NORTH CAROLINA

RANDOLPH COUNTY

JERRY OLIVER FARNHARDT,
Petitioner
RANDOLPH CO. C.S.C.

V.

OY

NORTH CAROLINA SUBSTANCE ABUSE
PROFESSIONAL PRACTICE BOARD,
Respondent

IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION
FILE NO. 16 CVS 201

CONSENT ORDER TO
CLOSE PROCEEDINGS AND
SEAL RECORD

SEAL RECORD

Respondent

ON THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 16 CVS 201

CONSENT ORDER TO
SEAL RECORD

PROFESSIONAL PRACTICE BOARD,
Respondent

THIS CAUSE came on to be heard before the undersigned Superior Court Judge Presiding with the consent of Petitioner Jerry Oliver Earnhardt and Respondent North Carolina Substance Abuse Professional Practice Board, on their joint application to close the hearing in this matter to the public, and seal the proceedings in this matter pursuant to 26 NCAC 03.0123 and other applicable law.

The Court, with the consent of the parties, makes the following FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- 1. The Court, pursuant to its inherent power, granted by Article IV, Section 1 of the North Carolina Constitution, has control of its proceedings and records in order to, inter alia, prevent injustice and act in accordance in the interest of public policy.
- 2. The Court should use its inherent power to shield its proceedings and records from the public when the use of said power is required in the interest of the proper and fair

administration of justice or, where, for reasons of public policy, the openness ordinarily required by our government will be more harmful than beneficial.

- 3. In the case at bar, Respondent has taken disciplinary action against Petitioner as a consequence of allegations of an inappropriate sexual relationship with Patient X, an individual who received counseling from Respondent relating to sexual abuse that she experienced as a child.
- 4. If the Court fails to seal these proceedings, it would allow anyone to access the case file and thereby uncover the details of Patient X's history of sexual abuse, as well as the details of her sexual relationship with Petitioner; and as a consequence, subject Patient X to unnecessary embarrassment, undo efforts Patient X has made heretofore to create a normal life for herself and likely prevent her from ever escaping the demons of her past.
- 5. Furthermore, given the sensitive and intimate nature of sexual abuse, victims must be allowed to volunteer information and testify anonymously about those issues.

 Failing to shield the identity of victims and seal legal proceedings would cause a chilling effect and discourage victims from coming forward with personal information regarding sexual abuse if related to the issues before the Court.

- 6. Both the Honorable Selina Brooks, the Administrative Law Judge hearing the underlying Contested Case; and Respondent, in considering the Proposal For Decision, have sealed the record relating to this case.
- 7. Notwithstanding Chapter 132 of the North Carolina
 General Statutes and the access of public records granted to the public thereby, the Court, in the interest of justice, for reasons of public policy; and because the openness to the public ordinarily required will be more harmful than beneficial, should permanently seal these proceedings.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

- 1. The Record in this case, including the administrative record to be filed by Respondent; the briefs of the parties, and any and all other filings in the case, is, except as may be specifically ordered by the Court, sealed.
- 2. Except as may be specifically ordered by the Court, argument and other proceedings before the Court shall be closed to the public.
- 3. The Petition For Judicial Review; Respondent's Final Decision, and this Consent Order To Close Proceedings And Seal Record are not subject to the seal.

This the B day of February 2016.

Superior Court Judge

CONSENTED TO BY:

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