

1 **BEFORE THE BOARD OF LICENSED**
2 **PROFESSIONAL COUNSELORS AND THERAPISTS**
3 **STATE OF OREGON**

4 In the Matter of:

Agency Case No. 2011-061

5
6 **NAOMI JOSIAH, LPC,**

7 Respondent.

**NOTICE OF INTENT TO IMPOSE
DISCIPLINE AND RIGHT TO REQUEST
HEARING**

8 1.

9 The Board of Licensed Professional Counselors and Therapists (Board) is the state
10 agency responsible for licensing, regulating, and disciplining licensed professional counselors
11 (LPCs), licensed marriage and family therapists (LMFTs), and registered interns. ORS 675.705
12 to 675.835; OAR 833-001-0000 to 833-130-0080.

13 2.

14 Naomi Josiah (Respondent) is licensed as Professional Counselor. The Board has
15 jurisdiction over Respondent under ORS 675.705 to 675.835. The last address provided by
16 Respondent to the Board is 1244 NW Oceanview Drive, Newport, Oregon 97365.

17 3.

18 The Board has adopted a Code of Ethics (Code) that applies to all licensees. *See* OAR
19 833, Division 100. The Code “constitutes the standards against which the required professional
20 conduct of licensed professional counselors and marriage and family therapists is measured.”
21 OAR 833-100-0011(1). The Code’s goal is “the welfare and protection of the individuals and
22 groups with whom counselors and therapist work.” *Id.* The Code makes clear that violations of
23 its standards are subject to the highest level of discipline – “Violation of the provisions of this

1 code of ethics will be considered unprofessional or unethical conduct and is sufficient reason for
2 disciplinary action, including, but not limited to, denial of license.” *Id.*

3 4.

4 A licensee’s primary responsibility is to the client (OAR 833-100-0021(1)). Consistent
5 with that requirement, a licensee “makes every reasonable effort to advance the welfare and best
6 interests of all clients” and to “strive to benefit those with whom they work and take care to do
7 no harm.” *Id.*; OAR 833-100-0031(1).

8 5.

9 It is also important for a licensee to honestly evaluate the licensee’s competence and
10 knowledge when providing professional services to clients, as a licensee is required to act “in
11 accordance with the highest standards of professional integrity and competence.” OAR 833-100-
12 0041(1). Thus, a licensee “does not perform, nor pretend to perform, professional services
13 beyond the licensee’s field or fields of competence” (OAR 833-100-0061(11)) nor does the
14 licensee provide “what is, or may be reasonably considered, inappropriate, unnecessary, or
15 inadequate treatment or counseling/therapeutic services” (OAR 833-100-0061(13)).

16 6.

17 Here, Respondent provided professional services beyond her field of competence and
18 potentially caused harm when she provided counseling to a client suffering from anorexia
19 nervosa, a serious and life-threatening eating disorder.

20 7.

21 In October 2011, Client had been admitted and released from the hospital for the
22 symptoms of anorexia nervosa. At the time she was released, Client weighed less than 90
23 pounds. Respondent began providing counseling to Client despite the fact she had no specialized

1 training in eating disorders. Instead, Respondent attempted to educate herself by researching
2 anorexia on the internet. Respondent admits that some of their counseling sessions consisted of
3 discussing the information and printouts Respondent gathered from her internet searches.

4 8.

5 During their first counseling session, Client informed Respondent that she was being seen
6 by a local physician on a weekly basis. Respondent did not adequately consult with Client's
7 physician to ensure she was receiving the appropriate level of medical care given her precarious
8 condition.

9 9.

10 Based on the above, the Board proposes to impose discipline on Respondent for the
11 following reasons:

12 A. Respondent provided services beyond her field of competence to Client in
13 violation of ORS 675.745(1)(e) and OAR 833-100-0061(11);

14 B. Respondent failed to provide adequate treatment and services to a Client with
15 specialized problems in violation of ORS 675.745(1)(e) and OAR 833-100-
16 0061(13); and

17 C. Given her lack of training/competence in eating disorders, Respondent failed to
18 make referrals to the appropriate professionals when Client presented with
19 anorexia nervosa in violation of ORS 675.745(1)(e) and OAR 833-100-0021(2).

20 10.

21 Given these alleged violations, the Board proposes the following discipline be imposed:

22 A. Respondent shall receive a written reprimand;

23

- 1 B. Respondent's work must be supervised for one (1) year consisting of one (1)
2 session a month for at least twelve (12) total sessions by a Board-approved
3 supervisor;
- 4 C. At the end of the year, the supervisor must prepare a report for the Board
5 assessing Respondent's progress in addressing the Board's concerns. At that
6 time, the Board will determine whether additional supervision is necessary; and
- 7 D. Respondent shall pay all costs associated with this disciplinary process, including
8 attorney fees pursuant to ORS 675.745(7).
- 9

10 **NOTICE OF RIGHT TO REQUEST A HEARING**

11 11.

12 Pursuant to the Oregon Administrative Procedures Act, ORS Chapter 183, Respondent
13 has the right to request a hearing in this matter. A request for hearing must be submitted in
14 writing and must be **received** by the Board, at the following address, during regular business
15 hours, within twenty-one (21) calendar days of the date on which this Notice is mailed:

16 Oregon Board of Licensed Professional Counselors and Therapists
17 3218 Pringle Road SE, Suite 250
18 Salem, OR 97302-6312

19 If Respondent fails to request a hearing, Respondent's right to a hearing shall be
20 considered waived.

21 12.

22 Pursuant to OAR 833-001-0010 and OAR 833-001-0015, if Respondent requests a
23 hearing, Respondent is further required to promptly file with the Board, at the same time, a

1 written Answer that includes a short, plain statement of each relevant affirmative defense
2 Respondent asserts.

3

4 **NOTICE OF CONSEQUENCES OF FAILURE TO FILE AN ANSWER**

5 13.

6 Pursuant to OAR 833-001-0015(3), if Respondent fails to file an Answer, the following
7 consequences will occur:

8 (a) Respondent's failure to raise a particular defense in Respondent's Answer shall be
9 considered a waiver of such defense;

10 (b) New matters alleged in Respondent's Answer (affirmative defenses) are presumed
11 to be denied by the Board; and

12 (c) Evidence shall not be taken on any issue not raised in the Notice or Respondent's
13 Answer.

14 14.

15 If Respondent requests a hearing, Respondent will be notified of the time and date of the
16 hearing. The hearing will be conducted according to the contested case procedures described in
17 ORS 183.411 to 183.470 and OAR 137-003-0501 to 0700. Respondent has the right to represent
18 herself at such hearing or to be represented by legal counsel. Attached is information on
19 procedures, right of representation, and other rights of Respondents relating to the conduct of the
20 hearing as required by ORS 183.413(2) (Notice of Contested Case Rights and Procedures).

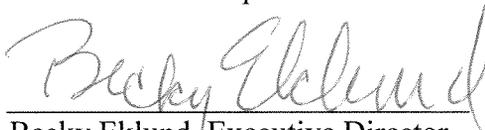
21 15.

22 In the event Respondent fails to request a hearing, withdraws her request for a hearing,
23 notifies the Board or the Administrative Law Judge assigned to this matter that Respondent does

1 not intend to appear for the hearing, or fails to appear for the hearing on this matter, the Board
2 may issue a Final Order by Default and impose the proposed discipline. Respondent's
3 submissions to the Board regarding the subject of this Application and all information in the
4 Board's files relevant to the subject of this case automatically become part of the evidentiary
5 record upon default for the purpose of proving a *prima facie* case. ORS 183.417(4).

6 DATED: August 7th, 2012

7 Oregon Board of Licensed Professional
8 Counselors and Therapists

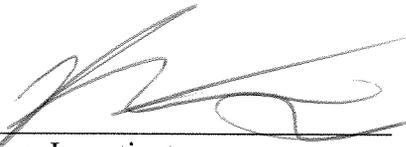
9 By 
10 Becky Eklund, Executive Director

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 13 th day of August, 2012, I served the foregoing **Notice of**
3 **Intent to Impose Discipline and Right to Request Hearing and Notice of Contested Case**
4 **Rights and Procedures** by depositing a true copy of the same in a sealed envelope sent by
5 regular and certified mail, addressed as follows:

6
7 Naomi Josiah
8 1244 NW Oceanview Dr.
9 Newport, OR 97365

10
11 
12 Brian Johnson, Investigator
13 Board of Licensed Professional Counselors
14 and Therapists

15 cc: Kelly M. Gabliks, DOJ
16 Department of Justice
17 General Counsel/Business Activities Section
18 1162 Court Street NE
19 Salem OR 97310
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22
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