

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF PSYCHOLOGY

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

Case No. 91-06893

vs.

GEORGE VON HILSHEIMER

Respondent,

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner," and files this Administrative Complaint before the Board of Psychology against GEORGE VON HILSHEIMER, hereinafter referred to as "Respondent," and alleges:

1. Petitioner is the State agency charged with the regulating the practice of psychology pursuant to Section 20.30, Florida Statutes, Chapter 455, Florida Statutes, and Chapter 490, Florida Statutes.
2. Respondent is, and has been at all times material hereto, a licensed psychologist in the State of Florida, having been issued license number PY 0002281. Respondent's last known address is #14 Maitland Plaza, Maitland, Fl 32751.
3. At all times material hereto Respondent was the owner of Associated Health Professionals (AHP), Maitland, Fl.
4. During approximately November 1988 through approximately February 1990, Respondent treated patient S.D.. Throughout the course of S.D.'s treatment, the Respondent practiced beyond the

scope of his licensure, including, but not limited to, the following examples: administering and dispensing medications, including testosterone, progesterone, and estrogen; administering a vitamin C IV; diagnosing S.D. with over 130 allergies; and designing a treatment plan for said allergies.

5. Testimony from former employees of AHP indicates that the Respondent frequently practiced beyond the scope of his licensure, including, but not limited to, the following examples: ordering a prescription for Demerol for patient E.A.; ordering steroids for patient W.C.; injecting patient D.G. with Haldol; ordering prescriptions for Darvocet for patient J.C.; and injecting patient M.B. with Decadron (a mixture of the Respondent's own creation, including within it Dexamethasone).

6. Respondent employed William Pearce as an M.D. at AHP. William Pearce has never been licensed in the State of Florida as an M.D.. Respondent allowed William Pearce to treat patients as if he were a M.D., i.e. diagnosing, treating, prescribing, and consulting.

COUNT I

7. Petitioner realleges and incorporates the foregoing allegation of fact contained in paragraphs three (3) through six (6) as if fully stated herein.

8. Based on the foregoing, Respondent is subject to discipline as provided by Section 490.009(2)(s), Florida Statutes, for undertaking activities for which the licensee is not qualified by training, experience or licensure.

COUNT II

9. Petitioner realleges and incorporates the foregoing allegation of fact contained in paragraphs three (3) through six (6) as if fully stated herein.

10. Based on the foregoing, Respondent is subject to discipline as provided by Section 490.009(2)(t), Florida Statutes, for delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training, experience, or licensure to perform such responsibilities.

WHEREFORE, Petitioner respectfully requests that the Board enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, imposition of an Administrative fine, issuance of a reprimand, placement of the Respondent on probation, restriction of the Respondent's practice, and/or any other relief the department deems appropriate.

SIGNED this 23rd day of July, 1993.

George Stuart
Secretary

By: Nancy M. Snukowski
Chief Attorney

COUNSEL FOR THE DEPARTMENT
Charles Faircloth
Senior Attorney
Department of Professional Regulation
Northwood Centre
1940 N. Monroe St., Suite 60
Tallahassee, Fl 32399-0792
(904) 488-0062

FILED
Department of Business and Professional Regulation
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CLERK Ronda A. Van
DATE 7-26-93

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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
BOARD OF PSYCHOLOGY

AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

vs.

CASE NUMBER: 94-14714

GEORGE E. VON HILSHEIMER,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Agency for Health Care Administration, hereinafter referred to as "Petitioner", represented in this matter by the Department of Business and Professional Regulation, and files this Administrative Complaint before the Board of Psychology against George E. Von Hilsheimer, hereinafter referred to as "Respondent", and alleges:

1. Petitioner is the state agency charged with regulating the practice of Psychology pursuant to Chapter 455, Florida Statutes, Chapter 490, Florida Statutes, and Section 20.42, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed Psychologist, license number PY 0002281, whose address of record is c/o A-Affiliated Therapist, 175 Lookout Place #101, Maitland, FL 32751.

COUNT ONE

3. During or around May 1993, C.C. went to the Respondent for counseling. At this time, C.C. and her then-husband R.C. were involved in divorce proceedings and in a potential suit for custody of their minor child, Y.C. C.C. had been referred to the

Respondent by her attorney, Blair Johnson, after R.C. had alleged that C.C. was abusing Y.C.

4. C.C. took Y.C. to see the Respondent for an evaluation on or about May 24, 1993.

5. Thereafter, Respondent informed C.C. that, in order to make a fair evaluation, he would need to evaluate R.C. R.C. consented to being evaluated by the Respondent.

6. R.C. then began regular counseling sessions with the Respondent who had informed R.C. that treatment with him would "make a good case for the court" and could counter any accusations or statements being made by C.C. Additionally, the Respondent had informed R.C. that C.C. was going to report him to HRS for sexually abusing Y.C., and that continued counseling could help to dispel this allegation .

7. The results of the evaluation indicated that neither R.C. or C.C. should be restricted or supervised in regards to custody of Y.C..

8. Subsequently the Respondent requested that A.D., R.C.'s long-term female friend, also begin counseling, as "a person of significance in Y.C.'s life." A.D. (who is now married to R.C.), attended therapy sessions with Y.C. and her parents. Additionally, Respondent administered several psychological tests to A.D. in September, 1993.

9. A.D. was also involved in a divorce with her then-husband L.A., and had been court-ordered to attend counseling with her own family.

COUNT ONE

10. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in the foregoing paragraphs.

11. During the period that he was counseling/evaluating the "C" family, the Respondent became involved in a dual relationship with C.C. and Y. C.

12. Specifically, the Respondent took C.C. and Y.C. out to dinner and to movies. Additionally, the Respondent "baby-sat" Y.C., and allowed her to refer to him as "grandpa".

13. By doing so, the Respondent has failed to maintain appropriate boundaries with Y.C. The Respondent admits that he routinely allows his child patients to call him "grandpa." Y.C.'s grandfather had died three years earlier and her paternal grandmother had then-recently passed away.

14. The Respondent also assisted C.C., on at least one occasion, in writing personal letters to R.C. regarding his relationship with Y.C. and other issues. This letter, dated July 20, 1994, begins with the line, "Since our divorce was final on April 12th...", and is signed "Dr. Von." R.C. believes he received this letter in error. A second identical letter, dated July 21, 1994, was also sent to R.C. and signed by C.C.

15. American Psychological Association Ethical Principles, which are adhered to by all licensed practitioners, state that a psychologist should avoid "dual relationships". These are relationships that become more than strictly professional, i.e., either involving social or personal interactions or business or other dealings.

16. The Respondent engaged in a dual relationship as regards his increasing involvement in C.C.'s personal relationship with R.C., in his having engaged in social activities with C.C. and Y.C., and in his failing to maintain appropriate therapeutic boundaries with Y.C. by allowing her to refer to him as "grandpa."

17. Based upon the foregoing, the Respondent is in violation of Section 490.009 (2) (s), Florida Statutes, by having failed to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

COUNT TWO

18. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs three through sixteen.

19. C.C. and R.C. executed a Custody Agreement on or about April 6, 1994 wherein each agreed to shared parental responsibility with primary residency going to C.C. The agreement further indicated that each parent had a right to copies of all records pertaining to Y.C. A court order adopting this agreement likewise affirmed that both parents were entitled to Y.C.'s records.

20. On or about July 11, 1994, R.C. wrote to the Respondent and requested that copies of all records for he and Y.C. be transferred to another mental health treatment professional.

21. Respondent replied in a letter dated July 13, 1994 that the subsequent treater had to send a separate form, signed by R.C.,

requesting the records. This is incorrect according to the Board of Psychology's rules regulating the release of patients' records.

22. In later letters, Respondent demonstrates further lack of understanding of the laws and/or rules governing patient records and release of information. Specifically, Respondent refused to provide any of Y.C.'s records or a summary of her treatment to another treatment professional unless that person was a doctoral level practitioner and, unless C.C. also consented to the release of the records "...since she was the residential parent." Further, as late as September 1994, Respondent had still not provided R.C. with a copy of his records, and had not provided A.D. with a copy of her records although she had requested same on or about July 18, 1994.

23. Section 455.241, Florida Statutes, states as follows:

(1) Any health care practitioner licensed by the department or a board within the department who makes a physical or mental examination of, or administers treatment or dispenses legend drugs to, any person shall, upon request of such person or the person's legal representative, furnish, in a timely manner, without delays for legal review, copies of all reports and records relating to such examination or treatment, including X rays and insurance information. However, when a patient's psychiatric, chapter 490 psychological, or chapter 491 psychotherapeutic records are requested by the patient or the patient's legal representative, the practitioner may provide a report of examination and

treatment in lieu of copies of records. Upon a patient's written request, complete copies of the patient's psychiatric records shall be provided directly to a subsequent treating psychiatrist. The furnishing of such report or copies shall not be conditioned upon payment of a fee for services rendered.

24. Section 490.0148, Florida Statutes states as follows:

--Each psychologist and school psychologist who provides services as defined in this chapter shall maintain records. The board, or in the case of school psychologist[s], the department may adopt rules defining the minimum requirements for such records, including content, and transfer of such records or of a summary of such records, or both, to a subsequent treating practitioner or other individual with the written consent of the client or clients.

25. Rule 61F13-22.005, Florida Administrative Code, sets forth the Board's rule on release of records as follows:

(1) Upon written request of the service user, a psychologist may provide the service user or the service user's designee with a copy of the psychological records of the service user. If, however, the psychologist chooses not to release copies of the psychological records, the psychologist shall issue a written report of the psychological records of the service user to the service user or the service user's designee...

(2) In the absence of a court order, a psychologist may

opt not to release records of a minor child if, in the psychologist's professional judgment, to do so would not be in the best interests of the minor child. Likewise, absent a court order, a psychologist may opt not to issue a report of the psychological records of a minor child if, in the psychologist's professional judgment, to do so would not be in the best interest of the child.

(3) Any licensed psychologist who agrees to provide copies of psychological records, shall be accorded a reasonable time, not to exceed thirty (30) days, to make final entries and copy the psychological records.

...

(5) Any licensed psychologist who opts to issue a report rather than provide copies of psychological records, shall issue the report within thirty (30) days of the request...(emphasis added)

26. At no time did the Respondent indicate to R.C. that in his professional opinion, it would not be in the best interests of Y.C. to release her records or a report of her treatment. Respondent based his refusal to provide the records on the mistaken belief that C.C. had a right to refuse that these be provided to R.C.

27. The above-cited provisions do not indicate that records or reports must be provided only to "doctoral level practitioners."

28. The Respondent also failed to provide copies of the requested records or of treatment reports within thirty days of R.C.'s request, and, within thirty days of A.D.'s own request.

29. Based on the foregoing, the Respondent is in violation of Section 490.009 (2) (g), Florida Statutes, by violating provisions of chapter 490, or of chapter 455, or any rules adopted pursuant thereto.

COUNT THREE

30. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs three through sixteen.

31. On or about July 26, 1994, R.C. filed a complaint with the Florida Bar alleging that the Respondent had engaged in the unlicensed practice of law. This was based upon statements made by Respondent in various letters written to R.C.

32. In response to this complaint, Respondent wrote a reply to an attorney for the Florida Bar in which he refers to R.C.'s treatment records as including information involving "transvestite behavior, narcissism, sexual misadventures and other unappetizing data." Respondent also states in this letter that he has "...forwarded every communication from R.C. to Blair Johnson," (C.C.'s attorney).

33. On or about June 20, 1994, Respondent sent a letter to R.C. in which he details issues of R.C.'s treatment and of his relationship with his daughter. Respondent discusses how R.C. did not accomplish much in therapy in regards to changing his less than ideal behavior and his refusal to deal with other treatment issues. There is an indication at the end of this letter that a copy of same was provided to Blair Johnson.

34. At no time did R.C. execute a Waiver of Confidentiality

or other similar document, that would have allowed the Respondent to provide confidential information regarding R.C.'s treatment to the Florida Bar's attorney. Further, at no time did R.C. execute a waiver or other document that would have authorized Respondent to release the above-referenced letters to Blair Johnson. Said letters contain information specific to R.C.'s treatment.

35. Maintaining a client's confidentiality is a basic tenet of psychological practice.

36. Based upon the foregoing, the Respondent is in violation of Section 490.009 (2) (s), Florida Statutes, by having failed to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

COUNT FOUR

37. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs three through sixteen and thirty-one through thirty-five.

38. Based upon the foregoing, the Respondent is in violation of Section 490.009 (2) (v), Florida Statutes, by failing to maintain in confidence a communication made by a patient or client in the context of such services, except by written permission or in the face of a clear and immediate probability of bodily harm to the patient or client or to others.

COUNT FIVE

39. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in the paragraphs eight and nine.

40. A.D. and her former husband A.L., were court ordered to undergo therapy with their two children, K [REDACTED], who was then seventeen years old, and D [REDACTED], who was thirteen. No treatment professional was specified in the court's order.

41. Respondent wrote letters to both children and to A.L., indicating that he had reviewed the court order and that each of these individuals was required to attend therapy. Respondent then indicates that he would be glad to provide this service.

42. Respondent's letters amount to direct solicitation of the children and of A.L. Particularly in the case of D [REDACTED], then 13 years old, the Respondent's letter was an example of intimidation or undue influence, or of overreaching conduct.

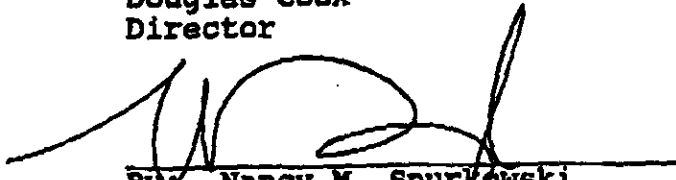
43. Based upon the foregoing, the Respondent is in violation of Section 490.009 (2)(m), Florida Statutes, by soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

WHEREFORE, Petitioner respectfully requests the Board of Psychology enter an order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, and/or any other relief that the Board

deems appropriate.

SIGNED this 22nd day of December, 1995.

Douglas Cook
Director



By: Nancy M. Snurkowski
Chief Attorney
Allied Health Division
Department of Business and
Professional Regulation

COUNSEL FOR THE DEPARTMENT:

Lisa M. Bassett
Senior Attorney
Department of Business and Professional Regulation
1940 North Monroe Street, Suite 60
Tallahassee, Florida 32399-0792
(904) 488-0062

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R. Finch
D. Wilmoth
H. Barden

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HEALTH CARE ADMINISTRATION
DEPUTY CLERK

CLERK *Algera C. Kirk*
DATE December 29, 1995

STATE OF FLORIDA
BOARD OF PSYCHOLOGY

FILED
Department of Health
Angela Hall, AGENCY CLERK

By Stephanie J. Dier
Deputy Agency Clerk

DEPARTMENT OF HEALTH¹

Petitioner,

vs.

GEORGE VON HILSHEIMER

Respondent.

AHCA CASE NOS. 91-06893
94-14714
DOAH CASE NOS. 94-00834
96-0819
LICENSE NO. PY 002281

FINAL ORDER

THIS CAUSE came before the Board of Psychology (Board) pursuant to section 120.569 and section 120.57(1), Florida Statutes, on March 6, 1998, in Tallahassee, Florida for the purpose of considering the Administrative Law Judge's Recommended Order (attached hereto as Exhibit A). The Board also considered Respondent's Exceptions to the Findings of Fact and Conclusions of Law Set Forth in the Recommended Order, Petitioner's Response to Respondent's Exceptions, and Petitioner's Motion to Increase Penalty (attached hereto as Exhibits B, C, and D, respectively). Petitioner was represented by Nancy M. Snurkowski, Chief Attorney. Respondent was not present. Respondent's attorney, Joseph A. Scarlett, III, Esquire, made an appearance, but voluntarily chose to depart before the Board individually considered and voted upon Respondent's Exceptions.

¹ Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of Psychology pursuant to section 20.43, Florida Statutes; chapter 455, Florida Statutes, and chapter 490, Florida Statutes. Pursuant to the authority of section 20.43(3)(f), Florida Statutes, the Petitioner has contracted with the Agency for Health Care Administration to provide consumer complaint, investigative and prosecutorial services required by the Division of Medical Quality Assurance, councils, or boards, as appropriate.

Upon review and consideration of the Recommended Order and the argument and pleadings of the parties, and after a review of the complete record in this case, the Board arrives at the following findings, conclusions, and disciplinary action:

RULINGS ON EXCEPTIONS

1. The Board does not accept or reject paragraphs 13-17, 21-22, 30-34, 36-45, 48-50, 52-53, 55-56, 58-59, 61, 64, 66, 72-76, 79-80, 83-85, 87, 93-98, 101-103, 106-111, 113-114, and 116-134 of Respondent's Exceptions because they are not exceptions to the findings of fact of the Administrative Law Judge. In these paragraphs, Respondent either acknowledges the validity of the finding and/or provides superfluous commentary.

2. After individual consideration and separate voting, the Board rejects each of the other numbered paragraphs in Respondent's Exceptions because competent, substantial evidence in the record supports the Administrative Law Judge's underlying findings of fact. Respondent did not establish a basis in the hearing record for any of the listed exceptions, while in each instance Petitioner cites particular pages in the transcript in support of the Administrative Law Judge's findings of fact.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

2. The findings of fact are supported by competent, substantial evidence in the record.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to sections 120.569 and 120.57(1), and chapter 490, Florida Statutes.

2. The conclusions of law are consistent with the findings and are approved, adopted, and incorporated herein by reference.

PENALTY

The Board grants Petitioner's Motion to Increase Penalty for the reasons set forth in Petitioner's Motion (Exhibit D), which is approved, adopted, and incorporated herein by reference. Pursuant to Florida Administrative Code Rule 64B19-17.002(2), among other things, the Board may consider: 1) the harm caused to the patient; 2) the danger to the public; 3) the number of repetitions or offenses; 4) the actual damage, physical or otherwise, to the patient; 5) the deterrent effect of the penalty imposed; 6) any efforts the licensee has made toward rehabilitation; 7) the actual knowledge of the licensee pertaining to the violation; and 8) any other mitigating or aggravating circumstances.


Considering the totality of the record, the Board concludes that license revocation is the appropriate penalty. The Board concurs with and adopts Petitioner's arguments including the assertion that the record reflects that Respondent exercised "undue influence" over the two complainants and their families.

The Board determines that the penalty recommended by the Administrative Law Judge is insufficient to protect the public safety and welfare because Respondent, after subjecting the complainants and their families to unconscionable abuse, was uncontrite, seemed unaware of the harm he had caused, and did not acknowledge that there was even a possibility that his behavior might have been wrong. WHEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that Respondent's license as a psychologist in the State of Florida is REVOKED,

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 20th day of March, 1998.



ANA A. RIVAS-VAZQUEZ, PH.D., CHAIR
BOARD OF PSYCHOLOGY

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this final order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of appeal with the agency clerk of the Department of Health and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within thirty (30) days of rendition of the order to be reviewed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail to Joseph A. Scarlett, III, Esquire, Counsel for Respondent, 208 West Howry Avenue, DeLand, Florida 32720, and Donna Erlich, Assistant Attorney General, Office of the Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050, this ____ day of _____, 1998.
