

**STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION**

AGENCY FOR HEALTH CARE  
ADMINISTRATION,

Petitioner,

vs.

CASE NUMBERS: 94-12920  
94-15075  
94-19845

EARL MALCOLM WOODMANSEE,

Respondent.

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**AMENDED ADMINISTRATIVE COMPLAINT**

COMES NOW, the Petitioner, Agency for Health Care Administration, hereinafter referred to as "Petitioner", and files this Amended Administrative Complaint before the Board of Clinical Social Work, Marriage and Family therapy, and Mental Health Counseling against Earl Malcolm Woodmansee, 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 Chapter 455, Florida Statutes, Chapter 491, Florida Statutes, and Section 20.42, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed Mental Health Counselor, license number MH 0000794, whose address of record is 529 S. 6th St., P.O. Box 1582, Macclenny, Florida 32063.

**COUNT ONE**

3. Petitioner realleges and incorporates by reference the foregoing paragraphs one (1) through two (2), as if fully stated herein.

4. Respondent treated patient S.B. for anxiety attacks. Treatment began during or around 1981.

5. The relationship between the Respondent and S.B. was professional until approximately late 1984.

6. During this time, the Respondent invited S.B. to his office for a drink after S.B. got off from work. The Respondent spoke suggestively to S.B. and made sexual advances, whereupon S.B. and Respondent kissed.

7. During or around October, 1984, the Respondent discontinued counseling with S.B. because of his expressed "physical attraction" for her.

8. On or about July 17, 1991, the Respondent resumed treating S.B. for anxiety attacks. Treatment ended on or about August 7, 1991.

9. During or around June 1993, the Respondent went to S.B.'s home. Sometime thereafter, S.B. and the Respondent, engaged in sexual intercourse.

10. Section 491.0111, Florida Statutes, states the following:

**Sexual misconduct by any person licensed or certified under this chapter, in the practice of his profession, is prohibited. Sexual misconduct shall be defined by rule.**

11. Rule 61F4-10.002, Florida Administrative Code, states the following:

**(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.**

12. Rule 61F4-10.003, Florida Administrative Code, states that ". . . For the purposes of determining the existence of sexual

misconduct the psychotherapist-client relationship, once established, is deemed to continue in perpetuity."

13. Based on the foregoing, the Respondent is in violation of Section 491.009(2), Florida Statutes, by committing any act upon a patient or client which would constitute sexual misconduct.

**COUNT TWO**

14. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs one (1) through twelve (12).

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

**COUNT THREE**

16. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs one (1), two (2), and ten (10) through twelve (12).

17. The Respondent treated patient G.S. for psychosomatic symptoms such as headaches, stomach spasms and heart palpitations. Treatment began during or around 1980.

18. During or around June 1985, the Respondent discharged G.S. as a patient while the patient was in crisis without prior discussion with the patient.

19. G.S. requested that the Respondent continue treating her; however, he refused and would not accept any of G.S.'s telephone calls.

20. Approximately three weeks later, the Respondent telephoned G.S. and asked her if she was ready to resume treatment. Subsequently, G.S. went in to see the Respondent that day.

21. During said therapy session, the Respondent and G.S. drank wine in Respondent's office.

22. Further, G.S. informed the Respondent that she had no money to pay for services. The Respondent responded by informing G.S. that she could exchange therapy sessions for sex with him.

23. G.S. and the Respondent did engage in sexual activity in the Respondent's office.

24. Based upon the foregoing, the Respondent is in violation of Section 491.009(2)(k), Florida Statutes, by committing any act on a patient or client which would constitute sexual misconduct.

#### COUNT FOUR

25. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs one (1) and two (2), ten (10) through twelve (12), and seventeen (17) through twenty-three (23).

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

#### COUNT FIVE

27. Petitioner realleges and incorporates as if fully stated herein the allegations contained in paragraphs one (1), two (2), and ten (10) through twelve (12).

28. G.H. began seeing the Respondent for anxiety attacks. Treatment began during or around 1984.

29. Approximately one month after treatment began, the Respondent made sexual advances towards G.H. and they began to date.

30. Sometime thereafter, G.H. and the Respondent engaged in sexual activity. Said activity lasted for approximately one year.

31. The therapeutic relationship ended after the Respondent suggested to G.H. that she talk with G.S., a patient of his. The Respondent stated that G.H. and G.S. could help each other as both were suffering from anxiety attacks.

32. G.H. and G.S. reported the Respondent to his supervisors.

33. Based on the foregoing, the Respondent is in violation of Section 491.009(2)(k), Florida Statutes, by committing an act upon a patient or client which would constitute sexual misconduct.

#### COUNT SIX

34. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs one (1), two (2), and twenty-eight (28) through thirty (30).

35. At some time while G.H. was a patient, G.H. was employed to clean Respondent's house.

36. In doing so, the Respondent engaged in a dual relationship with G.H.

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

COUNT SEVEN

38. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs one (1) and two (2) and twenty-eight (28) through thirty-two (32).

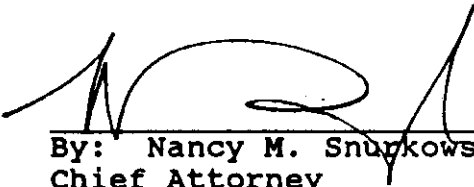
39. By informing G.H. that G.S. was a patient and by suggesting that they talk to one another about their mutual problems, Respondent violated client confidentiality.

40. Based on the foregoing, the Respondent is in violation of Section 491.009(2)(v), Florida Statutes, by failing to maintain in confidence a communication made by a patient or client in the context of such services.

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 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 5th day of August, 1996.

Doug Cook  
Director

  
By: Nancy M. Snykowski  
Chief Attorney  
Allied Health

COUNSEL FOR DEPARTMENT:

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*684*  
WSH/gf

PCP: D.B.  
M.A.  
July 13, 1995

**FILED**  
OFFICE OF THE  
HEALTH CARE ADMINISTRATION  
DEPUTY CLERK  
CLERK *Stephanie J. Davis*  
DATE 8-6-96

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

By: Vicki R. Kenon  
Deputy Agency Clerk

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

CASE NUMBER: 1994-12920; 1994-15075; and 1994-19845

COMPLAINTS MADE BY: SB; GS; and GH

RESPONDENT: Earl Malcolm Woodmansee  
529 South 6<sup>th</sup> Street  
Post Office Box 1582  
Macclenny, Florida 32063

DATE OF COMPLAINT: July 26, 1994; September 8, 1994; and December 12, 1994

RESPONDENT'S ATTORNEY: Donald Brown  
1 Independent Drive, Suite 3306  
Jacksonville, Florida 32202

INVESTIGATED BY: Thomas M. Sweat  
Jacksonville, Investigative Services

REVIEWED BY: Deborah B. Loucks, Senior Attorney *DL*

RECOMMENDATION: DISMISS (PL -82)

**NOLLE PROSEQUI/ DETAILED REPORT**

**The Complaint:** The above-listed three cases were consolidated into one case. The issue in all of the cases is alleged sexual misconduct by the Respondent – violations of Section 491.009 (2) (k), Section 491.011, Florida Statutes, through violations of then rule numbers 61F4-10.002, 61F4-10.003; violation of Section 491.009 (2)(s), Florida Statutes, by failing to meet minimum standards of performance; and violation of Section 491.009(2)(v), Florida Statutes, by failing to maintain in confidence a communication made by a patient or client in the context of therapeutic services.

**The Facts:** The Respondent was charged in a seven count Amended Administrative Complaint citing the above-referenced violations. The Respondent provided counseling services to patient SB from approximately 1981- 1984. The Respondent allegedly discontinued provided treatment to SB in October 1984 because of his “physical attraction” to her. The Respondent allegedly made sexual advances and spoke suggestively to SB during therapy. The Respondent briefly treated SB for anxiety attacks from July 17, 1991 until August 7, 1991. Sometime shortly after June of 1993, the Respondent engaged in sexual relations with SB.

The Respondent provided therapeutic services to patient GS from approximately 1980 until 1985. After the Respondent terminated treatment, GS continued to telephone him, although the Respondent did not return her telephone calls. Approximately three weeks, the Respondent asked GS if she wanted to resume treatment; GS said that she had no money to pay him. The Respondent offered GS the option of engaging in sexual relations with him in exchange for therapy.

The Respondent began providing therapeutic services to GH in 1984. Approximately one month after treatment began, the Respondent and GH engaged in a sexual relationship that lasted about one year. The Amended Administrative Complaint also alleges that the Respondent told GH to talk with GS, purportedly to help with resolving her anxiety attacks.

The parties entered into a stipulated settlement agreement that was presented and rejected by Board at its meeting on April 20, 1996. The Board offered a counterproposal seeking revocation of the Respondent's license plus payment of a seven thousand dollar fine.

During the course of this investigation, two of the Complainants have retracted their statements. Additionally, the Agency has contacted the witnesses in these cases and learned that all but one (GS) are refusing to testify. In the past, GS had recanted her statement to the Respondent's office manager.

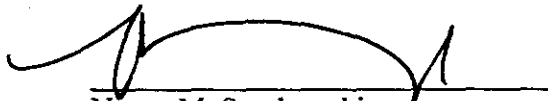
Because the complaining witnesses are refusing to testify, the Agency will not be able to meet its burden of proving the factual allegations by clear and convincing evidence. Additionally, the length of time since the alleged incidents occurred weakens the credibility of some of the testimony. There have been no subsequent complaints filed against the Respondent.

**The Law:** The Agency has the burden of proving the factual allegations alleged in the Administrative Complaint by clear and convincing evidence, Ferris v. Turlington, 510 So.2d. 292 (Fla. 1987). Based on the evidence before the Agency and the witnesses' unwillingness to testify, the Agency is unable to meet its burden of clear and convincing evidence. Therefore, this matter will be dismissed without further prosecution.

This Nolle Prosequi/Detailed Report was presented to the Probable Cause Panel  
on October 2<sup>nd</sup>, 2000.

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

Robert G. Brooks, M. D., Secretary



Nancy M. Snurkowski  
Chief Attorney – Practitioner Regulation - Legal  
Agency for Health Care Administration

DBL/dbl 