

STATE OF FLORIDA
DEPARTMENT OF HEALTH

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DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO.: 93-08942

JEFFREY RIFKIN,

Respondent.

ADMINISTRATIVE COMPLAINT

DEPARTMENT OF HEALTH, hereinafter referred to as "Petitioner", files this Administrative Complaint before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling against JEFFREY RIFKIN, hereinafter referred to as "Respondent", and alleges:

1. Effective July 1, 1997, Petitioner is the state agency charged with regulating the practice of Marriage and Family Therapy pursuant to Section 20.43, Florida Statutes, Chapter 455, Florida Statutes, and Chapter 491, Florida Statutes. Pursuant to the authority of Section 20.43(3)(f), 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, including the issuance of emergency orders of suspension or restriction.

2. Respondent is, and has been at all times material hereto, a licensed Marriage and Family Therapist in the state of Florida, having been issued license number MT 0001052.

3. Respondent's last known address is 1522 N.W. 108th Way, Coral Springs, Florida 33071.

4. In April 1992, the American Institute of Health Risk Management (AIHRM) employed Respondent as an independent contractor to provide evaluation and therapy to patients. AIHRM's purpose was to assist overweight persons with gaining control of their lives.

5. TM, an individual interested in weight loss, responded to an AIHRM television advertisement for a free weight loss program. An AIHRM representative then referred TM to Respondent.

6. On or about January 25, 1993, Respondent conducted an initial interview with TM and administered a personality test to TM in order to determine whether TM was qualified to go through AIHRM's weight loss program.

7. Respondent indicated to TM that there was no charge for the services and instructed TM to see Respondent two to three times a week while in the program. Respondent did not inform TM about the insurance company being billed at a later time. Subsequently, TM was notified by his insurance carrier that they had been billed for numerous tests and treatment that TM had received through AIHRM.

8. Although Respondent may not have personally billed for his services, he was submitting his bills to the Capitol Institute billing agency. The documentation shows that Respondent did get checks from Blue Cross-Blue Shield that he signed over to Capitol.

9. Respondent's judgment was not consistent with his report on TM. Respondent did not include in his report evidence that TM showed emotional difficulties which manifested themselves in unhealthy eating patterns, yet Respondent allowed TM's

insurance company to be billed for weight loss under the guise of a diagnosis ("therapy from improvement of self-esteem") which had no real basis.

10. Respondent facilitated payment for TM's therapy from TM's insurance company by framing the type of therapy he was giving TM to fit insurance payment requirements.

11. Respondent's report does not justify having TM undergo therapy two to three times a week; nor does the report justify Respondent's submission to TM's insurance company.

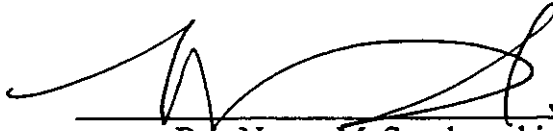
12. Respondent did not act in the best interest of his client TM.

13. Based on the foregoing, Respondent has violated Section 491.009(2)(s), Florida Statutes, by failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance.

WHEREFORE, Petitioner respectfully requests the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling to enter an order imposing one or more of the following penalties: revocation or suspension of Respondent's license, restriction of Respondent's practice, imposition of an administrative fine, issuance of a reprimand, placement of Respondent's license on probation for a period of time and subject to terms and/or conditions, and/or any other relief which the Board deems appropriate.

Signed this 21st day of May, 1998

Robert G. Brooks, M.D.
Secretary Department of Health



By: Nancy M. Snurkowski
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SB/rh

FILED

DEPARTMENT OF HEALTH
DEPUTY CLERK

CLERK *Stephanie O. Dism*

DATE 5-26-99

STATE OF FLORIDA
DEPARTMENT OF HEALTH

BOARD: Clinical Social Work, Marriage and Family Therapy and
Mental Health Counseling

CASE NUMBER: 93-08942

COMPLAINT MADE BY: D.B.P.R.

DATE OF COMPLAINT: May 21, 1993

RESPONDENT: Jeffrey Rifkin, LMFT
1522 Northwest 108th Way
Pompano Beach, Florida 33071

RESPONDENT'S ATTORNEY: Alan Grossman, Attorney at Law
Court Park
212 Southeast 8th Street, Suite 101
Fort Lauderdale, Florida 33316

INVESTIGATED BY: John Jorgensen
Fort Lauderdale / BIS

REVIEWED BY; Deborah Loucks *DL*
Senior Attorney

RECOMMENDATION: DISMISSED (PL - 06)

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Vicki R. Kehon*
DATE 10/9/2000

CLOSING ORDER

THE COMPLAINT: The complaint alleges a violation of Section 491.009 (2)(s), Florida Statutes, by failing 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.

THE FACTS: The Probable Cause Panel reviewed this case on March 25, 1999, and found that probable cause for discipline existed on the above-cited violation. This case was based upon events that occurred in January of 1993. In April of 1992, the Respondent began working as an independent contractor for the American Institute of Health Risk Management (AIHRM). AIHRM's stated purpose was to assist overweight people with gaining control of their lives. AIHRM advertised a free weight loss program on television. Patient TM responded to this advertisement. The Respondent, as part of his employment with AIHRM, conducted an initial interview and administered a personality test to TM to determine whether TM was qualified for the weight loss program. Although TM believed that the weight loss program was free, his insurance company was billed for various tests and the treatment that he had received from AIHRM. However, the Respondent did not personally bill TM for his services. As part of his contract, the Respondent submitted his service information to the Capitol Institute billing agency. Any insurance checks that the Respondent received were forwarded to the billing agency. Although the expert opined that the Respondent should have known about the billing arrangement as he received payment from AIHRM, there is insufficient evidence to prove that the Respondent

had actual knowledge of what amounts were charged to TM's insurance. The Respondent has not worked for AIHRM for quite some time. In fact, by the time of his interview with the AHCA investigator on July 28, 1993, the Respondent had already terminated his association with the clinic.

There were two other cases filed against the Respondent at approximately the same time as this case. The allegations in these cases were similar to the allegations in this case. One case was closed with no finding of probable cause. The second case was closed on reconsideration by the panel. There have been no subsequent complaints against the Respondent. To maintain consistency, the Agency is requesting that the Panel close this case upon this reconsideration.

However, the Agency suggests that the Panel issue the Respondent a letter of guidance relevant to clearly advising patients of the fees and billing arrangements for services.

THE LAW: The Agency has the burden of proving allegations contained in the administrative complaint by clear and convincing evidence. Ferris v. Turlington, 510 So.2d. 292 (Fla. 1987). The clear and convincing evidence standard was enunciated in Evans Packing Co. v. Department of Agriculture and Consumer Services, 550 So.2d. 112 (Fla. 1st DCA 1989). The Court found that:

[C]lear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witness testify must be distinctly remembered; the evidence must be precise and explicit and the witnesses must be lacking in confusion as to the facts at issue. The evidence must be of such weight that it produces in the mind of the trier of fact the firm belief of (sic) conviction, without hesitancy, as to the truth of allegations sought to be established.

Slomowitz v. Walker, 429 So.2d. 797, 800 (Fla. 4th DCA 1983).

It is, therefore, ORDERED that this matter be DISMISSED, and same is hereby, CLOSED.

DONE AND ORDERED this 4th day of October, 2000.


Chairperson, Board of Clinical Social Work, Marriage
and Family Therapy and Mental Health Counseling

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