

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

5/19/91

DEPARTMENT OF HEALTH,  
BOARD OF PSYCHOLOGY,

PETITIONER,

vs.

CASE NO: 99-63011

JOHN J. SCHULTE,

RESPONDENT.

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ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, Department of Health, hereinafter referred to as "Petitioner", and files this Administrative Complaint before the Board of Psychology against John Schulte, hereinafter referred to as "Respondent", and alleges:

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 456, Florida Statutes; and Chapter 490, Florida Statutes. Pursuant to the authority of Section 20.43(3)(g), 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 to include the issuance of emergency suspensions or restrictions.

2. Respondent is, and has been at all time material hereto, a licensed Psychologist in the State of Florida, having been issued license number PY 0003792.

3. Respondent's last known address is 4551 Carolyn Cove Lane North, Jacksonville, Florida 32258-2181.

4. S.P. saw the Respondent for psychological therapy for approximately three years, ending in or around November 1999.

5. During the initial sessions with S.P. the Respondent touched her, hugged her and danced with her.

6. The sessions gradually escalated into a personal relationship which included meetings in Mandarin Park in Jacksonville and walks on the nature trails together at the University of North Florida. The Respondent gave S.P. gifts which included a silver angel necklace. Eventually, the relationship resulted in at least three incidents of sexual intercourse.

7. The Respondent divulged confidential information to S.P. about other patients. He also divulged confidential information about S.P. to another patient, M.R.

8. Based on the foregoing, the Respondent has violated section 490.009(2)(k), Florida Statutes, by committing any act upon a patient which constitutes sexual misconduct as set forth in Rule 64B19-16.003(2), Florida Administrative Code; has violated section 490.009(2)(v), Florida Statutes, by failing to maintain in confidence a communication made by a client; and, 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 that the Board of Psychology 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 25th day of April, 2001.

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



By: Nancy M. Snurkowski, Chief Attorney  
On Behalf of Agency for Health  
Care Administration

COUNSEL FOR PETITIONER:

<sup>4</sup>/<sub>24</sub> Mary Denise O'Brien, Senior Attorney  
Agency for Health Care Administration  
General Counsel's Office-MQA  
Practitioner Regulation - Legal  
Post Office Box 14229  
Tallahassee, Florida 32317-4229  
(904) 488-1474

**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK *Vicki R. Kenon*  
DATE 5/8/01

MDO/dja

PCP: Herbert Goldstein & Pam Schwartz

DATE: April 24, 2001

18

AH

Final Order No. DOH-02-0514-~~FoF~~-MQA  
FILED DATE - 4/15/02  
Department of Health

**STATE OF FLORIDA  
BOARD OF PSYCHOLOGY**

By: Vicki R. Kenan  
Deputy Agency Clerk

**DEPARTMENT OF HEALTH,  
BOARD OF PSYCHOLOGY,**

**Petitioner,**

**vs.**

**CASE NO.: 1999-630111  
LICENSE NO.: PY 0003792**

**JOHN J. SCHULTE, Psy.D.,**

**Respondent.**

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**FINAL ORDER**

THIS MATTER came before the Board of Psychology (hereinafter "the Board") for final action pursuant to Section 120.57(1), Florida Statutes, at a duly-noticed public meeting held on March 22, 2002, in Miami, Florida, for the purpose of considering the Recommended Order issued by the Administrative Law Judge in the above-styled case. The Petitioner was represented by Mary Denise O'Brien, Senior Attorney, Agency for Health Care Administration. The Respondent was present at the Board meeting, and represented by Jesse Suber, Esquire.

After a review of the complete record in this matter, including consideration of the Administrative Law Judge's Recommended Order, a copy of which is attached hereto as Exhibit "A," the exceptions filed by Respondent, the Petitioner's response to those exceptions, and the arguments of each party, the Board makes the following findings and conclusions:

**EXCEPTIONS TO THE RECOMMENDED ORDER**

1. Petitioner filed an exception to the Administrative Law Judge's recommended

penalty, which included revocation of the Respondent's license to practice psychology in the state of Florida, on the grounds that the Recommended Order did not mention the mitigation evidence presented at the final hearing. The Board **denied** the exception on the grounds that the record clearly shows that mitigation evidence was presented at the final hearing, and the Administrative Law Judge's failure to mention it in the Recommended Order does not prove that he failed to consider it in arriving at the recommended penalty.

2. The Respondent filed an exception to the fact that the Administrative Law Judge denied his motion to continue the final hearing pending his evaluation by a psychiatrist as directed by the Physicians' Recovery Network. The Board **denied** this exception on the grounds that granting or denying a motion for continuance is within the discretion of the Administrative Law Judge, and that this is not a matter within the substantive jurisdiction of the Board. *See, Barfield v. Department of Health, Board of Dentistry*, 805 So.2d 1008 (Fla. 1<sup>st</sup> DCA 2001).

#### **FINDINGS OF FACT**

1. The Administrative Law Judge's findings of fact are hereby approved, adopted, and incorporated herein.

2. There is competent, substantial evidence to support the Administrative Law Judge's findings of fact as adopted by the Board.

#### **CONCLUSIONS OF LAW**

1. The Administrative Law Judge's conclusions of law are hereby approved, adopted and incorporated herein.

2. The record in this case establishes that Respondent violated Section

490.009(2)(k), Florida Statutes (2000), by committing any act upon a patient which constitutes sexual misconduct as set forth in Rule 64B19-16.003(2), Florida Administrative Code.

3. The record in this case further establishes that Respondent violated Section 490.009(2)(v), Florida Statutes (2000), by failing to maintain in confidence a communication made by a patient or client.

4. The record in this case further establishes that Respondent violated Section 490.009(2)(s), Florida Statutes (2000), by failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance.

5. There is competent substantial evidence to support the Board's findings and conclusions.

#### **PENALTY**

#### **IT IS THEREFORE ORDERED AND ADJUDGED:**

1. Respondent shall pay an administrative fine in the amount of three thousand dollars (\$3,000) to the Executive Director of the Board of Psychology within thirty (30) days of the filing of this Final Order.

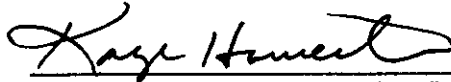
2. Respondent's license to practice psychology in the state of Florida is hereby **REVOKED**, and Respondent shall not practice as a psychologist in the State of Florida

This Order shall become final upon filing with the Clerk for the Department of Health.

DONE AND ORDERED this 10 day of April, 2002.

BOARD OF PSYCHOLOGY

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Kaye Howerton, Executive Director  
for Katurah Jenkins-Hall, Ph.D., Chair

**NOTICE OF RIGHT TO APPEAL**

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(D), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.



Jeb Bush  
Governor

John O. Agwunobi, M.D., M.B.A., M.P.H.  
Secretary

December 3, 2004

Office of the State Attorney  
Fourth Judicial Circuit  
Attn: Harry Shorstein  
330 East Bay Street  
County Courthouse, 5<sup>th</sup> Floor  
Jacksonville, FL 32202

Complaint #199963011

Subject: John Schulte

Dear Mr. Shorstein:

Enclosed is a copy of a complaint and/or document that may indicate a criminal violation by a licensee regulated by the Department of Health. Pursuant to 456.066, Florida Statutes this information is being forwarded to your office for your review and disposition. The complaint was investigated by the Department of Health for a possible violation of 490.009(2)(k)(s), Florida Statutes.

Please be advised that pursuant to section 456.073(10), Florida Statutes this complaint and all information obtained during the Department's investigation are confidential and exempt from section 119.07(1), Florida Statutes, until ten (10) days after probable cause has been found to exist or the subject of the investigation waives his/her right of confidentiality, whichever occurs first. We are required, pursuant to section 456.057(8), Florida Statutes to maintain confidentiality, at all times, of patient names, patient records and any documents that may identify the patient by name.

Please do not hesitate to contact me if I can be of further assistance to you.

Sincerely,

A handwritten signature in cursive script that reads "Sondra Nelson".

Sondra N. Allen  
Regulation Specialist III  
Consumer Services Unit

/www

Enclosure