

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF CLINICAL SOCIAL WORK, MARRIAGE AND FAMILY
THERAPY, AND MENTAL HEALTH COUNSELORS

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

DPR Case No. 92-14902

THOMAS JAMES PAGNI, III,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner", and files this Administrative Complaint before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling against Thomas James Pagni, III, hereinafter referred to as "Respondent", and alleges:

1. Petitioner is the State agency charged with regulating the practice of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counselors pursuant to Section 20.30 Florida Statutes, Chapter 455 Florida Statutes, and Chapter 491, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed Mental Health Counselor, license number MH 0002680, whose address of record is 299 N. Banana River Drive, Apt. 207, Merritt Island, Florida 32952.

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3. For all times material hereto, the Respondent was the mental health counselor for Patient R.W. beginning in or about June, 1992.

4. On or about October 26, 1992, F.W., the father of Patient R.W., observed Patient R.W. lying naked on a bed while the Respondent was standing naked next to the bed attempting to pull up his (Respondent) pants.

5. According to Patient R.W., he and the Respondent had engaged in sexual activities which included manually masturbating one another.

COUNT ONE

6. Based on the foregoing, the Respondent has violated Section 491.009(2)(k), Florida Statutes, by committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct.

COUNT TWO

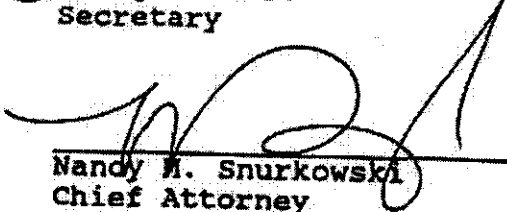
7. Based on paragraphs one through five above, the Respondent has violated Section 491.009(2)(s), Florida Statutes, by failing to meet the minimum standard of performance in professional activities.

WHEREFORE, Petitioner respectfully requests the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counselors to enter an Order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, imposition of an administrative fine, and/or any other

relief which the Board may deem appropriate.

SIGNED this 14th day of June, 1993.

George Stuart
Secretary



Nandy M. Snurkowski
Chief Attorney
Allied Health

COUNSEL FOR DEPARTMENT:

Charles Faircloth
Senior Attorney
Department of Professional Regulation
1940 N Monroe Street
Suite 60
Tallahassee, Fl 32399-0792
Fla. Bar No. 878936
904/488-0062

CF/dn

PCP: May 6, 1993
D.B. & M.A.

FILED

Department of Professional Regulation

DEPUTY CLERK

CLERK [Signature]

DATE 6-5-93

000450

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION¹
BOARD OF CLINICAL SOCIAL WORK, MARRIAGE & FAMILY THERAPY AND
MENTAL HEALTH COUNSELING

AGENCY FOR HEALTH
CARE ADMINISTRATION,

Petitioner,

vs.

CASE NO. 92-16465

THOMAS JAMES PAGNI, III,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Agency for Health Care Administration, hereinafter referred to as "Petitioner", represented in this matter by the Department of Business and Professional Regulation, files this Administrative Complaint before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling against Thomas James Pagni, III, hereinafter referred to as "Respondent", and alleges:

1. Petitioner is the state agency charged with regulating the practice of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling pursuant to Section 20.165, Florida Statutes, Chapter 455, Florida Statutes, and Chapter 491, Florida Statutes.

¹Effective July 1, 1994, The Board of Clinical Social Work Marriage & Family Therapy and Mental Health Counseling was transferred to the Agency for Health Care Administration pursuant to Section 28.42, Florida Statutes(1993).

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2. Respondent is, and has been at all times material hereto, a licensed Mental Health Counselor, license number MH 0002680, whose address of record is: 299 N. Banana River Dr., Apt. 207, Merritt Island, Florida 32952.

3. Beginning in approximately October of 1989, the Respondent provided counseling to patient T.S. while working as a consultant with the Department of Health and Rehabilitative Services. Respondent counseled T.S. while T.S. was a client at Crosswinds, TASK, and other HRS programs. Respondent also provided family counseling to T.S.'s family, which included T.S.'s brother, N.S.. Counseling continued until approximately February 1990.

4. At all times material to this complaint, T.S. and N.S. were minors.

5. Following the cessation of therapy, Respondent maintained a close personal relationship with T.S. and his family, which included the Respondent taking T.S. to the movies, to lunches and dinners, and to his apartment to watch videos. On one occasion, the Respondent videotaped T.S. dancing, while T.S. was wearing only underwear.

6. At some time after T.S. was placed in an Outward Bound program subsequent to approximately April 1992, the Respondent began sending letters and cards of a personal nature to patient T.S.. Further, Respondent took patient T.S. on an overnight trip to Busch Gardens.

7. Following this trip to Busch Gardens, T.S. refused to speak with the Respondent. Thereafter, the Respondent began writing cards and/or letters of a personal nature to N.S..

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Further, the Respondent began taking N.S. to the movies.

8. The Respondent's letters and cards contain statements which indicate Respondent's attempt to manipulate and entice former patients T.S. and N.S., and/or to take advantage of their vulnerability.

9. The Respondent's letters and cards were not in keeping with the professional standards of behavior expected of a licensed mental health counselor, in that the writings reflected a dual relationship between the Respondent and former patients T.S. and N.S. and express personal needs of the Respondent.

COUNT ONE

10. Based on paragraphs one through nine, the Respondent is in violation of Section 491.009(2)(s), Florida Statutes, by failing to meet the minimum standards of performance in professional activities by engaging in a dual relationship with T.S. and N.S..

COUNT TWO

11. Petitioner realleges and incorporates as if fully stated herein the allegations contained in paragraphs three through nine above.

12. Sometime during or around June of 1992, the Respondent made a gesture toward N.S. while N.S. attempted to make a shot during a game of pool, wherein the Respondent pressed his crotch against the buttocks of N.S. as though he were "mounting" N.S..

13. Sometime during the summer of 1992, the Respondent and patient N.S. were playing a game of racquetball when N.S. attempted to pick up the ball and the Respondent once again "mounted" N.S. and, in so doing, the Respondent pressed his crotch against the

buttocks of patient N.S..

14. Rule 61F4-10.002 (formerly 21CC-10.002), Florida Administrative Code, states in pertinent part:

- (1) It is sexual misconduct for a psychotherapist to engage, attempt to engage, or offer to engage a client in sexual behavior whether the client consents to such behavior or not, including kissing, sexual intercourse or the touching by either the psychotherapist or the client of the other's breasts or genitals.
- (2) It is sexual misconduct for a psychotherapist to engage a client in verbal or physical behavior which is sexually arousing or demeaning ...

15. Rule 61F4-10.003 (formerly 21CC-10.003), Florida Administrative Code, states in pertinent part:

"...For purposes of determining the existence of sexual misconduct the psychotherapist-client relationship, once established, is deemed to continue in perpetuity."

16. Based on the foregoing, the Respondent violated Section 491.009(2)(k), Florida Statutes, by engaging in sexual misconduct as to N.S..

COUNT THREE

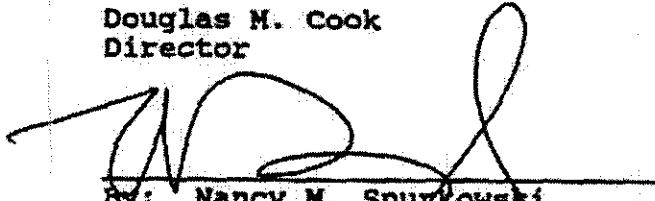
17. Based on paragraphs twelve through thirteen, the Respondent is in violation of Section 491.009(2)(q), Florida Statutes, by having violated a rule of the Board, through a violation of Rule 61F4-10.002 (formerly 21CC-10.002), Florida Administrative Code, which prohibits sexual misconduct.

WHEREFORE, Petitioner respectfully requests the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling 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 23rd day of November, 1993.

Douglas M. Cook
Director



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

COUNSEL FOR DEPARTMENT:

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

LMB/jbb

py: 11-14-94

Blaess / Achard

FILED

AGENCY FOR
HEALTH CARE ADMINISTRATION
DEPUTY CLERK

CLERK

Brandon L. Moore

DATE

11-30-94

000455

STATE OF FLORIDA
BOARD OF CLINICAL SOCIAL WORK, MARRIAGE AND FAMILY THERAPY
AND MENTAL HEALTH COUNSELING

AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

vs.

CASE NUMBERS; 92-16465 and 92-14902

THOMAS JAMES PAGNI, III,

Respondent.

STIPULATION

Pursuant to Section 120.57(3), Florida Statutes, the above named parties hereby offer this Stipulation to the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling as disposition of the Administrative Complaint, attached hereto as Exhibit "A", in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting this Stipulation is issued by the Board and filed. In considering this Stipulation, the Board may review all investigative materials regarding this case. If this Stipulation is rejected, it, and its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

- 1). Respondent neither admits nor denies the allegations of the Administrative Complaints.
- 2). For all times pertinent herein, Respondent was a licensed Mental Health Counselor in the State of Florida having been issued license number MH 0002680.

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STIPULATED LAW

3). Respondent admits the Stipulated Facts, if proven true, would constitute violations of law as charged in the Administrative Complaints.

PROPOSED DISPOSITION

4). Respondent shall not in the future violate Chapters 455 and 491, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice Mental Health Counseling.

5). The Respondent's license shall be revoked.

6). It is expressly understood that this Stipulation is subject to the approval of the Board and Agency and has no force and effect until an Order is entered adopting the Stipulation.

7). This Stipulation is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Stipulation. Furthermore, should this Stipulation not be accepted by the Board, it is agreed that presentation to and consideration of this Stipulation and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

8). The Respondent waives the right to seek any attorney's fees or costs from the Agency in connection with this disciplinary proceeding.

9). It is expressly understood that a violation of the terms of this Stipulation

shall be considered a violation of Chapter 455, and 491, Florida Statutes for which disciplinary action may be initiated.

WHEREFORE, the parties hereto request the Board to enter a Final Order accepting and implementing the terms contained herein.

Before me, personally appeared Daryl Thomas, whose identity is known to me by DOG ID CARD (type of identification) and who, under oath, acknowledges that his/her signature appears above.

Sworn and subscribed before me this 13 day of May, 1996.

Teresa H. McCordle
Notary Public
My Commission Expires:

LMB/sp



TERESA H. MCCORDLE
MY COMMISSION # CC418917 EXPIRES
March 21, 1999
BONDING THROUGH TRISTAR INSURANCE, INC.

Thomas James Payne III
RESPONDENT

Address:

Liberty, Connecticut Institutions
Bristol Ct 06010

Douglas Cook
Director

[Signature]

Nancy M. Snurkowski
Chief Attorney
Allied Health

5/30/96
Date

STATE OF FLORIDA
BOARD OF CLINICAL SOCIAL WORK, MARRIAGE AND
FAMILY THERAPY AND MENTAL HEALTH COUNSELING

Final Order No. AHCA-96-00997 Date 7-4-96

FILED

Agency for Health Care Administration
AGENCY CLERK

By: Stephan J. Power
Deputy Agency Clerk

AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

vs.

Cases 92-16465, 92-14902

Thomas James Pagni, III,

Respondent.

FINAL ORDER

Respondent, Thomas James Pagni, III, holds Florida license number MH 0002680, as a licensed mental health counselor. Petitioner has filed an Administrative Complaint seeking suspension, revocation, or other action against the license. Petitioner and Respondent have stipulated to a disposition of this case and the Stipulation was presented to the Board at a meeting held on August 24, 1996, in Tampa, Florida. The Board concurs that this Stipulation is an appropriate settlement of the cause. A copy of the Stipulation is attached to and made a part of this Order. This proceeding is therefore informally disposed of pursuant to section 120.57(3), Florida Statutes, and it is ORDERED that :

That the Respondent shall abide by the terms of the stipulation.

Pursuant to Section 120.68, Florida Statutes, the parties are hereby notified that they may appeal this Final Order by filing one copy of a notice of appeal with the clerk of the agency and by filing the filing fee and one copy of a notice of appeal with the District Court of Appeal within thirty (30) days of the date this Order is filed.

This order shall become effective upon filing with the clerk.

DONE AND ORDERED this 3rd day of September, 1996.

Mary Jo Monahan, LCSW

MARY JO MONAHAN
Chairperson
BOARD OF CLINICAL SOCIAL WORK,
MARRIAGE AND FAMILY THERAPY
AND MENTAL HEALTH COUNSELING

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been sent by United States Mail to Thomas James Pagni, III, c/o Robert Pope, Esquire, 2037 First Avenue North, St. Petersburg, Florida 33713, and by Hand Delivery to Angela Hall, Attorney, Agency for Health Care Administration, 1940 North Monroe Street, Tallahassee, Florida 32499-0792, on this ____ day of _____, 1996.
