

CITATION NUMBER: MF-2009-24
DATE OF ISSUANCE: February 4, 2010
NAME: Wendy Raylene Lucero
ADDRESS: 3120 Telegraph Avenue #10
Berkeley, CA 94705

Pursuant to Sections 125.9 and 148 of the Business and Professions Code, and Title 16, California Code of Regulations Section 1886, KIM MADSEN issues this citation in her official capacity as the Executive Officer for the Board of Behavioral Sciences (hereinafter referred to as the "Board").

Registration/Licensing History

The records of the Board reflect that **Wendy Raylene Lucero** was issued Marriage and Family Therapist license number **MFC 31454** on **June 6, 1994**. Said license expires on **October 31, 2011**, unless renewed.

Citation

A citation containing a fine and Order of Abatement is hereby issued to you in accordance with Title 16, California Code of Regulations Sections 1886, 1886.20, 1886.30, and 1886.40 for the violation(s) described below.

Applicable Statutes and Regulations

Violation of Section **4982** of the Business and Professions Code, which states, in pertinent part, that the Board may discipline a license for "unprofessional conduct", which includes:

"(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board."

"(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed."

Cause for Citation

Investigation revealed that on or about August 22, 2007, you engaged in unprofessional conduct when you accepted payment from a client¹ for sessions that you previously stated were pro bono. You did not establish a written contract indicating at what point in the future the client would be responsible for payment of services, and at what rate. When the client failed to show for her appointments, you did not appropriately follow up with the client to process termination and to arrange for continuation of treatment.

On November 19, 2008, Board staff requested your response to the allegations. In your March 12, 2009 response, you stated, in pertinent part, "[Client] insisted that she wanted to reimburse me... Two weeks later [client] appeared for her weekly session and handed me a cashier's check... I told her I could not accept the check...[client] remained resolute that she wanted to give the check to me. I did, at that point, accept the check."

¹ The Board has previously notified you as to the identity of the client. Client's full name will be made available to you upon request.

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You also stated, "The financial arrangements I made with [client]...were understandable to her. She agreed to the fee when we discussed it. When she received her inheritance, she changed her mind."

You further stated, "It was [client] who failed to participate in the termination process." You also revealed that you suffered personal injuries and if that had not occurred, "...I would have been more persistent in pursuing [client] to return to therapy and process the termination."

Based on the facts stated above, it is the Board's finding that you violated Business and Professions Code Sections 4982(e),(n). Accordingly, a citation, which includes a fine, has been ordered for the aforementioned violation of the Business and Professions Code.

Orders

(1) Order of Abatement:

The Board of Behavioral Sciences orders you to:

1. Cease accepting payments from clients without an established contract outlining fees.
2. Obey all laws governing your license as a Marriage and Family Therapist.

Within 30 days from the date of this citation, but no later than **March 8, 2010**, you **must** submit proof that you have brought yourself into compliance with the order imposed by the Board of Behavioral Sciences as stated above. Proof of compliance should be sent to the Board to the attention of the Enforcement Unit at 1625 North Market Blvd., Suite S200, Sacramento, CA 95834.

(2) Order to Pay Administrative Fine:

In addition, you must pay an administrative penalty (fine) in the amount of **\$2,500.00**, within thirty (30) days from the date this citation was served, but no later than **March 8, 2010**. In assessing this penalty, the Board considered that you accepted payment from a client for sessions that you previously stated were pro bono, you did not have a written contract with established fees, and you did not follow up with the client to process termination. The Board also considered that you have no prior history of said violations.

Payment of the administrative penalty should be made to the Board of Behavioral Sciences (BBS), 1625 North Market Blvd., Suite S200, Sacramento, CA 95834. Please note your citation number on the check or money order.

You may contest this citation, or any portion thereof, by requesting either an Informal Citation Conference or a Formal Administrative Hearing, or both (Title 16, CCR Section 1886.70). Any request you make either for the formal or informal hearing or for both of them must be in writing and must be submitted to the Board within (30) calendar days after service of the citation. If you request both an Informal Citation Conference and a Formal Administrative Hearing, and an Informal Citation Conference is held, your request for a Formal Administrative Hearing shall be deemed withdrawn. Following the conclusion of the Informal Citation Conference, the Executive Officer shall either, affirm, modify or dismiss the citation. If the citation is affirmed or modified, you will then have the opportunity to contest it by filing a written request with the Board for a Formal Administrative Hearing within (30) calendar days after service of the affirmed or modified citation. The Formal Administrative Hearing shall be held pursuant to the Administrative Procedures Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. (Please refer to the enclosed Instructions to Cited Person for additional appeal information.)

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You may withdraw a Request for Informal Citation Conference at any time prior to the date of the conference. You may withdraw a Request for Administrative Hearing anytime prior to the date of the hearing.

Failure to request an Informal Citation Conference or Administrative Hearing in a timely manner will waive your right to contest this citation. If the citation is not contested, or if the citation is contested and you do not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

Further, failure to timely comply with an order of abatement or pay an assessed fine may result in disciplinary action being taken by the board or other appropriate judicial action being taken against you. If you have been issued an order of abatement and you are unable to complete the correction(s) within the time set forth in the citation because of conditions beyond your control after the exercise of reasonable diligence, you may request an extension of time in which to complete the correction from the executive officer of the board. Such a request shall be in writing and shall be made within the time set forth for abatement. (Title 16, CCR section 1886.60.)

Pursuant to Business and Professions code section 125.9, if you do not request a formal Administrative Hearing, payment of the fine does not constitute an admission of the violation(s) alleged. Further, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

IF YOU NEITHER PAY THE FINE NOR REQUEST AN INFORMAL CITATION CONFERENCE OR ADMINISTRATIVE HEARING WITHIN THE ALLOTTED TIME FRAME, YOUR REGISTRATION WILL NOT BE RENEWED FOR THE NEXT RENEWAL PERIOD UNTIL THE FINE IS PAID.

Original Signed By:

KIM MADSEN
Executive Officer

Date: February 4, 2010

Attachments: Statement of Rights
Section 125.9, Business and Professions Code
Section 1886.70, Title 16, California Code of Regulations
Notice of Appeal
Acknowledgment Receipt of Citation form