



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

RE: Kevin C. Boileau
Master Case No.: M2012-263
Document: Statement of Allegations

Regarding your request for information about the above-named practitioner; attached is a true and correct copy of the document on file with the State of Washington, Department of Health, Adjudicative Clerk Office. These records are considered Certified by the Department of Health.

Certain information may have been withheld pursuant to Washington state laws. While those laws require that most records be disclosed on request, they also state that certain information should not be disclosed.

The following information has been withheld:

The identity of the complainant if the person is a consumer, health care provider, or employee, pursuant to RCW 43.70.075 (Identity of Whistleblower Protected) and/or the identity of a patient, pursuant to RCW 70.02.020 (Medical Records - Health Care Information Access and Disclosure)

If you have any questions or need additional information regarding the information that was withheld, please contact:

Customer Service Center
P.O. Box 47865
Olympia, WA 98504-7865
Phone: (360) 236-4700
Fax: (360) 586-2171

You may appeal the decision to withhold any information by writing to the Privacy Officer, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890.

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
SECRETARY OF HEALTH**

In the Matter of

KEVIN C. BOILEAU
Credential No. CCC.CL.60139803

Respondent

No. M2012-263

**STATEMENT OF ALLEGATIONS
AND SUMMARY OF EVIDENCE**

The Executive Director of the Certified Counselor Program (Program), on designation by the Secretary of Health (Secretary), makes the allegations below, which are supported by evidence contained in case no. 2012-570. The client referred to in this Statement of Allegations and Summary of Evidence is identified in the attached Confidential Schedule.

1. ALLEGED FACTS

1.1 On March 31, 2010, the state of Washington issued Respondent a credential to practice as a certified counselor. Respondent's credential is currently active.

1.2 From in or about April 2008 to June 2009, the Respondent provided counseling services to Client A. The Respondent did not keep notes or document the therapy sessions with Client A. The Respondent did not provide a disclosure statement to Client A.

1.3 The Respondent began to hug Client A after therapy sessions. The intimacy escalated to kissing and touching, and then eventually to sexual intercourse. The Respondent and Client A engaged in an intimate sexual relationship.

1.4 The matter was brought to the attention of the Department of Health on or about January 24, 2012. During the course of the investigation, the Respondent submitted fraudulent materials to the disciplining authority in the attempt to portray false facts.

1.5 During the course of the investigation the Respondent threatened and harassed Client A regarding a fabricated financial obligation, first by requesting mediation through a surrogate, and second by threatening to initiate a lawsuit.

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2. SUMMARY OF EVIDENCE

- 2.1 Statements of Client A.
- 2.2 Cancelled checks evidencing payment for counseling services.
- 2.3 Notes provided by Respondent.
- 2.4 Emails and demand letter issued on behalf of Respondent.

3. ALLEGED VIOLATIONS

3.1 The facts alleged in Section 1, if proven, would constitute unprofessional conduct in violation of RCW 18.130.180(1), (7), (13), (22), (24); WAC 246-16-100(1)(a), (d), (e); WAC 246-810-031 and WAC 246-810-035(1 - 4), which provide in part:

RCW 18.130.180 Unprofessional conduct. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

...

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

...

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

...

(22) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

...

(24) Abuse of a client or patient or sexual contact with a client or patient;
....

WAC 246-16-100 Sexual misconduct.

(1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

(a) Sexual intercourse;
....

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;
....

WAC 246-810-031 Disclosure statement to be provided to clients by certified counselors and certified advisors.

(1) Certified counselors and certified advisers must provide a disclosure statement to each client prior to starting a program of treatment.

(2) The following must appear in the disclosure statement:

(a) The name of the certified counselor or certified adviser and the name of their firm, agency, or business, if any.

(b) The certified counselor's or certified adviser's business address and telephone number.

(c) The certified counselor's or certified adviser's Washington state credential number.

(d) The certified counselor's or certified adviser's education, training, and experience.

(e) The name and description of the types of counseling provided by the certified counselor or certified adviser, including the therapeutic orientation, methods, and techniques employed in their practice, and a list of resources relevant to the therapeutic orientation.

(f) The type and duration of counseling expected, if known at the time of providing the disclosure information.

(g) Fee information, including:

(i) The cost for each counseling session;

(ii) Billing practices, including any advance payments and refunds;

(iii) A statement that clients are not liable for any fees or charges for services rendered prior to receipt of the disclosure statement.

(h) The limits of confidentiality under RCW 18.19.180.

- (i) Disclosure of the certified counselor's or certified adviser's supervisory or consultation agreement as defined in WAC 246-810-025.
- (j) Disclosure that the certified counselor or certified adviser is not credentialed to diagnose mental disorders or to conduct psychotherapy as defined in WAC 246-810-010(14).
- (k) All of the following:
 - (i) Counselors practicing counseling for a fee must be credentialed with the department of health for the protection of the public health and safety.
 - (ii) Credentialing of an individual with the department of health does not include a recognition of any practice standards, nor necessarily imply the effectiveness of any treatment.
 - (iii) The purpose of the Counselor Credentialing Act, chapter 18.19 RCW, is to:
 - (A) Provide protection for public health and safety; and
 - (B) Empower the citizens of the state of Washington by providing a complaint process against those counselors who would commit acts of unprofessional conduct.
 - (iv) Clients have the right to choose counselors who best suit their needs and purposes.
- (l) A copy of the acts of unprofessional conduct in RCW 18.130.180 and the name, address, and contact telephone number within the department of health for complaints.
- (m) Signature and date blocks for the client, and the certified counselor or certified adviser, including an attestation that the client agrees that the required disclosure statement has been provided and that the client has read and understands the information.

WAC 246-810-035 Record requirements.

- (1) A counselor providing professional services to a client or providing services billed to a third-party payor, must document services, except as provided in subsection (2) of this section. The documentation must include:
 - (a) Client name;
 - (b) The fee arrangement and record of payments;
 - (c) Dates counseling was received;
 - (d) Disclosure form, signed by counselor and client;
 - (e) The presenting problem(s), or purpose of counseling;
 - (f) Notation and results of formal consults, including information obtained from other persons or agencies through a release of information;

- (g) Progress notes sufficient to support responsible clinical practice for the type of theoretical orientation/therapy the counselor uses.
- (2) If a client requests that no treatment records be kept, and the counselor agrees to the request, the request must be in writing and only the following must be retained:
 - (a) Client name;
 - (b) Fee arrangement and record of payments;
 - (c) Dates counseling was received;
 - (d) Disclosure form, signed by counselor and client;
 - (e) Written request that no records be kept.
- (3) The counselor may not agree to the request if maintaining records is required by other state or federal law.
- (4) All records must be kept for a period of five years following the last visit. Within this five-year period, all records must be secured, with properly limited access.

4. NOTICE TO RESPONDENT

4.1 The Secretary has determined that this case may be appropriate for resolution through a Stipulation to Informal Disposition (Stipulation) pursuant to RCW 18.130.172(2). A proposed Stipulation is attached, which contains the disposition the Secretary believes is necessary to address the conduct alleged in this Statement of Allegations and Summary of Evidence.

4.2 If Respondent agrees that the disposition imposed by the Stipulation is appropriate, Respondent should sign and date the Stipulation and return it within twenty-eight (28) days to the Department of Health Office of Legal Services at PO Box 47873, Olympia, WA 98504-7873.

4.3 If Respondent does not agree that the terms and conditions contained in the Stipulation are appropriate, Respondent should contact Timothy Talkington, Department of Health Staff Attorney, PO Box 47873, Olympia, WA 98504-7873, (360) 236-4809 within twenty-eight (28) days.

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4.4 If Respondent does not respond within twenty-eight (28) days, the Secretary will assume Respondent has declined to resolve these allegations with an informal Stipulation and may proceed to formal disciplinary action against Respondent by filing a Statement of Charges pursuant to RCW 18.130.172(3).

4.5 If the parties cannot resolve the allegations with an informal Stipulation, the Secretary may proceed with a formal Statement of Charges.

DATED: September 7, 2012

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
SECRETARY OF HEALTH


ROBERT NICOLOFF
EXECUTIVE DIRECTOR


TIMOTHY TALKINGTON, WSBA #41297
DEPARTMENT OF HEALTH STAFF ATTORNEY

CONFIDENTIAL SCHEDULE

This information is confidential and is NOT to be released without the consent of the individual or individuals named herein. RCW 42.56.240(1)

Patient A: [REDACTED]