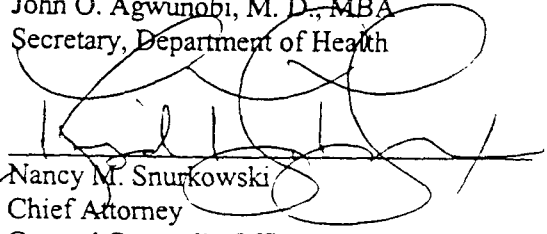
19. The Respondent is subject to discipline for violating Section 491.009(2)(s), Florida Statutes (2000), failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance by engaging in sexual misconduct with a patient; failing to maintain psychotherapy records for services provided to a client; engaging in inappropriate dual relationships with clients; and conducting therapy sessions in restaurants.

WHEREFORE, Petitioner respectfully requests the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling to enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license; restriction of Respondent's practice; imposition of an administrative fine; assessment of the costs for investigation and prosecution of this matter; issuance of a reprimand; placement of the Respondent's license on probation for a period of time and subject to terms and/or conditions; corrective action; refund of fees billed and collected; remedial education; and/or any other relief which the Board deems appropriate


SIGNED this 25th day of March, 2002.

John O. Agwunobi, M. D., MBA
Secretary, Department of Health

By:


Nancy M. Snurkowski
Chief Attorney
General Counsel's Office
Practitioner Regulation - Legal

COUNSEL FOR PETITIONER:

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Senior Attorney
Florida Attorney Number 0169889
Agency for Health Care Administration
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FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK Vicki R. Kenon
DATE 3/27/02