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**MINUTES OF TELEPHONIC MEETING
THURSDAY, SEPTEMBER 8, 2022 at 9:00AM**

Teleconference

**Nevada Board of Examiners
For Marriage & Family Therapists and Clinical Professional Counselors
7324 W. Cheyenne Avenue, Suite 10
Las Vegas, NV 89129**

Please Note: The Board may (a) address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting; (b) combine agenda items for consideration by the public body; and (c) pull or remove items from the agenda at any time. The Board may convene in closed session to consider the character, alleged misconduct, professional competence or physical or mental health of a person. (NRS 241.020, NRS 241.030).

Public comment is welcomed by the Board. Public comment will be limited to three (3) minutes per person and comments based on viewpoint will not be restricted. A public comment time will be available prior to any action items on the agenda and on any matter not specifically included on the agenda prior to adjournment of the meeting. At the discretion of the President, additional public comment may be heard when that item is reached. The President may allow additional time to be given a speaker as time allows and at his/her sole discretion. (NRS 241.020, NRS 241.030) Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Board may refuse to consider public comment. (NRS 233B.126)

Action by the Board on any item may be to approve, deny, amend, or table

1. Call to Order, Roll Call, Confirmation of Quorum.
 - Board members present: Steven Nicholas, John Nixon, Sara Pelton, Marta Wilson, Jenny Stepp, Sheldon Jacobs, Lauri Perdue, Jennifer Ross
 - Board members not present: Hal Taylor
 - Staff present: Joelle McNutt, Stephanie Steinhiser, Senior Deputy Attorney General Henna Rasul, Senior Deputy Attorney General Sophia Long
 - Members of the public present: Judy Jenner, Kimberly Farkas, Ana Hernandez, Phyllis Cameron, John Hunt, Marivelle Nunez, Aaron Van Sickle, Alan Von Kleiss, Cara Elliott, Jerri Gallegos-Carr, Nadia Roman-Leiva, Amy Reha, Shari Andreasen, Pedro Vasquez, Patricia Vasquez, Andrea Thoms, Bert Weuster
- Steve: I am going to remove the agenda item for public comment now and we will reserve an opportunity at the end of the meeting for public comment.

2. Disciplinary hearing on Complaint and Notice of Hearing in the Matter of Marivelle Nunez, Case No. NV17MFT018. This agenda item may include review and consideration of a consent decree (For possible action)

- Marta: I will be recusing myself.
- Steve: Understood. I want to establish some rules here as far as who is on this call. Ms. Sophia Long, who is the Board's counsel. As the Chair of the Board, we are here for the hearing in the matter of Marivelle Nunez, Case No. NV17MFT018. I want to know if all relevant parties are present, and if so, please come forward and identify yourselves.
- John Hunt: This is John Hunt, NV Bar #1888. Appearing with me is the respondent, Marivelle Nunez.
- Henna: This is Henna Rasul, Senior Deputy Attorney General here on behalf of the State.
- Steve: Before we go any further, I'll swear in the court reporter.
- Kimberly Farkas: I am here.
- Steve: Do you swear and affirm that you will report this hearing to the best of your stenographic ability, Ms. Farkas?
- Kimberly Farkas: I do.
- Steve: Are there any other preliminary matters?
- Henna: Yes. I would like to state on the record that we have entered into a consent decree for consideration by the Board at this time in lieu of proceeding with the hearing. I would like to have that presented.
- Sophia: While the consent decree is being sent to all the Board members, I want to point out a few things for the Board members. Take your time in reading the entire decree. The facts in the consent decree are all the facts that the Board should go off of to determine whether you agree with the discipline proposed. If based on the facts you think the discipline is appropriate, then you should accept the consent decree and then we're done with the hearing and this matter altogether. If you read from the facts of the consent decree, and you do not think that the discipline is appropriate, then deny the consent decree and we will move into a hearing. If you believe that the discipline is enough to protect the public, then accept the consent decree.
- Steve: This is our opportunity to offer our thoughts on if you want to approve this consent decree. If you do not, what are your thoughts as far as amending, changing or denying it? I'm alarmed at the admission of working outside of a scope of practice. My biggest concerns are I can't estimate the level of harm that may or may not have been inflicted by the defendant working well outside of the scope of practice.
- Lauri: I am not comfortable with the length of probation.
- John: I'm also in concurrence. It's unclear what I can say and what I can't say because we stipulated certain things in the consent decree in order to come to some conditions of agreement. The problem is concerns could still be present because you can go through all the additional

continuing education and check all the boxes of the consent decree, pay the fines but has there been substantive self-awareness in terms of boundaries and dual relationships? So, I would share the same concerns in terms of welfare of the clients. In terms of protecting the public, are we doing our due diligence? I think that minimally we are. I still would have the same concerns that an understanding has been gained, a change of heart, so to speak.

- Sophia: Mr. Chair, it's up to you if you want to go to Ms. Rasul or Mr. Hunt and they can let the Board know why they think this is a good consent decree for the Board to accept.
- Steve: Dr. Nixon, really great points. You used the phrase; it protects the public minimally. if that's the level that we're comfortable enough with, or if we want to push toward a formal hearing to be able to examine this in more detail. Any other board members that would like to offer the thoughts?
- Jennifer: I have some thoughts and just a point of clarification. It's inferred in the document, but I want to clarify the revocation of secondary supervisor status. Does that mean that Ms. Nunez is not an approved primary supervisor, only doing secondary supervision?
- Sophia: If either of the attorneys can answer that question.
- John Hunt: She is not.
- Jennifer: I would agree that it's a hefty consent decree. At the same time, I find myself wanting more information and not feeling fully comfortable with moving forward with the facts, as I'm not convinced entirely that we're protecting the public as well as we could be as a Board. My thought on that would be toward a formal hearing.
- Steve: Ms. Rasul, please offer your thoughts on why and how this consent decree is sufficient for you?
- Henna: I believe that it sufficiently addresses the concerns of protecting the public if you take the discipline in conjunction with the facts as stated in the document. With consent decrees, all terms are negotiated and they're not all the facts, they're not everything that the Board would know ordinarily in a hearing. It is discipline.
- John Hunt: I have total respect for everything the Board does for 20 years. I was the prosecutor for the Dental Board. I deeply respect both Sophia and Henna. I would tell you that one of the things about stipulations is that I'm sure both sides are vehement about their positions. The Board's responsibility is to protect the public and to put in place the appropriate remedial measures that could assure protection of the public to remediate the licensee. Sometimes what's not in the stipulation is more telling than what's in it. If there had any, been any prior actions and if both sides were adamant about whether these things occurred or not occurred. What you can assume when you have competent counsel, which I believe Ms. Rasul is, you both negotiate to a point so the matter can resolve, and that you can allow the licensee to proceed with the adequate safeguards in place. You have to remember that if, if there's any slip ups or any further actions, then obviously the Board can, in the future, immediately be more intrusive. I can tell you that if the matter goes forward, Ms. Nunez will indicate to you what her shortcomings were and, and how she has learned from this. This is a huge thing in someone's life, when a Board makes a decision, there's another whole layer of things that you as professionals have to face such as loss of provider contracts, things of that nature. Looking at the totality of this, looking at her history, if there had been any prior actions ever taken against her. What we try to do is to protect the public and remediate the licensee

and the facts that are so stipulated. I can tell you hardcore negotiations and looking at this from every aspect as to all the evidence that was going to be submitted that this is a fair resolution that protects the public. If there's any further problems, remember there's all kinds of consequences that come into being if these are not met. The amount and the extent of the remediation was with good thought and fairness to the public. If you look at the facts that are in here without speculating and you look at the four corners of this document, this is a mechanism to resolve this, to protect the public and to remediate Ms. Nunez. She recognizes that at her training and experience level she should have acted differently.

- Henna: You made sufficient statements. I do believe that it is a fair resolution, otherwise I would not have agreed to put this before the Board. I ensure that the terms in the consent decree, specifically the adjudication portion, the disciplinary portion, not only address protecting the public, but also ensure that the licensee is made aware that they had some responsibility to the public, and that they acknowledge that in the document.
- Sara: If we were to accept the consent decree, what would happen with that report from the therapist at the end of the 12-month period? Would the board review that?
- John Hunt: May I address that Mr. President? The licensee has to comply with every single provision, including the quarterly reports, including completing those things, including the counseling, the supervision, all that. The Board gets that information. This is a document that says that she must petition the Board at the end of the probationary period. And at that point, the Board can recommend further safeguards. So, when we talk about where we're at now, there's all kinds of things that are in place that assure should assure the Board members and the public that this isn't just jump through the hula hoops. So, at the end, as Board members, you're going to have the opportunity to decide whether or not the terms and conditions of this stipulation stay in place. She doesn't get to select any of this, right? Every step of this has to be Board approved. The continuing education, who's supervising her, who's counseling, all runs through the Board. Which is another big safeguard. Those measures are in place as well as the end total compliance or you get to say, in 18 months, we're not comfortable with releasing you from this stipulation. There are a number of safeguards here for the Board in order to protect the public, but still allow the licensee to get on the right track.
- Steve: I'm not uncomfortable with this consent decree, I'm uncomfortable with the fact that I can't deduce if there was harm done by negligent performance and negligent work. I expect that a hearing might be able to uncover some of that if there was harm done and the degree of harm done based on negligent clinical work, maybe even fraudulent work or exploitive work. That can't be deduced in this consent decree.
- Sara: I feel like we have to assume there was harm done if we're even to a point of a consent decree.
- Jenny: I very much trust our, our counsel. We've seen consent decrees before, and it appears that the bones here are pretty comprehensive. It's probably safe to assume there has been harm done. To the degree to which harm may have been done, then we may feel some duty to go further than this consent decree.
- Sheldon: I feel like there's not enough information to go on. I get the legal ramifications with the consent decree. It makes me a little bit uncomfortable not to have all the information especially when it comes to the fact that there was some potential harm that was done. What is the extent of

that harm? I think that a hearing would yield more information where I would feel more comfortable with making a more informed decision.

- Sara: If we were to accept the consent decree as written, can we meet again and review the work done towards remediation?
- Steve: Yes, we can.
- Sophia: Ms. Rasul, Mr. Hunt, there are quarterly reports. What's the intent of those and what should the Board be looking for?
- Henna: Typically, these types of reports that are put into a consent decree are submitted to the Board office. However, should the Board want to review those reports or want her to come back before the Board, the time and place for that would be at the conclusion of the 18-month probation, when she submits her petition to be released from probation, that's where she could be requested to come before the Board.
- Sheldon: So, if we were to move forward with the consent decree, when would the probation period begin?
- Steve: I believe it begins immediately when it's signed.
- John Hunt: The Executive Director gets the counseling reports and the other reports. If she believes that there's been a material violation, she can immediately initiate the process and issue a summary suspension. I did want to briefly address the issue of harm. If there was substantial harm in this case, it would have been part of this stiff stipulation. I know it's hard for Board members because you get the four corners of the document. Know that every aspect of everything that you've raised was part of the negotiation process to get us to this point. So, if she does anything during the term of probation, the Board has the immediate right to do everything, including summary suspension.
- Steve: It is definitely within our ability to revoke should there be continual violations or noncompliance with this consent decree.
- Jennifer: Mr. Hunt, I thought that I heard you say earlier that Ms. Nunez would not be selecting her own supervisor or personal counselor. So, I am curious what the selection process is?
- John Hunt: That has to be approved by the Executive Director. I instruct my clients to basically accept whoever the Board is most comfortable with, because we want the most oversight to make sure that the Board knows that she's complied with all the terms and conditions.
- Steve: It occurs to me that a Board chosen therapist and Board chosen supervisor of this probationary period, those individuals individually and collectively will be asking a whole lot more needling questions than we have at this moment. Ideally quite a bit of questioning and developing would happen in an 18-month window. Ms. Nunez would have to come before the Board again for reconsideration approval. I think that there are a lot of filters in this. I appreciate that potential harm had been factored into this consent decree.
- Sophia: The Executive Director can only summarily suspend if she is in default of her payments. So, what you're saying is, with the intent that if her quarterly reports are unsatisfactory and she does not fulfill meeting with the counselors and things like that, the Executive Director has the

authority to summarily suspend on those aspects as well. So that needs to be put in the decree if the Board is going to accept it.

- John Hunt: Absolutely, meaning that there has to be a material violation. I have no problem adding that provision to the stipulation that if there's a material violation reported to the Executive Director, that she consents to a suspension and that suspension stays in place until she petitions the Board to be reinstated. I think that's a good safeguard.
- Henna: If we're going to do that, then I would like to revise the consent decree because I want something put before the Board today.
- Steve: We're almost there, but as a Board, I don't know if we're all on board about moving forward with the consent decree yet. I'm much more comfortable with an 18-month probation that includes therapy for 18 months with quarterly reports from the Board approved marriage and family therapist who ideally would be a Primary Supervisor.
- Sara: I agree. I think what was holding me back was in the original we would have to wait 12 months to get one report from the therapist. I feel like that's too long. I would feel much more comfortable with quarterly.
- Sheldon: When it comes to the 18 months of therapy, is it weekly therapy? Is it bi-weekly? What would that entail? What would that look like?
- Sophia: It is monthly.
- Henna: Was there another change that you were discussing prior to this? So, you want us change psychologist, counselor to MFT? Is that what you're saying?
- Steve: She's an MFT. She was trying to practice marriage and family therapy, essentially putting it back into a MFT primary supervisor's court. I trust that based on not just their licensure, but the supervisory status. That gives me much more comfort. I think that not 12 months, but I think 18 months of counseling. A quarterly report from that MFT supervisor helps my comfort level that there's adequate work being done.
- Henna: Let's take this one at a time so that we get this right.
- Sophia: I think it was just #8. So, eight should be changed too. Instead of a psychologist and or counselor. It's an MFT primary. The counseling sessions are changing from 12 months to 18 months.
- Jenny: We've seen other consent decrees before, and I will say that I like this one more because it does have the personal counseling element in it. I am much more comfortable now extending that to 18 months and that we would get a report sooner.
- Sophia: We don't have monthly reports.
- Steve: What are your thoughts about it being an approved primary supervisor, Jenny?
- Jenny: I think that's a great idea. I don't think that would be a bad thing. Obviously, that would be a different person than her supervisor. I just want to clarify that she would be doing personal

counseling work versus her supervision work. That is clear. There would be two different things. Two different pieces.

- Steve: Well, I don't see that written in, so let's talk about that.
- Jenny: Number four is the supervision, her professional supervision. Number eight is her personal counseling work her growth work.
- Henna: So, when you were talking about monthly reports, you were talking about number eight?
- Sophia: Yes. I believe that's what the Board was discussing is the monthly reports for the counseling rather than one report at the very end. Monthly reports for the counseling.
- Sheldon: I think it would be prudent to have a MFT because of the focus of systems and systemic thinking and just approaching things from a systemic standpoint.
- John: I was going to argue the opposite because counselors teach boundaries in a very strict way. So, the idea of doing concurrent individual therapy with a family member that you're doing family therapy with would simply not be acceptable under counselor ethics, but it tends to be common practice under MFTs. I would make the opposite argument and say that actually a licensed counselor who is a primary supervisor would be a better choice in that regard for making very crystal-clear approach to boundaries.
- Jenny: Without knowing what some of the issues were with the therapist here, I don't necessarily think we need to stipulate what type of counseling she gets because perhaps there is some underlying reason or issue here that could possibly come to light and be very helpful in her growth process. I think in the consent decree as it's written that the Board approves who it is that she's seeing that we know they are credentialed, they practice within their scope. I don't think we should put a narrow lens on the kind of personal growth work she may need to do because that could be part of the issue here. I don't want to have blinders on. I want to be able to open up if there is something that needs to be worked through or processed, I think this would be the opportunity.
- Jennifer: I'm not entirely comfortable with one hour a month of supervision and one hour a month of personal counseling. When you think about potentially the scope of 80 to 100 client hours per month with one hour of reflective work and one hour of supervision work, I am concerned that that's not sufficient.
- Steve: Perhaps bi-weekly meetings would be appropriate? 18 moves to 36.
- Sara: I think establishing a therapeutic relationship, one hour each month is not enough for a growth plan. So, I like adding the bi-weekly component.
- Steve: For example, if we change the language to reflect an 18-month probationary period where every other week she has individual counseling for herself, and every other week she has individual clinical supervision with a Board approved supervisor, that ends up being at least 36 hours of both of those by the end of this probationary period.
- Lauri: I was just going to ask question around the fine and do we determine what that payment schedule looks like in this setting, or is that done after the fact?

- Sophia: What's typical is that the respondent can just get with your Executive Director, and they can work out the details. If you put it in an order specifically, if something changes, the Executive Director has to come back before the Board to get that changed.
- Steve: Ms. Rasul, Mr. Hunt, what our Board is proposing amending the consent decree to be a total of 18 months, whereas bi-weekly clinical supervision with a Board approved primary supervisor and bi-weekly personal therapy.
- Henna: You wanted the monthly reports as well?
- Steve: Yes, Henna. Thank you.
- John Hunt: Having spoken with Ms. Nunez, we agree with all the supplemental amendments to the stipulation, and we'll try to execute it and get it back as soon as possible.
- Steve: I would like to propose a final review. I reviewed this and I see that items four, eight and 10 have been updated according to our conversation. I will review it out loud quite briefly. Item number four, state's respondent shall meet biweekly for one hour with a Board approved licensed Primary Marriage and Family Therapist Supervisor who will consult with the respondent and monitor practice during the 18-month probationary period. Supervisors shall submit and sign a Board verification form of biweekly one-hour meetings to the Board on a quarterly basis. Number eight is amended to include during the 18-month probationary period, respondent shall attend biweekly one hour counseling sessions in relationship to the events with a Board approved psychologist and or counselor unrelated to the respondent by way of family friendship, professional relationship. Number ten states the Board reserves the right to reinstate legal action against respondent and the consent decree shall automatically terminate should respondent violate any material term; the consent decree and her marriage family therapy license shall be suspended until such time respondent petitions the Board for reinstatement and reinstatement is granted.
- Motion to approve this consent decree in the matter of Marivelle Nunez, Case No. NV17MFT018: 1st Sara, 2nd Lauri; Abstentions: Marta; Jennifer opposes; Motion approved.
- Marivelle Nunez: President Nicholas, members of the Board, administrative staff and counsel, I just wanted to take a moment to say that I am grateful that you've accepted and approved the consent decree. I want to say that this has been a painful experience, yet a very learning experience. I've learned a lot from this process. I realized that I fell short in my position as an MFT, and I am looking forward to meeting with the supervisors and the therapist. I'm hoping to become yet a better therapist. I'm grateful for your presence and I understand your position.

3. Public comment.

No vote may be taken upon a matter raised during a period devoted to public comment until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS 241.020)

- No public comment.

4. Adjournment

- Meeting adjourned at 11:51 AM.

Meeting agendas are available for download at the Nevada State Board of Marriage Family Therapists & Clinical Professional Counselors website: <http://marriage.nv.gov>. Anyone who needs the agenda or supporting materials for this meeting is invited to call or email Joelle McNutt at (702) 486-7388 or mftbd2@mftbd.nv.gov. The agenda and supporting materials may be provided by email or can be arranged to be picked up in person. This agenda has been sent to all members of the Board and other interested persons who have requested an agenda from the Board. Persons who wish to continue to receive an agenda and notice should make a formal request to Joelle McNutt at mftbd2@mftbd.nv.gov.

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THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED IN THE FOLLOWING PUBLIC LOCATIONS AND WEB SITES:

State of Nevada Administrative Website: <https://notice.nv.gov/>

State of Nevada Board of Examiners for Marriage & Family Therapists and Clinical Professional Counselors: 7324 W. Cheyenne Ave. Suite #10 Las Vegas, Nevada 89129

State of Nevada Board of Examiners for Marriage & Family Therapists and Clinical Professional Counselors Website: <https://marriage.nv.gov/>