

3. Patient X's family were members of First Assembly and she was a member of the Youth Group there. (T pp 98-99)
4. During patient X's Sophomore or Junior Year in High School (1997-1998), patient X's parents sought counseling for her eating disorder, including with a counselor or therapist in Charlotte; however, those attempts did not go well. At the time, patient X's parents were not aware that their daughter was the victim of sexual abuse. (T pp 103-104, 346-347, 377-379)
5. Later, patient X apparently became comfortable talking to Respondent and her parents were supportive of his counseling, believing that the sessions were likely to be of benefit to her, and counseling sessions began to be held on a more formal basis. (T pp 45, 348-349, 379-380)
6. The Undersigned finds as fact that patient X's parents believed that Respondent would provide counseling to patient X just as the counselor or therapist in Charlotte would have provided.
7. According to Pastor Robert Alan Gruver ("Pastor Bob"), the Senior Pastor at First Assembly, Respondent was providing pastoral counseling to other parishioners at First Assembly at the time. Pastor Bob always thought Respondent was licensed to provide counseling. (T p 32)
8. Respondent testified that when he began seeing patient X on a regular basis from late 1998 to Summer 1999, it was in the role of a youth pastor providing pastoral counseling. (T pp 433-435)
9. In February 1999, Respondent was licensed as a Licensed Professional Counselor ("LPC"). (Order On Final Conference And Stipulations entered on April 27, 2015, hereafter referenced as "Stipulated Fact", No. 2)
10. During her counseling sessions in her Senior Year (1998-1999), patient X and Respondent would talk about the sexual abuse she had experienced, and she would sometimes have dissociative episodes as they explored her recollections about the abuse. (T pp 112-114)
11. Patient X testified that she asked Respondent what kind of counseling they were doing and Respondent told her that it was a form of hypnosis. (T pp 113-114)
12. Respondent testified that "several times" during sessions in his office, patient X would have a dissociative episode and that he would be "freaked out" by the episodes because he did not have the training to deal with them. He does not like the practice of hypnosis and did not attempt hypnosis with her. (T p 454)
13. Patient X and Respondent began sending instant messages to each other when she was a Junior in High School and, by her Senior Year, they were sending instant messages almost every night, often late at night and for several hours at a time. (T pp 109-110, 309-310; see e.g., R Exs 18 & 19)
14. Patient X testified that the relationship felt "secretive" and she "went to great lengths to hide" her instant message sessions with Respondent from her parents by chatting on multiple windows

simultaneously and by having Respondent change his username every so often. (T pp 121-122, 294)

15. Patient X's mother learned about a toll-free service where patient X and Respondent were leaving each other "silly" voicemail messages. (T pp 356, 384-385)

16. After listening to the voicemail messages, patient X's mother made notes of some of the messages, which included statements such as:

"Sorry I had to get off so suddenly (Instant Messenger) you were right, Pastor Bob walked in and sat down. I had to get right off.";

"I am almost out of minutes on this card, but oh well, there are other email addresses and passwords. Ha!";

"I can't wait to see you so I can hold you and hug you and squish you tight. Watch out.";

"Tarzan loves Jane";

"I love you"; and

"I miss you."

(T pp 393-395; P Ex 65-68)

17. Respondent testified that patient X "talked repeatedly about running away" and so he and his wife left a key to their house outside so that patient X could go there any time she wanted to "get away and not run away." (T p 438)

18. By patient X's Senior Year in High School, her parents became concerned about: the amount of time she spent with Respondent; the amount of time Respondent and patient X spent sending instant messages (often late at night); the long telephone calls (often late at night); the appearance of impropriety resulting from all of the time they spent together; communications received from patient X's friends; and their personal observations of Respondent's and their daughter's behavior, including what they perceived to be Respondent's immature behavior around her. (T pp 114-116, 118-119, 312, 350-354, 380-382, 386, 391, 394-397; P Exs 64 & 65)

19. Patient X's parents began to oppose their daughter receiving counseling from Respondent, raising their concerns both directly with Respondent and with Pastor Bob. (T pp 35, 353-354, 381-382)

20. Patient X's father testified that whenever her parents discussed stopping Respondent's counseling, Respondent said that stopping counseling could cause patient X to be suicidal. (T p 357)

21. Respondent admits to telling Pastor Bob and patient X's parents that she was expressing suicidal ideations. (T pp 356-357, 369, 399-400, 445-446)

22. Patient X's High School friends also expressed concern to patient X about the time she spent with Respondent and she passed along their concerns to Respondent. (T p 117)

23. Patient X had been the victim of sexual abuse by a family friend starting around the age of five or six, and later by another individual until she had left for college. (T pp 99-100, 336)
24. Patient X testified that she told Respondent the name of the family friend who was abusing her early in her Senior Year of High School and told him about the other individual during the middle of her Senior Year of High School. (T p 118)
25. Patient X's mother testified that early in his counseling of patient X that Respondent told patient X's parents about the other individual's abuse and her father took steps for her safety. (T pp 387-388, 442)
26. Respondent testified that when patient X was 17 years old, she told Respondent about a family friend abusing her and that on June 19, 1999, Respondent called DSS who advised him that without the abuser's name, the incident was not reportable, and that, if the victim was 18 years old, then there was no obligation to report. After she turned 18, patient X told him that the other individual was abusing her, but Respondent could not tell her parents because of her age. (T pp 442, 439-442; R Ex 15)
27. Patient X turned 18 years old on July 6, 1999, shortly after completion of her Senior Year in High School. Respondent was 36 years old at that time. (T pp 121, 476)
28. Patient X's father testified that he was a member of the Board at First Assembly and he raised his concerns about Respondent's relationship with patient X. The Board held a meeting with Respondent, questioned him about his counseling with patient X, and discussed guidelines for the counseling. (T pp 352-354, 358)
29. Respondent denies meeting with the Board but agrees that he did have a meeting with Pastor Bob and patient X's parents in the Board room. (T p 443) He testified that at this meeting, patient X's mother was opposed to his instant message sessions with patient X but did not oppose his continued counseling of patient X. (T pp 444-445)
30. Following a meeting about his counseling sessions with patient X, Respondent sent an email to Pastor Bob on July 20, 1999 on the subject, "meeting last night," to wit:

Pastor,

You asked that we write down what we each understand [sic] the agreement to be from last night's meeting. Here is what I understand it to be:

1. move appt to during day (appt to be twice weekly at a maximum of 2 hours each)
2. Father is to call me daily or at his convenience and need to discuss status of client and interactions with client.
3. Internet to be at rate of 3 times a week with each time being around 45 minutes.
4. Secure return of key.

Let me know if I am on target or off on any of these. These will probably change numerous times, but this is where it is right now. Thanks - JE

(P Ex 28; R Ex 17)

31. The Undersigned finds as fact that Respondent's reference to patient X as "client" and the regular schedule of appointments gave an appearance that he was providing professional counseling to her.
32. Respondent testified that the agreement was that his counseling of patient X would end when patient X went to college. (T p 448)
33. Also following this meeting, Respondent made telephone calls to Liberty University ("Liberty") to obtain information for professional counseling services for patient X after she arrived for her Freshman Year of college. (T p 443)
34. In July and August 1999, Respondent and patient X engaged in chat sessions on-line where patient X described being sexually assaulted. (T pp 466-468; R Exs 18 & 19) In a chat session with Respondent on August 10, 1999, patient X described being forcibly raped by the second abuser on the previous Saturday. (T p 332; R Ex 19)
35. Respondent testified that patient X accused both of her parents of abuse. (T pp 445-448)
36. In the Fall of 1999, patient X began attending Liberty in Lynchburg, Virginia. (T pp 125-126)
37. Respondent sent gifts such as CDs and candy to patient X, and sent cards with handwritten notes such as "I love you tons & tons & tons ... I DO! Love Always & Forever Jerry". (T p 128; P Ex 29)
38. After patient X started her Freshman Year of college, Respondent and patient X would meet, usually in his car, around once a week in a parking lot either in or around Danville, Virginia or Greensboro, North Carolina which are midway between Lynchburg, Virginia and Albemarle, North Carolina. (T pp 129-130, 449; R Ex 3) They would discuss memories or abuse or school or her parents. After Christmas of 1999, these meetings would frequently end with sexual contact. (T pp 130-131, 138-139, 455-457)
39. The Undersigned finds as fact that patient X believed that these weekly meetings in Respondent's car were counseling sessions.
40. Respondent testified that he was concerned that patient X "was not stable ... because of her mental state", and so they decided that he should meet patient X halfway to "offer support and discuss how she's doing." (T p 449)
41. Respondent testified that he and patient X had developed an "unhealthy infatuation toward each other ... And so in December she was sitting – we were sitting in my car and I think she was sitting in my lap in my car. And she kissed me. And I didn't stop it. ... And then the next time we were together, I think we were in a similar situation and she kissed me and I kissed her back and it went from there." (T pp 450-451)

42. Respondent denies that he initiated their sexual relationship and claims that their relationship was “mutual”. (T pp 487-488)
43. Respondent testified that “the physical and sexual contact progressed from kissing to oral sex” by December of 1999 and the relationship became “more romantic”. (T p 457)
44. Patient X testified that the sexual contact progressed to oral sex and to sexual intercourse during her Freshman year, that she is uncertain who initiated the sexual intercourse and that the first time oral sex or sexual intercourse occurred was after Christmas of 1999. (T pp 136-137)
45. Patient X testified that she “hated sexual stuff,” was “infatuated and confused,” that she told Respondent that she “knew what we were doing was wrong and it felt wrong,” and that Respondent “wanted to show me that intimacy can be enjoyable.” (T pp 139-140)
46. Respondent has repeatedly denied that sexual intercourse occurred. (T pp 451-453)
47. Respondent discussed their physical relationship with patient X and told her that if there was no sexual intercourse then their relationship was not “adulterous.” He testified that his relationship with patient X was, in fact, “adulterous”, but “at the time ...I had drawn a line in my thinking that, yes, everything we had done was bad. It was sin. But as long as I don’t cross that line and have sexual intercourse, then it’s not adultery.” (T pp 452-453)
48. Respondent admits that after December 1999, their relationship was “an affair” and not any kind of counseling, and that he and patient X took steps to keep their affair secret from his wife, patient X’s parents and others. (T pp 461-462, 465, 485)
49. The Undersigned finds as fact that Respondent was deceitful when he continued to meet patient X after she went to college and made efforts to keep their meetings secret from patient X’s parents and others.
50. The Undersigned finds as fact that Respondent was deceitful when he engaged in a sexual relationship with patient X but allowed his wife to believe that he was counseling patient X.
51. The Undersigned finds as fact that Respondent was deceitful when he told patient X that their relationship was not “adultery” if they did not engage in sexual intercourse.
52. Testimonial evidence between patient X and Respondent is contradictory about whether sexual intercourse ever occurred.
53. The evidence was not conclusive and, therefore, the Undersigned specifically does not find that Respondent and patient X engaged in sexual intercourse.
54. Testimonial evidence between patient X and Respondent is consistent that sexual contact occurred multiple times.
55. The Undersigned finds as fact that Respondent and patient X engaged in sexual contact.

56. During her Freshman and Sophomore years in college, patient X was “infatuated and happy” with Respondent and felt very “loved”. (T p 316)
57. Respondent gave patient X a post office box address for her correspondence to him. (T p 133; see e.g. P Exs 27, 42, 43 & 44)
58. Patient X and Respondent sent numerous cards to each other which included many statements of affection. (P Exs 26, 27, 29-47, 49-52) In many of their communications, Respondent and patient X would use endearments such as “Guapa” (or “Pa”) and “Guapo” (or “Po”), the Spanish “equivalent of good looking or handsome”, and various other nicknames or pet names for each other based on characters from movies they had seen. (T pp 126, 199-202, 493-494; see P Exs 49, 50, 51 & 58) Nicknames for patient X included “Sunshine” and “Violet”. (See P Exs 32, 35, 36, 45, 48 & 52) Nicknames for Respondent included “Tarzan”, “Zach”, “Kevin” and “Poop”. (See P Exs 36, 47, 51 & 58)
59. One card sent by Respondent in Spring 2000 is illustrative of their correspondence:

Hi Sunshine!

I love you so so much and I really miss you bad ... I love you. You are a close friend that I cherish so much and treasure and value more than life itself. ... I love you & miss you! I am excited @ the summer at Falcon and I will see you ... a lot! ... I love You sooooo much! (((BIG TIGHT WARM LOVING MISSING YOU BAD CUDDLES & HUG)) I Love You Sunshine! See you soon!

Love, Tarzan

(P Ex 36)

60. During Summer 2000, patient X returned home to Albemarle, and then went to Falcon Children's Home ("Falcon") near Dunn, North Carolina where she worked as a summer intern. Patient X and Respondent met several times during the Summer, both in and around Albemarle and near Falcon, and sent each other cards. (T pp 54, 73-74, 141, 200, 316; see e.g. P Ex 47)
61. During Summer 2000, patient X’s parents learned that patient X had continued meeting Respondent while she was at college. When patient X discussed her parents’ disapproval with him, Respondent told her that they were just friends and had not done anything wrong. (T p 197)
62. On June 5, 2000, patient X sent an email to Respondent in which she described hostility between herself and her mother, and made unclear statements about physical harm. (R Ex 20) Testimony was received from patient X, her mother and her father, that her mother did not sexually abuse her nor did she tell Respondent that her parents had abused her. (T pp 263-264, 362-363, 388)
63. The Undersigned finds as fact that hostility and conflict within patient X’s family resulted from her relationship with Respondent.

64. Patient X's mother obtained telephone bills for patient X for the period of September 1999 to June 2000 which document the occurrence of multiple conversations between patient X and Respondent, some calls placed by patient X and some by Respondent. (T p 294-295, 391; P Ex 64)
65. Patient X's parents again took their concerns to Pastor Bob, showing him the telephone bills, voicemail records and cards. (T pp 43, 49-51; P Exs 64-68)
66. Pastor Bob was "fearful that there was an emotional attachment" between Respondent and patient X, but he did not know there was a physical relationship between them. (T pp 43-44)
67. On June 28, 2000, after meeting with patient X's father and Respondent, Pastor Bob drafted a letter on the subject "Letter of Counseling", enumerating that: Pastor Bob had had a number of communications with Respondent, patient X's parents and Respondent, and Respondent and patient X's father; and that Pastor Bob had directed Respondent to curtail his counseling of patient X and significantly reduce communication with her. The last line of the letter states that "[t]his letter is drafted to demonstrate that Jerry understands the seriousness of the matter." Respondent signed his name to the letter above the statement: "Reviewed and Accepted by Jerry Earnhardt, Assoc Pastor." (T p 43; P Ex 46)
68. Respondent admits that he agreed in the letter to curtail his counseling sessions and communication with patient X, but that he did not do so. (T p 478)
69. The Undersigned finds as fact that Respondent was deceitful when he did not curtail his counseling sessions or communication with patient X as agreed.
70. Respondent admits that at the time of the letter, their relationship was "both emotional and physical" and that at the time of the letter, he did not disclose to Pastor Bob how far the relationship had progressed. (T pp 479-480)
71. The Undersigned finds as fact that Respondent was deceitful when he did not disclose the nature of his relationship with patient X to Pastor Bob.
72. On September 1, 2000, patient X's mother sent an email to Pastor Bob expressing her concerns about the relationship between Respondent and patient X, and that Respondent's feelings toward patient X were "inappropriate". (P Ex 48)
73. Pastor Bob told Respondent at least 2 or 3 times that his actions with respect to patient X were destroying his ministry and that he needed to stop meeting with her. (T pp 57-58)
74. In Fall 2000, patient X returned to Liberty for her Sophomore Year, and the relationship between patient X and Respondent continued with meetings in Danville and nightly instant message sessions. (T pp 202-203)

75. During her Sophomore Year, “Respondent continued counseling patient X and engaging in a sexually intimate relationship with her. Respondent would also leave gifts and cards for her on her car and left her several voicemail messages daily.” (LPC Consent Order, para. 4)
76. The Undersigned finds as fact that Respondent was deceitful when he continued to meet patient X in Danville and to have nightly instant message sessions with her.
77. In October 2000, Respondent resigned from his position with First Assembly, and moved with his wife to Lynchburg where he started a new job at Crisis Line of Virginia. (R Ex 10)
78. Patient X believes that Respondent looked for jobs in Lynchburg so that he would be near her. (T pp 203-206, 318-319)
79. Respondent denies telling patient X that he was moving to Lynchburg to be near her. (T p 424)
80. The Undersigned does not find the evidence to be persuasive that Respondent only looked for jobs in the Lynchburg area for the sole purpose of living near patient X.
81. Respondent admits that at the time, he felt guilty about his physical relationship with patient X, but he continued the affair and concealed the relationship from his wife. (T pp 484-485)
82. The Undersigned finds as fact that Respondent was deceitful when he continued to conceal his relationship with patient X from his wife.
83. Sometime late in her Sophomore Year or early in her Junior Year (2000-2001), patient X thought their friendship was too close and she made attempts to disengage from her relationship with Respondent, but Respondent would not let her. (T pp 217-221; LPC Consent Order, para. 4)
84. A note that patient X sent to Respondent is illustrative:

...Po, I've just been feeling like I've had little control in our relationship, but I don't know. ... There are other reasons it bothers me too. One other thing is it seems like any time you have free time, my time must be spent with you. ...The reason that I have been so hesitant to ... on starting counseling with you again is because of how the majority of our past sessions ended up. Po, that confused me so hard. It's like I would tell you things that happened, but then an hour later it was like we just fooled around. That confused . . . confuses me so bad, so I just want to stay away from that. You are the closest friend I've ever had and as hard as it is for me to say this, I think we are too close. I never thought I would say this, but we've just crossed too many boundaries that we shouldn't have. ... Po, it's like this is a forbidden topic, but you are married and this has bothered me for a long time, but I am tired of feeling so guilty. ... If we have to keep it hidden, it has to be because something is wrong.

(P Ex 50)

85. Respondent testified that during this time, he and patient X “were in love with one another that we were connected emotionally.” (T p 459)
86. (No Finding Of Fact No. 86)
87. According to Respondent, their physical relationship began to wane after September 2001, their contact was “minimal” and ended during Summer 2002 when patient X went to Mexico to visit her parents. (T pp 458-459)
88. During Summer 2002, patient X corresponded via email with a dean at Liberty, discussing her history of sexual abuse, her eating disorder and complaining about “Zach” visiting her against her wishes, her desire to end both the physical and emotional relationship, his unacceptance of her attempts to end their relationship, and concerns about revealing Zach’s identity. (T pp 271-273, 318; P Exs 54-57)
89. Patient X referred to Respondent as “Zach” because he was teaching a sexual defense class on campus with the dean at the time. (T p 272)
90. The Undersigned finds as fact that patient X’s emails to a dean at Liberty show distress and harm from her physical and emotional relationship with Respondent, and her desire to end their relationship.
91. Patient X testified that during her Senior Year, she attempted to distance herself to such an extent where there may have been periods of a few weeks when she would not see Respondent. Respondent would continue to attempt to contact patient X, sending emails and leaving cards and messages, in an attempt to perpetuate the relationship, and patient X would go back to seeing Respondent. (T pp 211, 275-276, 280-281)
92. During her Senior Year, at the encouragement of Respondent, patient X volunteered at Crisis Line to perform the community service required by Liberty. (T pp 208-209, 274-275)
93. Respondent testified that during patient X’s Senior Year (2002-2003), their relationship became “platonic” with less correspondence via email or instant messages. (T p 460)
94. During her Senior Year, patient X was confused about her relationship with Respondent and sought advice from her psychology professor. (T pp 282-287) In an email in February 2003, patient X states that she is not sure whether sexual intercourse occurred and seeks advice about whether she committed adultery with Respondent if sexual intercourse had not occurred. (P Ex 59)
95. The Undersigned finds as fact that patient X’s email to her psychology professor shows distress and harm from her relationship with Respondent.
96. Patient X came to the realization that she might need hospitalization for her eating disorder; located Mercy Ministries, a residential treatment program in Nashville, Tennessee (“Mercy”);

applied for admission; and asked Respondent to provide Mercy with records. (T pp 281, 287-288, 324,460-461)

97. On April 23, 2003, “Respondent wrote a letter to [Mercy] as her LPC. In the letter Respondent provided a summary of counseling for patient X, stating that the dates of counseling were from 3/98 to 12/99, and Respondent provided a diagnosis for patient X.” (LPC Consent Order, para. 5; see P Ex 60)
98. Respondent testified that when he began seeing patient X in 1998, that he had acted in the capacity of a youth pastor not as a licensed clinical counselor, that he did not keep records and there was no treatment plan or goals. (T pp 433-436)
99. Respondent testified that he wrote the letter to Mercy as if he had been in a professional counseling relationship with patient X from March 1998 to December 1999. (T pp 461-462)
100. The Undersigned finds as fact that Respondent represented to Mercy that he provided professional counseling to patient X as an LPC from March 1998 to December 1999.
101. The Undersigned finds as fact that Respondent represented to Mercy that he provided professional counseling to patient X as an LPC for several months prior to being certified as an LPC in February 1999. Respondent was licensed as an LPC-A until February 20, 1999, at which time he was licensed as an LPC.
102. The Undersigned finds as fact that Respondent’s representations to Mercy were deceitful based upon his present claims that he had not provided professional counseling services to patient X.
103. Respondent admits that ethical restrictions prohibit a physical relationship or affair with a former client. (T p 462)
104. Patient X testified, and Respondent denies, that her last sexual contact with Respondent occurred during a visit between April 2003 and September 2003. (T p 289)
105. Patient X was admitted to Mercy in September 2003 for a six-month treatment program which she completed in December 2004. (T pp 289-293)
106. After patient X was discharged from Mercy, she and Respondent did not resume their relationship. Thereafter, they did not have any contact until a chance meeting at a Christmas party in 2007, followed by an exchange of several emails in early 2008. . (T p 292, 463-4)
107. In September 2003 and October 2003, Respondent attempted to contact patient X in writing by card and by letter while she was at Mercy. (P Exs 61 & 62)
108. Sometime prior to December 2003, patient X replied by letter and ended the relationship. (P Ex 63; T pp 291-292, 324)

109. In March 2007, Respondent and his wife returned to North Carolina, where he is currently employed in Asheboro. (P Ex 2; R Exs 10, 11 & 12)
110. In May 2008, Respondent sent an email to patient X in which he stated "I am writing to ask you to forgive me. I know I hurt you and I am so sorry . . . Don't feel the need to respond, I just want you to know I am very sorry." (R Ex 7; T pp 325-326, 463-465)
111. In July 2011, Respondent replied to an email from patient X in which he expressed regret for their past relationship, specifically mentioning a "physical relationship." (R Ex 8; T pp 326-327, 464)
112. In January 2012, the family friend who had abused patient X died which caused patient X to question her relationship and actions with him as well as with Respondent. She had discussions with her current Pastor and his wife and then decided to file a complaint with the LPC Board ("LPC Complaint"). (T pp 265-266)
113. In the LPC Complaint, dated February 12, 2012, patient X states that "[b]oth my pastor and current counselor have encouraged me to consider reporting Jerry due to the additional abuse he put me through in our sexual relationship, the risk of him hurting others, and to assist me in finding healing." (P Ex 10)
114. On August 29, 2012, Respondent received his Licensed Clinical Addiction Specialist ("LCAS") certification from the NCSAPPB. (Stipulated Fact 1)
115. On September 11, 2012, patient X's current pastor met with Respondent to discuss his relationship with patient X and Respondent "made the decision at that point to not lie about any of this and just come clean and try to bring healing to this situation." (T p 470)
116. In his Response to the LPC Complaint, dated December 12, 2012 ("LPC Response"), Respondent stated, in part:
- "I was never in a professional therapeutic relationship with [patient X] nor was I her licensed Professional Counselor."
- "I was serving as a youth pastor...[and] maintained that role until I resigned in September of 2000."
- "[W]e did become more and more intellectually and emotionally entangled around Christmas of 1999 it became physical. The relationship never progressed to sexual intercourse."
- "Our relationship continued on until 9/11/01. It was already waning at that point, but I remember that day serving as a wake-up call to me. We stayed in some contact after but it was minimal."

“I did not remember [patient X] and I ever talking about the physical contact either in writing or in person at that time.”

“I do take issue also with the implication that the relationship was solely initiated and continued by me. [Patient X] actively sought me out and stayed in contact with me during this period of time as much as I did her. It was an unhealthy infatuation for both parties.”

“I can honestly say that I have regretted this experience every day since. Not only did it cost me my ministry it almost cost me my marriage, and was hurtful to [Patient X], myself and others. I have lived with that guilt, disappointment and shame on a daily basis for over a decade.”

(P Ex 11; R Ex 2)

117. On March 4, 2013, Respondent received his Certified Clinical Supervisor—Intern (“CCS-I”) designation from the NCSAPPB. (Stipulated Fact 1)

118a. The LPC Consent Order, entered on June 12, 2013, signed by Respondent and Respondent’s Counsel, contains certain stipulated facts that are pertinent to this contested case, to wit:

2. Respondent became an applicant for licensure with the [the LPC] Board on or about January 4, 1996, and was licensed as an LPC on February 20, 1999. During 1998, Respondent began providing professional counseling services to patient X, who was 16 years of age at that time. Some of the issues that Respondent worked on with patient X during treatment included sexual abuse, which began when she was 5 years of age.
3. Respondent met with patient X once a week and sometimes every other week for counseling sessions. In the Fall of 1999, when patient X moved away to attend college three hours away, Respondent would visit her on a weekly basis and continued to provide her with counseling services. Around Christmas 1999, Respondent began engaging in sexually inappropriate contact with patient X during counseling sessions with her. In addition to counseling sessions, Respondent and patient X communicated using instant messaging.
4. In 2000-2001, Respondent and his wife relocated to the town where patient X was attending college and Respondent continued counseling patient X and engaging in a sexually intimate relationship with her. Respondent would also leave gifts and cards for her on her car and left her several voicemail messages daily. Patient X attempted to end the relationship with Respondent, but Respondent would not let her.
5. In September 2003, patient X moved to another State and she wrote to Respondent ending all communication. When patient X moved away she entered into a residential

treatment program and Respondent wrote a letter to the program as her LPC. In the letter, Respondent provided a summary of counseling for patient X, stating that the dates of counseling were from 3/98 to 12/99, and Respondent provided a diagnosis for patient X. Respondent did not create any records of his counseling services to patient X.

6. Respondent contends that he was not engaged in the practice of counseling as an LPC with patient X, but served as her pastor. He does not deny that a sexually intimate relationship took place between himself and patient X.
7. Respondent admits that his conduct violates the following sections of the American Counseling Association Code of Ethics (1995), which were in effect during his treatment of patient X: A 7a, A 7b, B 4a, and violations of N.C. Gen. Stat. § 90-340(3) & (8) (1993) of the Licensed Professional Counselors Act.

(P Ex 5; R Ex 3)

- 118b. Respondent testified that when he and patient X would meet it was not “a counseling situation”, contradicting statements in paragraphs 2, 3 and 4 of the LPC Consent Order. (T p 457)
- 118c. The Undersigned takes particular note that in paragraph 2 of the LPC Consent Order, Respondent agrees that his “professional counseling services” addressed various “issues” and provided “treatment.”
119. The Undersigned finds as fact that Respondent is deceitful when his testimony contradicts the LPC Consent Order paragraphs 2, 3 and 4 concerning whether he provided counseling to patient X.
120. The Undersigned finds as fact that Respondent was deceitful when the LPC Consent Order paragraph 6 states that he did not provide counseling as an LPC to patient X, contradicting the letter to Mercy wherein he represented that he provided professional counseling to patient X as an LPC.
121. (No Finding 121).
122. Pursuant to the LPC Consent Order, Respondent’s LPC license was suspended for one year followed by probation for one year under certain specified terms and conditions. (Stipulated Fact No. 3)
123. Among other probationary requirements, Respondent was required to and did obtain an “Evaluation of Fitness for Practice” by a clinical psychologist. (Stipulated Fact No. 4)
124. By letter dated November 8, 2013, the SAPP Board requested that Respondent provide a detailed explanation of the facts that were the basis of the LPC Consent Order. (Stipulated Fact No. 7)

125. By letter dated December 12, 2013, counsel for Respondent provided the SAPP Board with a response. [“Response to SAPP Board”] (Stipulated Fact No. 8)
126. In his Response to the SAPP Board, Respondent “contended that he was never in a professional therapeutic relationship with Patient X nor was he ever her Licensed Professional Counselor.” (P Ex 7; R Ex 4)
127. The Undersigned finds as fact that Respondent was deceitful in his Response to the SAPP Board when he states that he was never patient X’s Licensed Professional Counselor, contradicting the letter to Mercy wherein he represented that he provided professional counseling to patient X as an LPC and contradicting the LPC Consent Order, paragraph 5, wherein Respondent agreed that he wrote “a letter to [Mercy] as her LPC”, provided a summary of counseling, dates of counseling and a diagnosis.
128. In his Response to the SAPP Board, Respondent states that the letter to Mercy “included a summary of pastoral counseling for Patient X, stating that the dates of pastoral counseling were from 3/98 through 12/99 and he provided a diagnosis for Patient X.” (P Ex 7; R Ex 4)
129. The Undersigned finds as fact that Respondent was deceitful when he told the NCSAPPB that the letter to Mercy provided a “summary of pastoral counseling”, contradicting the LPC Consent Order, paragraph 5, wherein Respondent agreed that he wrote “a letter to [Mercy] as her LPC”, provided a summary of counseling, dates of counseling and a diagnosis.
130. The Undersigned finds as fact that the use of the words or phrases “counseling”, “counseling services”, “professional counseling services”, “pastoral counseling” and “professional therapeutic counseling” when referring to the same sessions, conduct and actions of Respondent with patient X created confusion and misunderstandings throughout this case.
131. On January 24, 2014, the SAPP Board requested additional information regarding the LPC Consent Order from Respondent. (P Ex 8)
132. In February 2014, counsel for Respondent supplemented the response as requested with copies of documents provided to the LPC Board. (Stipulated Fact 9)
133. On February 19, 2014, Respondent provided a copy of the complaint filed with the LPC Board and a letter from Respondent to the LPC Board, dated December 12, 2012, in which he responds to the complaint. (P Exs 10 & 11; R Ex 2)
134. After reviewing all of the documents provided by Respondent (R Exs 9-12), the NCSAPPB sent a letter dated March 17, 2014, recommending that Respondent “cease and desist practice immediately” and offering to enter a consent order to “resolve the matter informally.” (P Ex 13; T p 83)
135. On or about March 28, 2014, the NCSAPPB received an ethics complaint [“the NCSAPPB Complaint”] from the LPC Board complainant. (Stipulated Fact No. 10; P Ex 15)

136. In the NCSAPPB Complaint, patient X repeats that “[b]oth my pastor and counselor have encouraged me to consider reporting [Respondent] due to the additional abuse he put me through in our sexual relationship, the risk of him hurting others, and to assist me in finding healing and closure.” (P Ex 15)
137. Patient X admits that a motivating factor for filing a complaint with the NCSAPPB was that she felt that Respondent had lied when he denied having sexual intercourse with her. (T p 301)
138. The LPC Board required that Respondent submit to a fitness to practice examination by Dr. Robert Hill, an expert in clinical psychology and, on April 28, 2014, Dr. Robert Hill provided the requested report to the LPC Board. (Stipulated Fact No. 5; T pp 148-149; P Ex 17; R Ex 9)
139. Dr. Hill testified that for a mental health professional, a common ethical concern is how to manage dual relationships such as a personal friendship and a professional relationship with a client. (T p 146)
140. Dr. Hill stated that he does not know whether sexual intercourse occurred between Respondent and patient X, but that “the degree of sexual contact ... doesn’t really change the fact that it was an inappropriate relationship in a sexual way.” (T p 161)
141. According to Dr. Hill, Respondent’s statement of a diagnosis for patient X in his summary to Mercy, contradicts his statement that he was not patient X’s counselor but noted that Respondent provided the report as “a favor” to patient X. (T pp 162-163)
142. Dr. Hill observed that Respondent described himself at the time “as kind of not sufficiently trained or insightful or mature to realize how he was being pulled into this enmeshed relationship.” (T p 184)
143. Dr. Hill concluded that there is little chance that Respondent will re-engage in an inappropriate sexual relationship with a client and, therefore, deemed him fit to continue practice as an LPC. (R Ex 17; T p 158)
144. The Undersigned finds as fact that Dr. Hill’s report addressed the likelihood of Respondent’s engaging in inappropriate sexual conduct with a client again.
145. The Undersigned finds as fact that Dr. Hill did not address whether Respondent has good moral character.
146. The documents received from the LPC Board, Respondent, patient X and all others collected are in the SAPP Board’s investigative file. (P Exs. 2-15; T p 86)
147. On May 9, 2014, Respondent met with the NCSAPPB’s Ethics Committee and general counsel to discuss the LPC Consent Order and his past relationship with patient X. (Stipulated Fact No. 11)

148. Effective August 1, 2014, the LPC Board's Ethics Review Committee approved the lifting of the suspension of Respondent's LPC license as set forth in the LPC Consent Order. (Stipulated Fact No. 6)
149. On December 15, 2014, the Board issued a Notice of Hearing for a contested case hearing to be conducted by the Office of Administrative Hearings. (Stipulated Fact No. 12)
150. The Notice of Hearing sent by the NCSAPPB states in paragraph 7 that the conduct in the stipulated facts of the LPC Consent Order, if Respondent had been licensed at the time by the Board, would be violations of the following:
- 21 NCAC 68.0509(b), which provides that "[t]he professional shall avoid dual relationships that could impair professional judgment or increase the risk of exploitation of a client."
- 21 NCAC 68.0509(c)(1), which provides that "[t]he substance abuse professional shall not engage in or solicit sexual activity or sexual contact with a current client."
- 21 NCAC 68.0509(c)(2), which provides that "[t]he substance abuse professional shall not engage in or solicit sexual activity or sexual contact with a former client for five years after the termination of the counseling or consulting relationship."
- 21 NCAC 68.0509(d), which provides that "[t]he substance abuse professional shall not misuse his or her professional relationship for sexual, financial, or other personal advantage."
151. The Notice of Hearing states in paragraph 8 that the stipulated facts in the LPC Consent Order describe conduct that "involve[es] ... boundary violations while providing counseling services; grooming and sexual exploitation of a particularly vulnerable individual in his care; abuse of power, and other conduct which would clearly be grounds for license revocation if it occurred while [Respondent] was licensed."
152. The Notice of Hearing states in paragraphs 9, 10 and 11 that Respondent's conduct as described "demonstrates lack of good moral character" which is required by N.C. Gen. Stat. § 90-113.40 and 21 NCAC 68 .0601(1)(c).
153. The Notice of Hearing in paragraphs 12 and 13 state that Respondent's mischaracterizations of his relationship with patient X, downplay of the sexual nature of the relationship and denial of responsibility for his actions, are evasions and false denials that constitute a failure to cooperate with the investigation of the allegations made by patient X in violation of 21 NCAC 68 .0601(7)(e).
154. A contested case hearing was held on April 27, 2015 and May 27, 2015 before the Undersigned.
155. Respondent testified that he feels remorse, sadness and guilt for disqualifying himself from ministry, and for the pain that he caused his wife, the church and patient X. (T pp 462-463)

156. Respondent testified that “I really don’t know how or why they feel like I’m impeding their investigation or not being honest.” (T p 470)
157. Respondent admits that in his mind, the main issue for the SAPP Board is whether or not sexual intercourse occurred between him and patient X. (T pp 470-471)
158. Respondent testified that he has upheld and maintained the standards of the NCSAPPB since receiving his LCAS certification in 2012. (T pp 427-428)
159. The Undersigned finds as fact that since he received his LCAS in August 2012, Respondent has been deceitful as stated in the above enumerated Facts 119, 120, 121, 127 and 129.
160. At the time of his licensure as a Licensed Clinical Addictions Specialist (LCAS License No. 2514); and of his certification as a Certified Clinical Supervisor Inter (CCS-I Certificate No. 14018), Respondent lacked the good moral character required under N.C.G.S. § 90-113.40(a)(1).
161. Attorney's fees, costs and expenses incurred in connection with the investigation and hearing in this matter, in the amount of \$29,206.58, were necessary and appropriate, given the Board's duty to protect the public from being harmed by unqualified persons, and to assure the highest degree of professional care and conduct on the part of credentialed substance abuse professionals.

CONCLUSIONS OF LAW

1. The North Carolina Substance Abuse Professional Practice Board (“the SAPP Board”) is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 90, Article 5C of the North Carolina General Statutes (the “North Carolina Substance Abuse Professional Practice Act”) and the corresponding Rules at 21 North Carolina Administrative Code (“NCAC”), Chapter 68.
2. The NCSAPPB “is recognized as the registering, certifying, and licensing authority for substance abuse professionals” described in the North Carolina Substance Professional Practice Act (“the Practice Act”), N.C. Gen. Stat. Chapter 90 Article 5C. The NCSAPPB was established to safeguard the public health, safety, and welfare, “to protect the public from being harmed by unqualified persons, to assure the highest degree of professional care and conduct on the part of credentialed substance abuse professionals, to provide for the establishment of standards for the education of credentialed substance abuse professionals, and to ensure the availability of credentialed substance abuse professional services of high quality to persons in need of these services.” N.C. Gen. Stat. § 90-113.32 The NCSAPPB regulates NCSAPPB credentialed persons offering substance abuse counseling services, substance abuse prevention services, or any other substance abuse services for which the Board may grant registration, certification or licensure. N.C. Gen. Stat. § 90-113.30.
3. Respondent is licensed and certified to practice substance abuse counseling in North Carolina and is subject to the Practice Act and the rules promulgated thereunder. The NCSAPPB has jurisdiction over the person of Respondent and the subject matter of this proceeding.

4. All licensees must be of “good moral character” pursuant to N.C. Gen. Stat. § 90-113.40(a)(1).
5. In his applications for certification as Licensed Clinical Addiction Specialist (LCAS) and for certification as Certified Clinical Supervisor Intern (CCS-I), Respondent asserts that he met the conditions for licensure for the credential for which he is applying, including that he be of "good moral character".
6. "Good moral character", which is a broad term, is, nevertheless, a term which has been used so extensively as a standard that its meaning has well defined contours, and, at a minimum, means "honesty, fairness and respect for the rights of others and for the laws of the state and nation" and "conduct evidencing moral turpitude, dishonesty, a turbulent or intemperate nature, baseness, vileness or depravity is relevant to one's moral character." *In Re: Albert Lee Willis*, 288 N.C. 1, 11 (1975).
7. The conduct by Respondent described above, demonstrates a lack of good moral character, as required pursuant to N.C. Gen. Stat. § 90-113.40(a)(1), both at the time of the events and through the date of hearing. Respondent’s lack of good moral character is sufficient ground to revoke his certifications.
8. In the LPC Consent Order, Respondent admits that his conduct violated N.C. Gen. Stat. § 90-340(a) (1993), to wit:
 - (3) Gross unprofessional conduct, dishonest practice or incompetence in the practice of counseling.
 - (8) Violations of the American Counseling Association Ethical Standards adopted by the Board.
9. Pursuant to N.C. Gen. Stat. § 90-113.44(a)(1), “[g]rounds for disciplinary action of an applicant or credentialed professional include: (1) The employment of fraud, deceit or misrepresentation in obtaining or attempting to obtain licensure, certification, or registration, or removal of license, certification or registration.”
10. (No Conclusion of Law 10).
11. As stated above, based upon Respondent’s contradictory statements since receiving his LCAS in August 2012, Respondent has committed “deceit” that subjects him to disciplinary action. Some of Respondent’s deceitful conduct, as described above, is related to how he perceives his conduct, a form of self-deceit and a failure to fully appreciate all aspects and consequences of his conduct, and its harm to patient X, rather than an attempt to conceal requested information. Petitioner did not present any evidence that Respondent concealed information.
12. Therefore, Respondent is not in violation of 21 NCAC 68 .0601(1)(c).

13. Respondent cooperated with the NCSAPPB's investigation and no evidence was offered to show a lack of cooperation and, therefore, Respondent did not violate 21 NCAC 68 .0601(7)(e).
14. As stated above, Respondent engaged in a dual relationship with a client, patient X, which, if it had occurred when he was licensed by the Board, would be in violation of 21 NCAC 68 .0509(b).
15. As stated above, Respondent engaged in sexual contact with a client, patient X, which, if it had occurred when he was licensed by the Board, would be in violation of 21 NCAC 68 .0509(c)(1).
16. No evidence was offered that Respondent either engaged in or solicited sexual contact with a former client, patient X or any other, for five years after the termination of counseling and, therefore, Respondent is not in violation of 21 NCAC 68 .0509(c)(2).
17. As stated above, Respondent misused his professional relationship with patient X for sexual or other personal advantage, which if it had occurred when he was licensed by the Board, would be in violation of 21 NCAC 68 .0509(d).
18. The NCSAPPB has the discretion to consider certain factors when determining the nature and severity of the disciplinary sanctions to be imposed. 21 NCAC 68 .0607.
19. The Undersigned concludes that the relative seriousness of Respondent's violations and the facts of the particular violations, reflect adversely upon Respondent's ethical standards and professional conduct, and are among the discretionary factors for the NCSAPPB to consider pursuant to 21 NCAC 68 .0607(1), (2) & (7).
20. Grounds exist to permanently revoke Respondent's license to practice as a Licensed Clinical Addition Specialist (LCAS License No. 2514); and to revoke his certification as a Certified Clinical Supervisor Intern (CCS-I Certificate No. 14018), for failure to have the good moral character required by N.C.G.S. § 90-113.40(a)(1); and for the employment of fraud, deceit or misrepresentation in obtaining licensure or certification in violation of N.C.G.S. § 90-113.44(a)(1). Given the totality of the circumstances, Respondent's license as a Licensed Clinical Specialist (LCAS License No. 2514), and his certification as a Certified Clinical Supervisor Intern (CCS-I Certification No. 14018), should be revoked.
21. North Carolina General Statutes Section 90-113.33 provides that when the NCSAPPB exercises its authority to discipline a person, it may, as part of the decision imposing the discipline, charge the costs of investigations and the hearing to the person disciplined. The attorney's fees, costs and expenses incurred in this matter were necessary and appropriate, given the Board's duty to protect the public from being harmed by unqualified persons, and to assure the highest degree of professional care and conduct on the part of credentialed substance abuse professionals.

WHEREFORE, based upon the foregoing Proposed Findings Of Fact and Conclusions of Law, and pursuant to the authority set forth in N.C. Gen. Stat. §90-113.33, it is hereby ORDERED as follows:

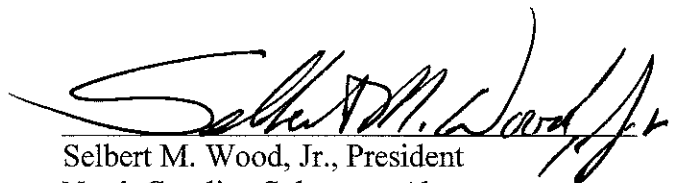
DECISION

1. Respondent's license to practice as a Licensed Clinical Addiction Specialist (LCAS License No. 2514) is permanently revoked.
2. Respondent's certification as a Certified Clinical Supervisor Intern (CCS-I Certificate No. 14018) is permanently revoked.
3. The Board shall have and recover of Respondent, for attorney's fees and costs incurred in connection with the investigation and hearing in this case, the principal sum of \$29,206.58.
4. The Record in this case shall remain sealed.

NOTICE

To obtain judicial review of this Final Decision, the entity or individual seeking review must file a petition within thirty (30) days after service of a written copy thereof, with the Clerk of the Superior Court of the County where the entity is headquartered or the individual resides.

This the 29th day of December, 2015.



Selbert M. Wood, Jr., President
North Carolina Substance Abuse
Professional Practice Board