State of New Hampshire
Board of Psychologists
Concord, New Hampshire 03301

In The Matter Of:
M. Lorene Sipes, Ph.D.
No.: 1122
(Adjudicatory/Disciplinary Proceeding)

Docket #15-002

DECISION AND ORDER

By the Board: Anna Elbroch, Esq.; Roger L. Peterson, Ph.D; Susan G. Vonderheide, Ph.D; Polly Hall, Esq.; and Steven C. Atkins, Psy.D.

Also present: Jean Barnes, Administrator to the Board; and Thomas Broderick, Esq., Board Counsel.

Appearances: Michael A. Pignatelli, counsel for Dr. Sipes; Michelle Heaton, Hearing Counsel.

Background:

On July 22, 2015, the New Hampshire Board of Psychology ("the Board") issued a Notice of Hearing commencing a public disciplinary proceeding to determine whether Dr. M. Lorene Sipes, Ph.D. ("Dr. Sipes") violated RSA 330-A:27, II(c),[1] Mhp 501.02(a),[2] and the American Psychological Association's Code of Ethics ("APA Code of Ethics") 3.05. The adjudicatory hearing was scheduled for October 9, 2015. The purpose of the hearing was to determine whether Dr. Sipes violated the above provisions by inappropriately touching the Patient and by failing to maintain appropriate boundaries with the Patient.

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[1] When the complaint was filed, Dr. Sipes was licensed by the New Hampshire Board of Mental Health Practice. On July 1, 2013, the Board of Psychology was established, and jurisdiction over all psychologist licensees was transferred to this Board.

[2] As authorized by RSA 329-B:27, IV, the Board is proceeding using the Mhp rules in effect on June 30, 2012, *available at* http://www.nh.gov/psychology/documents/rules.pdf.

On August 18, 2015, the Board granted an assented-to Motion to Continue and scheduled the adjudicatory hearing for November 6, 2015. Dr. Sipes appeared for the hearing as scheduled. At the hearing, the Board heard testimony from the Patient; Sarah Avery-Leaf, Ph.D., investigator for the Board; Dr. Sipes; William Flynn, Ph.D.; Kristie Plumb, LCMHC, LADC; and Stanley Fonder, MSW, CCSW.

In addition to the testimony on the matter set forth in the Notice of Hearing, Dr. Sipes, through her attorney, moved the Board to reconsider its previous denial of her Motion to Dismiss for laches. The Board has reviewed the original motion to dismiss, Hearing Counsel's objection, and its October 2, 2015 order on the issue. The Board finds there was no error in its decision and Dr. Sipes' Motion for Reconsideration is therefore DENIED.

Relevant Law:

RSA 330-A:27, II(c) states:

> Misconduct sufficient to support disciplinary proceedings under this section shall include any allegations of:
>
> (c) Any unprofessional conduct or dishonorable conduct, unworthy of and affecting the practice of the profession, including sexual misconduct as provided in RSA 330-A:36.

Mhp 501.02(a) states:

> A licensee shall adhere to the code of ethics of the profession in which they are licensed, as adopted by the following entities:
> 1. For 'psychologists' the American Psychological Association code of ethics of 2002....

APA Code of Ethics 3.05 states:

> a) A multiple relationship occurs when a psychologist is in a professional role with a person and (1) at the same time is in another role with the same person, (2) at the same time is in a relationship with a person closely associated with or related to the person with whom the psychologist has the professional relationship, or (3) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.

A psychologist refrains from entering into a multiple relationship if the multiple relationship could reasonably be expected to impair the psychologist's objectivity, competence or effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation or harm to the person with whom the professional relationship exists.
Multiple relationships that would not reasonably be expected to cause impairment or risk exploitation or harm are not unethical.
(b) If a psychologist finds that, due to unforeseen factors, a potentially harmful multiple relationship has arisen, the psychologist takes reasonable steps to resolve it with due regard for the best interests of the affected person and maximal compliance with the Ethics Code.
(c) When psychologists are required by law, institutional policy, or extraordinary circumstances to serve in more than one role in judicial or administrative proceedings, at the outset they clarify role expectations and the extent of confidentiality and thereafter as changes occur.

Board Exhibits:

Exhibit #1 – Complaint filed by Patient, received June 18, 2012

Exhibit #1a – Letter to Patient from Dr. Sipes, dated April 24, 2012

Exhibit #1b – Handwritten Note on Stationary of M. Sipes

Exhibit #2 – Police Report from Manchester Police Department, dated May 23, 2012

Exhibit #3 – Email from Dr. Sipes to Patient, dated July 2, 2012

Exhibit #4 – Letter from Board of Mental Health Practice to Dr. Sipes, dated July 24, 2012

Exhibit #5 – Order of Formal Investigation from the Board of Mental Health Practice, dated July 24, 2012

Exhibit #6 – Letter from Kathleen M. Albert, Ph.D. to Dr. Sipes, dated July 30, 2012

Exhibit #7 – Document from Complete Care Counseling, LLC signed by Kathleen M. Albert, Ph.D. and Dr. Sipes

Exhibit #8 – (SEALED) Response to the Allegations Filed by Dr. Sipes, received August 23, 2012

Exhibit #9 – (SEALED) Patient's Complete Care Counseling Treatment Records for Treatment Dates March 9, 2012 through April 20, 2012

Exhibit #10 – Audio Recording of Voice Message Received by Patient

Exhibit #10a – Transcript of the Audio Recording of the Voice Message

Exhibit #11 – Audio Recording of Interview with Patient, Conducted May 15, 2013

Exhibit #11a – Transcript of the Audio Recording of the Interview

Exhibit #12 – Resume of Dr. Sarah Avery-Leaf

Exhibit #13 – Zur, Ofer, Ph.D. "Touch in Therapy and the Standard of Care in Psychotherapy and Counseling: Bringing Clarity to Illusive Relationships." *United States Association of Body Psychotherapists Journal* 6.2 (2007): 61–93.

Exhibit #14 – The United States Association for Body Psychotherapy Ethics Guidelines, revised September 2007

Dr. Sipes' Exhibits:

Exhibit A – Medical Records

Exhibit B – Evaluation of Dr. Sipes

Exhibit C – Summary of Research on Touch Therapy

Exhibit D – Dr. Sipes' Diagram Depicting the Hug

Findings of Fact:

- Dr. Sipes was first granted a license to practice psychology in the State of New Hampshire on January 29, 2007. She currently holds license number 1122.
- Patient began treatment with Dr. Sipes in 2008 for Bipolar II Disorder and Post Traumatic Stress Disorder related to childhood sexual abuse.

- On one occasion, Dr. Sipes called Patient to inform her that she had a cancellation in her schedule and suggested they get coffee. Patient responded that she was in the process of cutting both her sister's and a friend's hair and invited Dr. Sipes to her house. Dr. Sipes declined, stating, "I don't think that would be a good idea."
- On March 9, 2012, Dr. Sipes saw Patient and Patient's sister for a therapy session.
- Treatment records for March 15, 2012, state Dr. Sipes attended an IEP meeting with Patient to "provide[] support and interpretive information regarding [Patient's] son's testing." Ex. 9 at 2.
- Dr. Sipes offered to go to the IEP meeting with the Patient after Patient expressed anxiety about the meeting.
- Patient's son was not a patient of Dr. Sipes.
- Treatment records for April 11, 2012 state Dr. Sipes attended an IEP meeting with Patient to "provide[] psychoeducational information regarding proposed interventions for [Patient's] son." Ex. 9 at 4.
- Dr. Sipes recalls only attending one IEP meeting with Patient.
- During the last year of treatment with Dr. Sipes, Patient started to feel that Dr. Sipes felt more than just a patient/psychologist relationship. Dr. Sipes told patient that she was beautiful and that she never hugs anyone else.
- Dr. Sipes had a therapy session with Patient on April 20, 2012. During that session, Dr. Sipes suggested a new exercise that involved Dr. Sipes touching the Patient.
- During the April 20, 2012 session, Patient had been telling Dr. Sipes that she felt safe and comforted when she touched or leaned against her husband. Dr. Sipes then stated, "Let's try something" and moved towards the couch Patient was sitting on. Dr. Sipes then

instructed Patient to kneel in front of her and then had Patient move into a seated hug position, facing her, and Dr. Sipes wrapped her arms around Patient. Dr. Sipes then inhaled deeply as if to smell Patient and kissed Patient on her cheek and neck.

- While engaging in this exercise, Patient told Dr. Sipes that she thought the exercise was "weird" and that it was making her "feel funny." Ex. 8 at 4.
- Dr. Sipes recommended that Patient "give it a couple of minutes to see if it is helpful." Ex. 8 at 4.
- After a few minutes of the exercise, Patient stated her back hurt and sat up. Patient came to be seated next to Dr. Sipes on the couch.
- Dr. Sipes then placed her arm around Patient's shoulder and kissed Patient's cheek once or possibly twice.
- Prior to beginning the exercise, Dr. Sipes did not explain to the Patient what the exercise was or in what way Patient could benefit from the exercise. Dr. Sipes did not obtain adequate informed consent from Patient to perform the touch exercise.
- Dr. Sipes did not document in the progress note for the April 20, 2012 session that she engaged in touch therapy with Patient. The Patient's progress notes do not contain any documentation relating to the touch exercise, Patient's informed consent to the exercise, Dr. Sipes' rationale for attempting the touch exercise, Patient's reaction to the touch exercise, or Dr. Sipes' ethical decision-making process regarding whether this exercise would be appropriate for this patient.
- Dr. Sipes testified herself that her documentation was inadequate.
- On April 23, 2012, Patient called to terminate treatment and cancelled all her future appointments with Dr. Sipes.

- On April 24, 2012, Dr. Sipes sent Patient a letter. The letter stated, "I was very surprised to hear that you cancelled all of your appointments and would very much like to talk to you to see if we can resolve the problem you are experiencing with your therapy." Ex. 1-a.
- Dr. Sipes also sent Patient a handwritten note that stated, "I get that you never want to see or hear from me again and I respect your boundaries. If you want the boys to continue with George & Karen, I will make myself scarce at those times. 'Wrong' referred to flashbacks but I didn't want you to try to take care of me." Ex. 1-b.
- Dr. Sipes also called Patient and left a voice message. On the voice message, she stated: "Hi [Patient] it's Lori, could I I wa I wanted to talk with you and wondered if I could have like have a half hour of your time to try to apologize and understand, I'll buy you a cup of coffee, if not today then maybe I'll try again in a week or two, I hope you are doing well and hopefully I'll get to talk with you soon. Bye." Exs. 10, 10-a.
- On May 23, 2012, Dr. Sipes went to Patient's house to speak with Patient. After no one answered the door, Dr. Sipes left.
- That same day, Patient went to the Manchester Police Department after Dr. Sipes left her home and filed a police report.
- Dr. Sipes' repeated contacts made Patient feel afraid and Patient testified that she felt like Dr. Sipes was stalking her.
- On June 18, 2012, the Board received the complaint Patient filed against Dr. Sipes.
- On June 30, 2012, Dr. Sipes sent Patient an email. The email stated:

  Hi [Patient],

> You once said that if you lived a thousand years, you could never thank me enough for all the kindness, patience and support I have shown your family.
>
> Could you possibly thank me now by telling me honestly why, after four years, you had to exile me to bumf*k Egypt, that you're okay and that exiling me is at least helping you.
>
> I know it's a lot to ask and I hate to bother you but having the answers really will help me deal with the loss. It's been 71 days and I'm still troubled.
>
> Sorry,
> Lori

Ex. 3.

- On July 2, 2012, Patient responded to Dr. Sipes' email by writing, "Lori, Do not contact me again or come to my home ever again. I don't want any contact with you." Ex. 3.
- On July 24, 2012 the Board sent Dr. Sipes a letter notifying her that the Board had issued an Order of Formal Investigation. Dr. Sipes was asked to provide a written response to the allegations. Ex. 4.
- On August 23, 2012, the Board received Dr. Sipes' written response to the complaint filed by Patient. Ex. 8.

Rulings of Law:

1. On or about April 20, 2012, Dr. Sipes engaged in professional misconduct by inappropriately touching Patient in violation of RSA 330-A:27, II(c).

2. Dr. Sipes failed to maintain appropriate boundaries in violation of RSA 330-A:27, II(c), Mhp 501.02(a), and APA Code of Ethics 3.05.

THEREFORE, IT IS HEREBY ORDERED that pursuant to RSA 329-B:21, III(b), the following limitations are placed on Dr. Sipes' license:

a. Dr. Sipes is required to work with a supervisor for a period of three years. Said supervisor must be a New Hampshire Psychological Association Ethics Committee member or, if none are available to supervise, the supervisor must have established expertise in ethics.

b. Said supervisor must be pre-approved by the Board.

c. For the first year, Dr. Sipes is required to report to her supervisor weekly. For the second year, Dr. Sipes is required to report to her supervisor bi-weekly. For the third and final year, Dr. Sipes is required to report to her supervisor monthly.

d. The supervisor must review Dr. Sipes' treatment notes to ensure that she is complying with the documentation requirements and has been completing her documentation with due diligence.

e. The supervisor must report to the Board quarterly through a written submission to the Board. Such report must include a substantive discussion of Dr. Sipes' understanding and adherence to the Board's rules, including the APA Code of Ethics, incorporated by reference in Mhp 501.02(a)(1). In particular, the supervisor's report should address the following ethics provisions: APA Code of Ethics Principles A & B, §§ 3.02, 3.04, 3.05, 6.01, 9.03, 10.05, and 10.10.

IT IS FURTHER ORDERED that pursuant to RSA 329-B:21, III(d), Dr. Sipes is required to complete six hours of ethics courses on boundary violations. The ethics courses must be pre-approved by the Board and must be completed by September 1, 2016, with proof of completion

provided to the Board. In particular, Dr. Sipes is required to complete courses that the Board has deemed satisfactory on the following subjects:

a. One course must concern the awareness of setting boundaries and informed consent;

b. One course must concern the awareness of how a psychologist should properly respond when a patient crosses a boundary; and

c. One course must concern how to properly document any boundary violations that either a psychologist or a patient may have committed.

IT IS FURTHER ORDERED that within fifteen (15) days of the effective date of this Decision and Order, Dr. Sipes shall furnish a copy of this Decision and Order to any current employer and to any agency or authority which licenses, certifies, or credentials Psychologists with which Dr. Sipes is presently affiliated.

IT IS FURTHER ORDERED that Dr. Sipes shall furnish a copy of this Decision and Order to any employer and/or agency or authority which licenses, certifies, or credentials Psychologists for the duration of her three year supervision period.

IT IS FURTHER ORDERED that this Decision and Order shall become a permanent part of Dr. Sipes' file, which is maintained by the Board as a public document.

IT IS FURTHER ORDERED that this Decision and Order shall take effect as a final Order of the Board on the date it is signed by an authorized representative of the Board.

BY ORDER OF THE BOARD

Date: January 12, 2016

Jean Barnes
Authorized Representative of the New Hampshire Board of Psychologists

*Board members not participating:
Sarah Avery-Leaf, Ph.D. (recused)
Vincent N. Scalese, Ed.D