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BEFORE THE NEVADA STATE BOARD OF
EXAMINERS FOR ALCOHOL, DRUG AND GAMBLING COUNSELORS

In the Matter of:

Kipper Horton,

Licensed Alcohol and Drug Abuse Counselor
Nevada License No. 1491-L

Respondent.

Case No. 2018-04-1

**COMPLAINT AND
NOTICE OF HEARING**

The Nevada State Board of Examiners for Alcohol, Drug and Gambling Counselors (Board), by and through its attorney, Colleen Platt of the Platt Law Group, hereby notifies Respondent, Kipper Horton of an administrative hearing, which is to be held pursuant to Chapters 233B, 622, 622A and 641C of the Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC). The purpose of the hearing is to consider the allegations stated below and to determine if the Respondent should be subject to an administrative penalty as set forth in NRS 641C.720, if the stated allegations are proven at the hearing by the evidence presented.

Respondent, Kipper Horton, is currently and at all times mentioned herein, licensed as an alcohol and drug abuse counselor in the State of Nevada and is therefore, subject to the jurisdiction of the Board and the provisions of NRS and NAC Chapter 641C.

IT IS HEREBY ALLEGED AND CHARGED AS FOLLOWS:

ALLEGED FACTS

1. Respondent teaches a substance abuse course at Truckee Meadows Community College.
2. During the course, Respondent has shown videos to the students enrolled in the course of Respondent's participation in a ketamine trial.
3. Respondent, through the videos, has articulated the benefits of ketamine's use as a therapeutic agent and glorified the drug to his students.
4. Respondent instructed the students enrolled in his course of beneficial uses of ketamine as a therapeutic agent.
5. Respondent told students enrolled in his course that he took drugs, including, marijuana and LSD.

6. Respondent disclosed to a client that he ingested ayahuasca, a hallucinogenic drug.

ALLEGED VIOLATIONS OF LAW

COUNT ONE

By encouraging the use of ketamine as a therapeutic agent and/or the use of other drugs, Respondent has failed to base his practice upon the most current and generally accepted and recognized knowledge relevant to the practice of counseling alcohol and drug abusers in violation of NAC 641C.405(10). This is grounds for discipline pursuant to NRS 641C.700(4) and/or (7).

COUNT TWO

(Three Counts)

By teaching students about the use of drugs, including ketamine, as therapeutic agents and/or using them himself and/or telling a client about his use of drugs, Respondent has failed to maintain integrity in their professional and personal relationships and activities in violation of Principle III-2 of the NAADAC Code of Ethics, which is a violation of Section 1 of LCB File No. R069-17. This is grounds for discipline pursuant to NRS 641C.700(4) and/or (7).

PLEASE TAKE NOTICE that a disciplinary hearing has been set to consider this Administrative Complaint against the above-named Respondent in accordance with Chapters 233B, 622, 622A and 641C of the Nevada Revised Statutes.

THE HEARING WILL TAKE PLACE on **Friday, June 15, 2017, commencing at 9:00 a.m.**, or as soon thereafter as the Board is able to hear the matter at the UNR Innevation Center, 450 Sinclair Street, Summit Room (second floor), Reno, NV 89501. The meeting will be videoconferenced to the College of Southern Nevada, Charleston Campus, 6375 W. Charleston Blvd., Building H, Room 105, Las Vegas, NV 89146.

PURSUANT TO NAC 641C.555(13), Respondent is required to, file an answer to this Complaint with the Board.

PURSUANT TO NRS 622A.330 and NAC 641C.585, Respondent may seek limited discovery from the Board.

As the Respondent, you are specifically informed that you have the right to appear and be heard in your defense, either personally or through counsel of your choice. You have the right to respond and to present relevant evidence and argument on all issues involved. You have the right to call and examine witnesses, introduce exhibits, and cross-examine opposing witnesses on any matter relevant to the issues involved.

1 You have the right to request that the Board issue subpoenas to compel witnesses to testify
2 and/or evidence to be offered on your behalf. In making this request, you may be required to
3 demonstrate the relevancy of the witnesses' testimony and/or evidence.

4 The purpose of the hearing is to determine if the Respondent has violated NRS 641C.700(4)
5 and/or (7) and if the allegations contained herein are substantially proven by the evidence presented
6 to further determine what administrative penalty is to be assessed against the Respondent, if any,
7 pursuant to NRS 641C.720.

8 Should the Respondent fail to appear at the hearing, a decision may still be reached by the
9 Board. As the Respondent, you are further advised that you may be charged with the attorney's fees
10 and/or costs associated with the hearing pursuant to NRS 622.400.

11 Pursuant to NRS 233B.121(5), informal disposition of this case may be made by stipulation,
12 agreed settlement, consent order, or default. Any attempt to negotiate this case should be made
13 through Colleen Platt at the Platt Law Group, (775) 440-1052 or cplatt@plattlawgrouppreno.com.

14 Pursuant to NRS 241.033(2)(b), the Nevada State Board of Examiners for Alcohol, Drug and
15 Gambling Counselors may, without further notice, take administrative action against your license to
16 practice within the State of Nevada if the Board determines that such administrative action is
17 warranted after considering your character, alleged misconduct, professional competence, or physical
18 or mental health.

19 Dated this 31 day of May, 2018.

20 **NEVADA BOARD OF EXAMINERS FOR
21 ALCOHOL, DRUG AND GAMBLING
22 COUNSELORS**

23 

24 Colleen Platt, Counsel for the Board of Examiners for
25 Alcohol, Drug and Gambling Counselors
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 31, 2018, I provided the **COMPLAINT AND NOTICE OF HEARING**, to a Process Server for personal service of:

Kipper Horton
1168 A Forest Street
Reno, NV 89509



Colleen Platt, Attorney

EXHIBIT 1

EX 1

	• If the person has a psychiatrist the clinic works with a psychiatrist in conjunction with the ketamine treatments.
	• Ketamine treatments is not covered by insurance.
	• Ketamine treatments in not FDA approved.
	• Ketamine clinic use is an off label use.
	• \$500.00 per infusion.
	• Half life of ketamine is 3-4 hours.
	• Clinic does not treat anyone under the age of 16 yrs with malpractice limitations.
	• Clinic takes referrals, but it can be made by regular appointment as well.
	• Consultation is \$100.00-\$150.00.
	• Clinic is not research based, but collects papers.
	• Ketamine does not cause a physiological withdrawal like heroine.
	• Pioneers in Ketamine use were using it several times a day.
	• IM delivers about 70% efficacy of the drug. IV delivers 100% of the drug.
	Swallowing is even less efficacy —> goes through liver for detoxification.
	• Clinic uses actual body weight instead of actual weight until it reaches 30 BMI or over.
	• Tolerance does escalate quickly.

EXHIBIT 2

1 Day 1- Ketamine Trial (A day in the life of Ketamine Assisted Psychotherapy training.)

- Works in pairs.
- First means of administration is Sublingual 100 mg tablets (RTD's) Rapid dissolving tablets. (Kipper was recommended 200 mg because he takes a lot of substances. Kipper did 300 mg total) 20-25% bioavailability with Ketamine RTD's
- You will go home on day 4
- Call in and do full medical workup.
- Takes blood pressure
- Everyones blood pressure was high because of anxiety
- 20-10 people someone sits and walks you through the process.
- Roleplaying example of what they could expect.
- People relax a bit and regulate breathing
- Kipper will be getting an IM on Monday.
- You hold the RTD's under your tongue not to swallow it. You have to swish in your mouth for full absorption.
- 14:32 Kipper was laying down.
- 14:40 Kipper swallowed the RTD, then said tongue was numb.
- 14:46 Kipper feels more relaxed and a sense of freedom. Nurse states "he knows what is happening."
- 14:48: Was told if he had a second dose (or the bump) to place in mouth. Kippe had another lozenge; this one did no dissolve as easily. He did find it easier to supress the swallowing reflex.
- 14:58 Swallowed
- 14:59 Nurse checked in to see how ct was doing. Kipper could start to feel drug at that point. Kipper said he felt sideways or crooked. This body felt heavy as if it was floating. She asked if he was seeing anything at that point. Kipper stated it was dark in there, but he was not "seeing" anything.
- 14:04 Kipper is mighty quiet and did not want to interact. Some people talk through it, but Kipper did not.
- 15:07 Kipper was not frightened.
- 15:17: Kipper said he felt unpressred and unhurried to his sitter.
- 15:30 Kipper took eyeshades off
- It takes a 1-2 hours to be grounded.
- Kipper was still dissassociated at 2 hours.
-

EXHIBIT 3

Ex 2

00:00

00:00



Ketamine Day 2

- Kipper sat as a sitter for another person using Ketamine as a therapist.
- Cezek/ Australian person was sat by Kipper
- 2nd administration, onset came on quick for him and he grabbed Kipper's hand throughout the whole experience.
- Cezek/ Australian guy was dancing while laying down with a sense of peace.
- He eventually he hugged Kipper a lot at the end of the experience (the last 10 mins)
- Guy woke up, took his shades off, got food, and water.
- Kipper said the most profound thing that the other guy found piece with himself, and that he was finally letting go.
- Kipper will be certified as a therapist after the doctors have administered Ketamine and process it through the patients as a therapist.
- Kipper will get 50/100 milligrams of Ketamine IM the next day.
- "Kipper wants to push that K-hole"
- Kipper would not use Ketamine recreationally, but would use it therapeutically.
-

EXHIBIT 4

Ketamine Experience Day 3

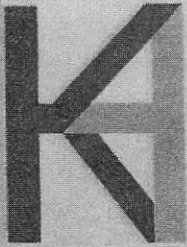
- Kipper was administered 100 mg ketamine IM in the shoulder
- Effects were pretty quick
- After 1 minute, Kipper's comment was "wow"
- Kipper was moving hands around a lot as if he was trying to grasp things.
- He noted some things she was saying.
- Kipper started mouthing words, one of them was "I hate you for making me" "I don't want to slow down yet, I'm not ready" and "I think I'm finished" at the end when he was coming down. He was aware of saying the last part.
- There is visuals with ketamine, and memory of these visuals
- Kipper told us about his trip....
- Kipper was a minister? Pastor before?
- When he left the church he was having issues with the concept of god.
- Tomorrow Kipper will be officially certified in Ketamine Assisted Psychotherapy and will train others and help treat people on this medicine.

Exhibit A

KIPPER HORTON-DOCUMENTARY EVIDENCE/EXHIBITS

LDAC Hearing 11/30/18

- Mr. Horton's Initial Response & Denial of the allegations
- Mr. Horton's CV
- Course Syllabus-CPD 116: SA, Fundamental Facts & Insights
- EM-Bob Fletcher: Chair, Social Sciences, Psychology Professor re. Investigation finding "nothing wrong academically"
- EM-Chandler Kremin-Student Clarifying statements submitted by Mr. Edwards were false, "misunderstood my story"
- Letter of Support to Bob Fletcher from Chuck Holt
- Letter from Dr. Phillip Wolfson
- Certificate of Completion-Ketamine Training Center/Horton
- Ketamine Training Manual cover page



Kipper S. Horton

Marriage and Family Therapist

Licensed Alcohol and Drug Counselor

180 West Huffaker Lane, Suite 302, Reno, NV 89511

April 26, 2018

Agata Gawronski
State of Nevada BOE for Alcohol, Drug and Gambling Counselors
4600 Kietzke Lane, Suite B115
Reno, NV 89502

Ms. Gawronski,

Having received a notice of complaint/investigation (2018-04-01) from the Board of Examiners, this letter serves as my response to the allegations made against me.

1. In response to the claim the Board "has become aware that you have reported currently using drugs, including, without limitation, ketamine, to a class you are instructing at Truckee Meadows Community College," I was administered Ketamine on April 7 and 10, 2018 in a controlled medical setting by two California state licensed psychiatrists in accordance with all state and federal regulations concerning a Schedule 3 substance.
2. In response to the claim that I "have recommended individuals engage in smoking and/or consuming marijuana," I have not at any time advised any of my clients on the use of any medicinal substances, including cannabis. As an academic instructor, I have presented to my classes all currently available research on cannabis, including current evidence that indicates the potential of cannabis and cannabis-related products in treating a range of issues, including, but not limited to, pain management, seizure abatement, sleep disorders, appetite stimulation, and for reduction of symptoms attributable to depression, anxiety and PTSD.
3. Moreover, I am having difficulty locating within the NRS and NAC regulations concerning the Board of Examiners for Alcohol, Drug and Gambling Counselors where the board is given jurisdiction over the content and process of any academic setting and would appreciate any clarification you might have to offer.

Kipper S. Horton MFT, LADCS

180 W. Huffaker Lane, Suite 302, Reno, NV 89511
Phone: (775) 232-3825 • E-Mail: kipper.horton@icloud.com

Education

University of Nevada, Reno Master of Arts, Counseling and Educational Psychology (Emphasis in Marriage and Family Therapy) CASAT Advanced Graduate Certificate in Addiction Treatment and Prevention Services	Reno, NV	June 2009 - May 2012
Nazarene Theological Seminary Master of Divinity	Kansas City, MO	August 1995 - May 1999
Point Loma Nazarene University Bachelor of Arts, Religion	San Diego, CA	August 1990 - May 1995

Professional Licenses and Certifications

Licensed Marriage and Family Therapist, State of Nevada (1323)
Licensed Alcohol and Drug Counselor, State of Nevada (1491-L)
Supervisor of Alcohol and Drug Counselor Interns, State of Nevada (00485-S)
Certified Ketamine Assisted Psychotherapist (Center for Transformational Psychotherapy)

Professional Associations

Nevada Association for Marriage and Family Therapy (Board Secretary, August 2017-June 2018)
The Center for Transformational Psychotherapy Associates (April 2018)

Work History

Instructor, TMCC Instruction and evaluation for Introduction to Substance Abuse and Biopsychosocial Factors in Addiction	Reno, NV	August 2016 - Present
Private Practice Provide therapeutic services for individuals, couples and families. Record and maintain confidential client files. Submit and track professional insurance claims. Write and submit professional assessments to employers and legal services.	Reno, NV	August 2013 - Present
Therapist, Renown Behavioral Health Provided group, individual, couples and family counseling for adults with mental health and substance use issues. Documented sessions and treatment plans for client files.	Reno, NV	October 2015-February 2016

Therapist, West Hills Hospital**Reno, NV****October 2013–August 2015**

Provided group and family counseling for adolescents, pediatrics, and adults with acute mental health issues. Provided substance use assessments for chemical dependency patients.

Therapist, Willow Springs Center**Reno, NV****March 2013–August 2013**

Provided substance abuse counseling. Provided individual, family, and group therapy for adolescents and latency ages. Recorded and maintained written documentation including session notes and treatment plans.

Counselor, Center for Behavioral Health**Reno, NV****December 2012–March 2013**

Provided substance abuse assessment and counseling for outpatient clients. Recorded and maintained written documentation including session notes and treatment plans.

Counselor, Bristlecone Family Resources**Reno, NV****August 2011–November 2012**

Provided substance abuse assessment and counseling for residential and outpatient clients via group, individual, couple and family settings. Designed and facilitated parenting program for clientele with substance use issues. Recorded and maintained written documentation including session notes and treatment plans.

Lead Pastor, Leonardtown Church of the Nazarene**Leonardtown, MD****March 2000–February 2005**

Responsible for spiritual leadership for local congregation, including weekly preaching and worship service planning, and community outreach.

Course Syllabus
CPD 116 : Substance Abuse, Fundamental Facts & Insights
Spring 2018

INSTRUCTOR: Kipper Horton, MA, LMFT, LADC-S

You may contact me via Canvas Email during the semester.

CATALOG DESCRIPTION

CPD 116 : Substance Abuse, Fundamental Facts and Principles

CREDITS : 3

PREREQ : None

TRANSFER : Satisfies requirements for CASAT certification in addiction treatment

DESCRIPTION: This course covers the following topics related to substance abuse in our society: identification of substances, reasons for abuse of alcohol and of drugs, signs and symptoms of substance abuse, and approaches and techniques recognized as effective in substance abuse counseling

TIME : M, 7:00-9:50 Sierra Bldg, Rm 115

OBJECTIVES AND OUTCOMES

Objectives

Students will demonstrate the ability to:

1. Understand the historical perspective, current trends and major theories of addiction.
2. Identify major drug classifications and effects of psychoactive substances on the body and brain.
3. Demonstrate knowledge of principles and philosophies of prevention, intervention and treatment/counseling.
4. Identify risk factors, preventative processes and resiliency factors found people impacted by substance abuse.
5. Describe characteristics of effective relapse prevention, and the role of self-help and support groups in recovery.
6. Understand the role of caregiver/service providers and the human service field as it relates to addiction.

Outcomes

Outcome 1 Students will be able to explain the effects of substance abuse on the individual, the family, and the community.

Measure 1 Knowledge of the effects of substance abuse will be assessed via embedded multiple choice, true/false and or short questions on an exam/quiz.

Outcome 2 Students will be able to explain the use of treatment/counseling for people affected by substance abuse.

Measure 2 Knowledge will be assessed via embedded multiple choice and/or true and false questions on an exam/quiz.

Outcome 3 Students will be able to describe the theories and supporting evidence explaining the causes and risk factors of addiction.

Measure 3 Descriptions will be assessed via embedded multiple choice, true/false and or short answer questions on an exam/quiz.

TEXTS

From: Kipper Horton
Sent: Thursday, May 31, 2018 6:25 AM
To: Tracy Singh, Esq.
Subject: Fwd: Re discussion regarding Complaints to Professional Boards

----- Forwarded message -----

From: Bob Fletcher <bfletcher@tmcc.edu>
Date: Wednesday, May 30, 2018
Subject: Re discussion regarding Complaints to Professional Boards
To: Kipper Horton <khorton@tmcc.edu>

Hi Kipper,

Thank you for being so available at the end of the semester to help me sort this out. I appreciate your willingness to send me any documentation that would help me understand the situation. I

After reviewing the information provided, I do not see that you have done anything wrong academically. When you discuss the field, you do so backed with recent and cogent research.

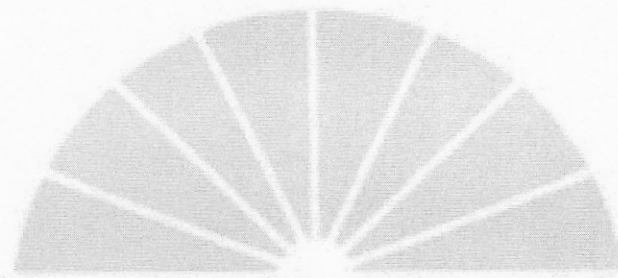
I might suggest that some of the higher level topics might be best discussed in advanced classes, like CPD 254, that you are scheduled to teach in the fall.

--

Bob Fletcher
Chair, Social Sciences
Professor of Psychology
Truckee Meadows Community College
Reno, Nevada

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Public Records Notice: In accordance with Nevada Revised Statutes (NRS) Chapter 239, this email and responses, unless otherwise made confidential by law, may be subject to the Nevada Public Records laws and may be disclosed to the public upon request.



Personal Development Consultants

May 31, 2018

Bob Fletcher, M.S., Chairperson
Department of Social Sciences
Truckee Meadows Community College
7000 Dandini Blvd.
Reno, Nevada 89512

RE: Kipper Horton, M.A., MFT, LADCS

Dear Mr. Fletcher,

This is a letter of support for Kipper Horton, one of my former graduate students and currently a professional colleague for whom I have considerable regard. As a graduate student, Mr. Horton was among the best in his class, and in particular his reasoning and writing skills were generally more sophisticated than those of most of his fellow students. He was the intellectually curious one who was willing to do some extra reading to address some of the lingering questions from class. Judging from the positive professional therapist reputation he has, it seems that his curiosity has been productive.

I think that trait remains with him because he recently noted that he has been researching the therapy field's recent and continuing exploration of the use of psychedelic drugs in the treatment of refractory depression, PTSD and other trauma-related disorders. Like many of us in the field, Mr. Horton has cautiously discussed the prospective efficacy of such drugs being used, but the research is difficult to ignore when it is being done within such institutions as Johns Hopkins School of Medicine, NYU School of Medicine, University of Wisconsin School of Pharmacy, and UCLA Medical Center – among other academic arenas. Indeed, currently the California Institute of Integral Studies in San Francisco recently (Spring 2016) announced its implementation of a relevant and very specific curriculum: The Psychedelic-Assisted Therapies & Research Certificate Program. This program has invited professional counselors, therapists, nurses, physicians, psychiatrists, social workers and psychologists to apply.

Beyond his curiosity, last fall I observed Mr. Horton demonstrate his teaching skills in his part of a larger workshop for his fellow professional colleagues, some 120-130 of us. Although his portion was limited in time and scope, he had organized his material effectively and logically and his verbal style was clear, succinct, articulate and contextually relevant. His interaction with participants was respectful, often speckled with a wry but warm, gentle humor, and he answered questions directly.

If you would like additional information, please let me know.

Respectfully,

Chuck Holt
Chuck Holt, Ph.D., MFT, LCADC

Chuck Holt, Ph.D., MFT, LCADC
AAMFT Approved Supervisor

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BEFORE THE NEVADA STATE BOARD OF
EXAMINERS FOR ALCOHOL, DRUG AND GAMBLING COUNSELORS

In the Matter of:

Kipper Horton,

Licensed Alcohol and Drug Abuse Counselor
Nevada License No. 1491-L

Respondent.

Case No. 2018-04-1

**FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER**

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The above entitled matter having come on regularly scheduled meeting of the Nevada State Board Examiners for Alcohol, Drug and Gambling Counselors ("Board") on November 30, 2018, at the Innevation Center, University of Reno, Summit Conference Room (Second Floor), 450 Sinclair St., Reno, NV 89501 with videoconferencing to the University of Nevada Cooperative Extension, 8050 Paradise Rd #105, Classroom D - Las Vegas, NV 89123, on the Complaint and Notice of Hearing ("Complaint") filed herein against Respondent, Kipper Horton ("Respondent").

The members of the Board participating in the decision were: Barbara Hunt, Merlyn Sexton, Mary Lask, LeeAnn Malone, Paula Chang, and MaryAnn Potter. Board member Diaz Dixon was present for the hearing but did not participate in the deliberation on this matter. Providing legal counsel for the Board was Chief Deputy Attorney General, Greg Ott. The Board was represented by Colleen Platt, of the Platt Law Group. The Respondent was present and was represented by Tracy Singh.

The Board having received and read the Complaint and Notice of Hearing and the matter having been submitted to the Board. The Board, after due consideration of the record, evidence and law, and being fully advised makes its Findings of Facts, Conclusions of Law and Order. Respondent was at all relevant times mentioned in the Complaint licensed as Licensed Alcohol and Drug Abuse Counselor by the Board under License Number 1491-L and is therefore subject to the jurisdiction of the Board and provisions of NRS chapter 641C and NAC chapter 641C.

FINDINGS OF FACTS

1. Respondent teaches a substance abuse course at Truckee Meadows Community College.

2. During the course, Respondent showed videos to the students enrolled in the course of Respondent's participation in a certification course for ketamine therapy.
3. Respondent, through the videos, articulated the effects of ketamine to his students.

CONCLUSIONS OF LAW

COUNT TWO

(Three Counts)

By teaching students about the use of drugs, including ketamine, as therapeutic agents and/or using them himself and/or telling a client about his use of drugs, Respondent has failed to maintain integrity in their professional and personal relationships and activities in violation of Principle III-2 of the NAADAC Code of Ethics, which is a violation of Section 1 of LCB File No. R069-17. This is grounds for discipline pursuant to NRS 641C.700(4) and/or (7).

ORDER


Based upon the previous Findings of Facts and Conclusions of Law, and good cause appearing therefore:

IT IS HEREBY ORDERED that:

1. Respondent's license is hereby suspended for a period of one year. The one-year period begins from the effective date of this Order.
2. Within the eighteen months from the date of this order, Respondent must reimburse the Board its actual costs and attorneys' fees in investigating and prosecuting this matter. The costs are attached hereto as Exhibit 1.
3. This Order is reportable to any national database and is a public record.
4. The Order becomes effective on the date that it is signed by the Board President.

Dated this 12 day of December, 2018.

**NEVADA BOARD OF EXAMINERS FOR ALCOHOL,
DRUG AND GAMBLING COUNSELORS**



Barbara Hunt
President

**CONFIDENTIAL BRIEF IN SUPPORT OF RESPONDENT’S APPEAL:
SUBMITTED TO THE COMMISSION ON BEHAVIORAL HEALTH
WITH REQUEST TO SET ASIDE THE DECISION AND ORDER ISSUED BY THE
NEVADA STATE BOARD OF DRUG ALCOHOL & GAMBLING COUNSELORS
AGAINST MR. KIPPER HORTON
IN ITS FINDINGS OF FACT & CONCLUSIONS OF LAW
ON OR ABOUT DECEMBER 18, 2018
(Hearing - November 30, 2018)**

Dear Commissioners:

Thank you in advance for your time and consideration in this matter. It is our understanding that this is the first appeal to come before you pursuant to NRS 641C.800 and we very much appreciate the opportunity for your confidential review and investigation into the Decision and Order for Disciplinary Action recently issued against the Respondent, Mr. Kipper Horton (“Respondent”) by the Nevada State Board of Drug, Alcohol & Gambling Counselors (“Board”).

According to NRS 641C.800, upon receipt of an appeal from the aggrieved party, the Commission shall investigate any disciplinary action imposed by the Board. While the Commission is to “presume that the action of the Board was proper and shall not substitute its judgment for that of the Board concerning the weight of evidence on a question of fact;” the Commission may order the Board to set aside the Board’s action if it finds that the Board’s action: (a) Violates constitutional or statutory provisions; (b) Exceeds the statutory authority of the agency; (c) Was made upon unlawful procedure; (d) Is affected by other error of law; (e) Is clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; **or** (f) Is arbitrary or capricious or characterized by abuse of discretion. (See, NRS 641C.800, attached as Exhibit A.)

The facts in this case are not, and never were, in dispute; the Respondent admitted to each of the facts found by the Board in his initial and ongoing responses before this matter was noticed for hearing. Specifically, the Respondent admitted, and the Board found that:

- 1. Respondent teaches a substance abuse course at Truckee Meadows Community College;**
- 2. During the course, Respondent showed videos to the students enrolled in the course of Respondent’s participation in a certification course for ketamine therapy; and**
- 3. Respondent, through the videos, articulated the effects of ketamine to his students.**

In other words, he took a class and taught his class about what he learned in that class.

Background:

To clarify, the Board acknowledged that Respondent was dually licensed as a Drug and Alcohol Counselor and as a Marriage and Family Therapist. The Respondent was also a Professor who taught a general elective class on substance abuse at the community college. The Professor's drug and alcohol counselor license was not required or used for the purpose of teaching this class; nor did his license grant him any authority to teach this class. At all times in question, the Respondent (aka, "Professor") was teaching students from all sorts of degree plans about substances and their use; **he was not counseling or providing therapy to clients**. This fact was fully understood prior to, during and up until the conclusion of the hearing. There simply was no confusion about the fact that he was teaching students, not counseling clients.

Yet, immediately following its public deliberation and finding of the facts, the Board went on to make its one and only conclusion of law which, specifically and erroneously referred to the Respondent's actions as "telling a client" in an unveiled attempt to bridge the gap from one jurisdiction to another...confusing teaching with providing therapy...presumably, in order to justify taking action against a respondent who was not providing therapy or using his license at the time in question. Throughout its deliberations, the Board was watchful not to confuse students with clients; until it came time to apply the relevant law(s) to the very specific facts they had carefully found to be true just a few minutes earlier.

Upon closer review, this conclusion is full of untruths, mischaracterizations and misleading statements. Rather than acknowledging that the Board's findings actually amounted to **factual innocence** which, should have resulted in a dismissal or matter closure; the Board's conclusion blatantly twisted the underlying facts to extend it's jurisdiction from where it had the authority to regulate counselor-client relationships and activities; overreaching into a classroom where the Board did not have any authority to dictate what is taken or taught in college setting.

The evidence clearly and undisputedly demonstrated that the Professor attended a 4-day certification course on ketamine therapy. ALL attendees were administered the same two doses of ketamine in a controlled setting for educational purposes. One day, half of the attendees received a single dose of ketamine while the remaining half took notes on what they observed; then they would all switch the following day. The attendees observed for two days and received a dose on the other two days in order to allow everyone to have the experience of observing the administration of Ketamine by two methods or routes. All attendees consented to these procedures, they were closely monitored and medically cleared by a physician prior to being released each day.

Hundreds of providers have taken this program and *NONE* of them have ever reported being questioned or subjected to disciplinary action for teaching or attending this course. Anyone with experience in dealing with drug and alcohol abuse would certainly understand the difference between being administered medication in an educational setting and "using drugs" for illicit, unethical or illegal purposes. Yet, while deliberating on the evidence, one Board Member equated this controlled setting with habitual or reckless substance use by stating, "just because I want to know about alcohol, doesn't mean I'm going to drink so much of it that I become an alcoholic or experience the effect..."

Another Board Member, discussed that it was his choice to attend this course and, told the Professor, "... you're a free agent to determine that, you did or you didn't have to do it. Um, I'm not sure about pulling your licensure as a result of that." This Board Member continued by discussing issues which were *not* presented in evidence stating, "I do think though that, maybe there were kids in your class who were impressionable, um, maybe they thought, well, maybe I can go out and get that on the street and try it because, you know, that, it is available and kids do do it and it does make a difference, um, but maybe not. Maybe they learned from your experience and thought oh well, you know, maybe this is a drug of the future."

These comments were mere self-reflection into the what-if-maybe realm of possibilities and were completely inconsistent with the evidence presented during the hearing. However, she did complete her thought by stating, "I mean I don't know but, um, the board regulates practice not people and somehow I feel like we're doing that today. We're regulating people."

'Regulating people' was the phrase our expert, Debra Scott, MSN, RN, FRE, former Executive Director to the Nevada State Board of Nursing, Member for the National Counsel of State Boards of Nursing, current educator and Mental Health Nurse Practitioner, used when she was trying to explain that the Board's authority was limited to the Practice Act for Drug and Alcohol Counseling under NRS and NAC 641C which, by definition, involved the practice of providing "therapy to clients;" not, teaching in a classroom.

The one Conclusion of Law for this case in its entirety states:

"By teaching students about the use of drugs, including ketamine, as therapeutic agents and/or using them himself and/or telling a client about his use of drugs, Respondent has failed to maintain integrity in their professional and personal relationships and activities in violation of Principle III-2 of the NAADAC Code of Ethics, which is a violation of Section 1 of LCB File No. R069-17. This is grounds for discipline pursuant to NRS 641C.700(4) and/or (7)."

In this solitary legal conclusion, the Board not only misstated and/or mischaracterized the facts it had just found to be true; it also grossly misused the term, "integrity" and referred to statutes which were not even discussed by the Board and/or were entirely irrelevant.

Integrity is generally defined, as "the quality of being honest and having strong moral principles, moral uprightness." It was explained that, as a condition for granting his approval for time off to attend the program on Ketamine Assisted Therapy, the Professor's supervisor requested that he create video summaries for his class each night in order to provide his students with additional but optional educational opportunities in his absence. He was to teach them about what he was learning in his seminar for their mutual benefit (*See one, do one, teach one*). In doing so, he was honest and matter-of-fact about what he had learned and/or experienced and there were no recordings of any actual administrations or effects in real time; all videos were made hours after being medically cleared and released.

In other words, while sharing the information which he learned with his students as he was instructed to do, he did so with integrity. And, although the videos were no longer available by

the time the hearing took place, those videos were reviewed and approved by his superiors at the college when they first learned of the Complaints in this case.

The facts in this case do not amount to a violation of Principle III-2 of the NAADAC Code of Ethics which states, “Addiction Professionals shall conduct themselves with integrity. Providers aspire to maintain integrity in their professional and personal relationships and activities. Regardless of medium, **Providers shall communicate to clients, peers, and the public honestly, accurately, and appropriately.**” The Professor was extremely honest and accurate while described what he learned and/or experienced in the daily sessions while creating his video summaries late each night. The videos and his course content, in general, were reviewed by his supervisor and the Department Chair at the College and all were deemed to be appropriate and the matter was closed without any further action. There was no evidence to suggest that he lied or lacked integrity in any statement he made, whatsoever.

There is absolutely no language which would give notice to any licensee that this or any other section of this Code could be used to stretch beyond the scope of practice for a counselor into the classroom and take formal and permanent disciplinary action against a professor who was within his rights to enjoy the freedom of education and freedom of speech; especially, when he was cleared of any wrong-doing by his employing educational institution.

The proposed change in legislation to adopt the NAADAC Code of Ethics under Section 1 of LCB File No. R069-17 specifically limited the scope of this national multi-disciplinary ethics code to the “practice” of drug and alcohol counselors, gambling counselors and interns by stating the following: “A REGULATION relating to counselors for alcohol, drug and gambling addictions; adopting by reference the NAADAC/NCC AP Code of Ethics; revising provisions **relating to the provision of services at a treatment agency** by a certified alcohol and drug abuse counselor intern, certified clinical alcohol and drug abuse counselor intern or certified problem gambling counselor intern; revising provisions relating to the supervision of a certified alcohol and drug abuse counselor intern; and providing other matters properly relating thereto.”

This Code does *NOT* expand the Practice Act to include all life activities engaged in by a Licensed Drug and Alcohol Counselor simply because he has a License. And, even if it did (which would be a significant breach of established LCB protocols and authority for a Board to do without proper notice under NRS 233B), this newly adopted ethics code provides contradicting language in support of seeking and providing continuing education to enhance one’s own knowledge and the profession as a whole but, says nothing about refraining from education which may or may not involve the ingestion of a medication or controlled substance.

Principle III-17 of the NAADAC Code of Ethics on Continuing Education states, **“Addiction Professionals shall pursue and engage in continuing education and professional development opportunities in order to maintain and enhance knowledge of research-based scientific developments within the profession. Providers shall learn and utilize new procedures relevant to the clients they are working with. Providers shall remain informed regarding best practices for working with diverse populations.”**

Patients come in all shapes and sizes, with all sorts of co-morbidities. As a Licensed Drug and Alcohol Counselor and Marriage and Family Therapist, he had an ethical duty to pursue and engage in continuing education and, while the Board may not have chosen to take this course,

and/or they may not have liked the fact that the subject of this course was the controversial, it was not unethical or against any express rules or regulations for him to participate in this course and he believed it was not only his right but, his ethical duty to be as informed as possible on the subject; like many before him.

Furthermore, Section III- 22 of the Code on Multidisciplinary Care states, **“Addiction Professionals shall work to educate medical professionals about substance use disorders, the need for primary treatment of these disorders, and the need to limit the use of mood altering chemicals for persons in recovery.”**

Ketamine use is on the rise and there is a real possibility that patients will present with either a history of use or the current use of Ketamine. The Professor followed his ethical responsibilities by not only educating himself but, by sharing this education with other potential providers of all kinds. By attending this certification program and teaching others about what he learned in a medically controlled clinical setting about ketamine, a widely misunderstood drug, he was not only fulfilling his duties as a professor who was specifically asked to create video summaries about the program he attended; but, also as an educator for future healthcare providers who were interested in learning about substances and their abuse.

Most importantly, Section III-30 of the Code on Advocacy states, **“Addiction Professionals are aware of society’s prejudice and stigma towards people with substance use disorders, and willingly engage in the legislative process, educational institutions, and public forums to educate people about addictive disorders and advocate for opportunities and choices for our clients.”** Failing to educate oneself limits the ability to inform and advocate for others and advocacy is an essential role for any healthcare provider.

The Board’s reference to the word “integrity” in the Code of Ethics, Section III-2 was the one and only citation Board Counsel and/or Board Staff ever presented as a basis to prosecute this case when we repeatedly asked for a more definite statement and/or explanation as to why this matter was moving forward with a hearing. However, even if a lack of integrity had been established, none of the facts discussed, alleged or proven had anything to do with NRS 641.700(4) “Professional incompetence,” or NRS 641.700(7) “Engaging in behavior that is contrary to the ethical standards **as set forth in the regulations of the Board.**”

The Professor’s competency as a drug and alcohol counselor or supervisor of interns was never called into question. Educating oneself in a controlled and isolated situation and then educating others about what one has learned has never been, and should never be, an activity anyone would expect to be disciplined for (unless otherwise prohibited to do so). The codes, statutes and regulations referenced by the Board in its Notice of Complaint and Investigation; Notice of Complaint and Hearing, and in its Findings of Facts and Conclusions of Law were completely void of any valid reference to an established fact which would reasonably give anyone notice of a possible infraction while he was exercising his freedom of education and freedom of speech in the classroom.

Over numerous objections to the Notice of Complaint and Hearing and Motions to Dismiss this case for lack of jurisdiction; failure to state a claim which would give rise to disciplinary action against the respondent’s license, as well as the erroneous interpretation and/or application of the recently adopted ethics code, Board Counsel proceeded with the prosecution of this case knowing

that there was no real basis for doing so and the Board proceeded with a full hearing after erroneously ruling in favor of itself and against the Respondent in almost every raised objection.

However, despite all of our ignored objections; the Board still concluded by finding the very facts the Respondent had already admitted to...facts which should never have resulted in the risk, expense or emotional distress of a hearing let alone lead to such an erroneous outcome of taking the completely unwarranted and unexpected extreme (arbitrary and capricious) disciplinary action of suspending his license for a minimum of one year and by assessing the costs of an unnecessary hearing which resulted in the same findings of fact which had already been admitted to long before and during the hearing...Facts which should have resulted in a dismissal or matter closure.

Licensees are generally aware that they may be subject to disciplinary action for a specified number of reasons; including the habitual use of controlled substances or use which impairs one's ability to practice safely, criminal convictions, fraudulent applications, to name a few pursuant to the Practice Act for Drug and Alcohol Counselors codified in NRS and NAC 641C. The Code of Ethics adopted specifies additional situations in which a licensee might be subject to disciplinary action (without proper notice or public discussion of this expansion). However, none of the language in any statute cited mentions the prohibition to taking a course or teaching others about what they learned in that course, with or without the administration of medication by a physician for educational purposes.

The Board and its Order in this case violated Respondent's due process rights, property rights and First Amendment rights under the US Constitution, NRS 233B, NRS 641C, NAC 641C, NRS 622 and NRS 622A as well as the NAADAC Code of Ethics by pursuing false charges at a hearing instead of closing the matter upon review of the provable facts; by over-ruling appropriate objections in favor of itself, by mischaracterizing the findings of facts to create a basis for action where there was none, by imposing disciplinary action against a licensee who was acting within his rights to educate himself and others while acting legally, ethically and morally outside the Board's jurisdiction and not engaging in the well-defined practice of drug and alcohol counseling (See, NAC 641C.052).

The Board's order exceeded the Board's authority by taking action against a person acting within his rights while NOT engaging in the practice of drug and alcohol counseling with a client. This order was also made upon unlawful procedure(s) by interpreting the recently adopted ethics code in a manner which would serve (or knowingly adopting it with the intent to) pierce the Board's limited authority to regulate the practice of drug and alcohol counseling. The Board was misguided and/or was directly affected by other errors of law when it relied on the assumptions presented by Board Counsel and/or Board Staff in their Notice of Complaint and Hearing with proposed language which did not actually provide factual basis for the Conclusions of Law reached by the Board. The Board's order was clearly erroneous on its face as the findings of facts do not match the application of facts to the statutes cited as a basis for disciplinary action. Educating students is not providing therapy to clients and no one ever alleged that the Respondent was incompetent in doing either one. Furthermore, the Respondent has always acted with integrity providing honest, factual information to his clients, colleagues, students, employers and to the

Board; even while being subjected to a hearing based on facts he already admitted to and agreed with; only to have those facts twisted and misapplied to irrelevant statutes to create a conclusion of law which would arbitrarily and capriciously allow for the suspension of his license.

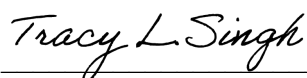
At all times, the Respondent/Professor in this case maintained his integrity and his ethical and moral mission to serve others by learning and providing as much education on any given subject as possible. However, it is the Board's apparent abuse of discretion which lacked integrity in this case, not the Respondent and as mentioned previously, we sincerely appreciate this Commission's review and investigation into this matter for so many reasons...all of which are provided in sections NRS. 641C.800 (a) through (f).

It is with sincere disappointment that we come to you with the humble request for review of this matter and we pray that you will determine that the Board's Findings of Facts did not support its Conclusion of Law in this case and that the Board's Decision and Order to Suspend the Respondent's License and assess thousands in costs should be set aside as erroneous, over-reaching, arbitrary and capricious. We went into the hearing believing that the Board would be fair and unprejudiced in its rulings...despite all of its objections...and in light of its finding of facts which we believed to be exculpatory; only to hear the misguided application of other facts not in evidence to irrelevant and inapplicable statutes to justify the end result.

Should you have any additional questions or concerns related to our requests or should you require any additional documentation, please do not hesitate to contact us and we will do our best to help facilitate your investigation and review of this matter. We sincerely thank you for your time and look forward to your decision in the near future.

Respectfully submitted this 22nd day of February, 2019.

By:



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