

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

Department of Professional
Regulation,

Petitioner,

Case No. 0091489

vs.

DAVID NEWMAN,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, Department of Professional Regulation, hereinafter referred to as "Petitioner", and files this Administrative Complaint against David Newman, hereinafter referred to as "Respondent", and alleges:

1. Petitioner, Department of Professional Regulation, is the state agency charged with regulating the practice of psychology pursuant to 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 0002474. Respondent's last known address is 1515 University Drive, Coral Springs, Florida 33071.

3. On or about July 15, 1987, the Respondent began counseling a female patient, "SC", on a biweekly basis.

4. On or about September 25, 1987, Respondent told "SC" to meet him at a hotel room that he claimed he was using as a temporary office on her next scheduled appointment date. On September 27, 1987, the date of "SC"'s next scheduled appointment, she met the Respondent at the hotel room. During

the counseling session Respondent fondled "SC" and made sexual advances towards her.

COUNT I

5. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs one through four above.

6. Based on the foregoing, Respondent has violated Sections 490.009(2)(k) and 490.0111, Florida Statutes, and Ruled 21U-15.004, Florida Administrative Code, prohibiting sexual misconduct in the practice of psychology.

COUNT II

7. Petitioner realleges and incorporates as if fully stated herein, the allegations contained in paragraphs one through four above.

8. Based on the foregoing, Respondent has violated Section 490.009(2)(q), Florida Statutes, providing that violation of provisions of Chapters 490 or 455 or rules adopted pursuant thereto provides grounds for discipline.

WHEREFORE, Petitioner respectfully requests the Board of Psychological Examiners to enter an Order imposing one or more of the following penalties: revocation of the Respondent's license, imposition of an administrative fine, issuance of a reprimand, and/or any other relief the Board deems appropriate.

Signed this 5th day of April, 1988.

Charles F. Tunnick

Tom Gallagher
Secretary

COUNSEL FOR DEPARTMENT:

Charles F. Tunnick
Senior Attorney
Department of Professional
Regulation
130 North Monroe Street
Tallahassee, Florida 32399-0750
(904) 488-0062

CFT/pb

FILED

Department of Professional Regulation
AGENCY CLERK

CLERK *Michael L. Wagner*

DATE *April 5 1988*

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

DAVID NEWMAN,

Respondent.

DPR CASE NO. 0091489
DCAH CASE NO. 88-3806

STIPULATION

Pursuant to Section 120.57(3), Florida Statutes, the above-named parties hereby offer this Stipulation to the Board of Psychological Examiners, 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 contained in the administrative complaint.
 2. For all times pertinent herein, respondent was a licensed psychologist in the State of Florida, having been issued license number PY 2474.
-

STIPULATED LAW

3. Respondent admits that the stipulated facts, if true, constitute violations of law as charged in the Administrative Complaint.

PROPOSED DISPOSITION

4. Respondent shall appear before the Board of Psychological Examiners at the time this Stipulation is presented for Board approval.

5. Respondent hereby waives any rights to appeal or further review of the Stipulation made herein.

6. Respondent hereby waives any claim for attorneys fees generated by this case.

7. Respondent shall not violate Chapters 455 and 490, Florida Statutes, or the Rules promulgated thereunder.

8. Respondent shall submit to a psychological evaluation to be performed by a psychologist approved by the chairman of the Board of Psychological Examiners. The purpose of this evaluation is to determine the Respondent's ability to practice psychology safely in light of the allegations made herein. This evaluation shall be reviewed by the Board of Psychological Examiners and if necessary, further proceedings shall be held in accordance therewith.

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

x *Pam Newman*
RESPONDENT

January 26, 1989
Date signed

Sworn to and subscribed before me this *26* day of *January*, 1989.

Charles F. Tunnick
Notary Public

My Commission Expires: *Oct. 1, 1992*
My Commission Expires Oct. 1, 1992
Bonded Thru Troy Fair - Insurance Inc.

APPROVED this *2ND* day of *February*, 1989.

Larry Gonzalez
Secretary

Charles F. Tunnick
BY: Charles F. Tunnick

LPG/pjs
1/12/89

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF PSYCHOLOGICAL EXAMINERS

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Department of Professional Regulation
AGENCY CLERK

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

-vs-

DAVID NEWMAN,

Respondent.

CLERK *[Signature]*

DATE *7/19/89*

DPR. CASE NO. 0091489
DOAH CASE NO. 88-3806

FINAL ORDER

THIS MATTER came before the Board of Psychological Examiners pursuant to section 120.57(3), Florida Statutes, on March 6, 1989, in Tampa, Florida, for a determination of whether to accept the proposed settlement stipulation. The Petitioner was represented by Laura P. Gaffney, Senior Attorney. The Respondent was represented by legal counsel, Mr. Joseph A. Vecchio, Jr.

Upon consideration of the administrative complaint, the proposed settlement stipulation (a copy of which is attached and incorporated herein by reference), the argument of the parties, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED:

1. The Respondent has violated Chapter 490, Florida Statutes, and therefore it is appropriate for the Board of Psychological Examiners to impose disciplinary penalties upon the Respondent.

2. The proposed settlement stipulation is hereby approved and adopted as amended by the following terms:

a. Respondent will bear all costs of the required psychological evaluation;

b. Respondent shall immediately cease any further private practice until the required psychological evaluation has been reviewed and approved by the Board; and


c. Respondent agrees to submit to the Board's continuing jurisdiction in order to impose reasonably required terms as indicated by the Board's review of the required psychological evaluation.

Both Petitioner and Respondent have agreed to these amended terms.

3. Respondent will adhere to and abide by all the terms and conditions of the settlement stipulation.

4. This Final Order and its attachments shall be placed in and become a part of Respondent's official records and shall become effective upon filing with the Clerk of the Department of Professional Regulation.

DONE AND ORDERED this 13 day of April, 1989.


William H. Wharton, Ph.D.
VICE-CHAIRMAN,
BOARD OF PSYCHOLOGICAL
EXAMINERS

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF PSYCHOLOGICAL EXAMINERS

FILED

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

DAVID NEWMAN,

Respondent.

Department of Professional Regulation

DEPUTY CLERK

CLERK Kevin A. Brown

DATE 8/22/89

DPR CASE No. 0091489
DOAH CASE No. 88-3806

FINAL ORDER SETTING TERMS OF PROBATION

THIS MATTER came before the Board of Psychological Examiners pursuant to the terms of the Final Order in the above-styled cause which was filed on April 19, 1989. Said Final Order authorizes the Board to impose reasonable terms of probation.

The Board having reviewed the psychological evaluation required in the previous Final Order and being otherwise fully advised in the premises determined that the following terms of probation be imposed:

(1) Respondent shall be placed on probation for a period of at least 2 years and thereafter until such time as the Respondent appears before the Board and establishes to the satisfaction of the Board that he is able to resume the independent practice of psychology with reasonable skill and safety.

(2) Respondent shall submit within 60 days of the effective date of this Final Order a practice plan describing all of Respondent's work settings and supervision. If Respondent is not yet working prior to the above stated date, such practice plan shall be submitted to the Board office prior to resuming the practice of psychology. Such plan must be approved by the Board and Respondent shall practice psychology only in the manner described in the practice plan. Changes to the practice plan may be made only as needed and after approval by the Board.

(3) During the term of probation, Respondent shall report in writing to the Board office all of those locations at which he is involved in the practice of psychology.

(4) The practice plan submitted by Respondent shall require at least each of the following terms:

(a) Supervision of Respondent's practice by a licensed psychologist approved by the Board;

(b) Quarterly written reports filed by the supervisor with the Board office, and such other reports at any time as needed to inform the Board of any problem related to Respondent's practice of psychology; and

(c) The presence of a licensed mental health professional on the premises whenever Respondent provides services to a client.

(5) Respondent shall appear before the Board with his supervisor at the time that the practice plan is submitted for Board approval.

(6) Respondent shall participate in psychological therapy with a Board approved licensed psychologist. The therapist shall file quarterly written reports with the Board and such other reports, at any time as needed to inform the Board of any problem related to Respondent's practice of psychology. Respondent shall waive confidentiality, regarding said reports and shall be responsible for ensuring that they are timely filed with the Board office. Respondent may change therapists only as approved by the Board.

(7) Any costs of supervision or therapy are to be paid by the Respondent.

(8) Respondent shall not violate Chapter 490 or 455, Florida Statutes, the rules promulgated pursuant thereto, or any other state or federal law, rule or regulation relating to the practice or ability to practice psychology.


(9) Any deviation from the requirements of this probation without the prior written consent of the Board shall constitute a violation of this probation.

As a further matter, the Board upon reviewing the Final Order filed on April 19, 1989 and the record of the proceedings reflected in that Final Order, concur with the observation of counsel for Respondent that paragraph 1. of the Final Order should be deleted. Its inclusion in the Final Order was an administrative error and it is hereby deleted nunc pro tunc.

WHEREFORE, it is hereby Ordered that the above-stated terms of probation shall be imposed upon the psychology license of the Respondent and the Final Order filed April 19, 1989 is amended nunc pro tunc to delete paragraph 1. therein.


DONE and ORDERED this 22 day of August, 1989.

BOARD OF PSYCHOLOGICAL
EXAMINERS


WILLIAM H. WHARTON, Ph.D.
VICE-CHAIRMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by Certified U.S. Mail to DAVID NEWMAN c/o JOSEPH A. VECCHIO, JR., 3012 Commercial Boulevard, Fort Lauderdale, Florida 33308 and by hand delivery to Laura P. Gaffney, Senior Attorney, 1940 North Monroe Street, Tallahassee, Florida 32339-0750 on or before 5:00 p.m., this 22 day of August, 1989.


LINDA BIEDERMANN
EXECUTIVE DIRECTOR

STATE OF FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION
BOARD OF PSYCHOLOGICAL EXAMINERS

VOLUNTARY SURRENDER OF LICENSE

IN REFERENCE: David Newman, Ph.D.

LICENSE NUMBER: PY 0002474

CASE NUMBER: 0091489

The undersigned, after being duly sworn, deposes and says:

1. That my name is David Newman, Ph.D.
2. That I am currently the holder of License Number PY 0002474 to practice psychology issued pursuant to Chapter 490, Florida Statutes.
3. That I voluntarily surrender my license, in lieu of further proceedings in the above-referenced case.
4. That I consent to the entry of a Final Order by the Board of Psychological Examiners accepting this voluntary surrender.
5. That the effective date of the voluntary surrender shall be _____.
6. That I will not perform any act or service requiring licensure without first being the holder of a valid and current license at the time the act or service is performed.
7. That I will be notified of any further administrative proceedings in this matter.
8. That I waive any right to appeal or otherwise seek judicial review of the Final Order of voluntary surrender to be rendered.
9. That I will forward a plan to the Board of Psychological Examiners which complies with the 8/22/89 Final Order prior to requesting reinstatement of my license in the future.

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JUL 24 1990

Div. of Pharmacy / Psychology

11. That I voluntarily waive any right to attorney fees and other costs generated by this case.

10. That if this voluntary surrender of license is not accepted by the Board, it, and its presentation to the Board will not be used against the undersigned, the Board, or the Department.

Witnessed before me this
18th day of July
1990.

Kathleen S. Evans
NOTARY PUBLIC

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP JUNE 25, 1994
BONDED THRU GENERAL INS. UNO.

Danielle Curran
Respondent

P.O. Box 233
Address

Tallahassee, Fla. 32310

904-594-1214
Telephone

7-24-90 Original to [unclear]

RECEIVED

JUL 24 1990

BDS. of Pharmacy / Psychology
Dept. of Professional Regulation

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STATE OF FLORIDA
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BOARD OF PSYCHOLOGICAL

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DATE

1-2-91

DEPARTMENT OF PROFESSIONAL
REGULATION,

Petitioner,

vs.

CASE NO.: 0091489

DAVID NEWMAN,

Respondent.

FINAL ORDER ACCEPTING
VOLUNTARY SURRENDER OF LICENSURE

THE BOARD OF PSYCHOLOGICAL EXAMINERS heard this matter on November 19, 1990, in West Palm Beach, Florida, and voted to accept Respondent's voluntary surrender of license number PY0002474. In doing so, the Board notes that Chapter 21U-19, Florida Administrative Code, is applicable to inactive licenses and the renewal of inactive licenses. That chapter pertains to this case.

FINDINGS OF FACT

1. On August 22, 1989, the Board issued its Final Order Setting Terms of Probation in this case. That order followed the Board's Final Order of discipline issued on April 11, 1989. Both orders are attached to and incorporated by reference into the instant order.

2. On July 24, 1990, the Board received Respondent's notice of his Voluntary Surrender of License; which is also attached to and incorporated by reference into the instant order.

3. The Board accepts the volunteer surrender of Respondent's license, PY0002474.

CONCLUSIONS OF LAW

1. Respondent's voluntary surrender of license serves to place his license on inactive status.

2. Chapter 21U-19, Florida Administrative Code, governs the status of inactive licenses, and is applicable to this case.

3. Respondent's license may not be reactivated until Respondent complies with the order of August 22, 1989 and the provisions of Chapter 21U-19, Florida Administrative Code.

WHEREFORE, it is hereby ORDERED AND ADJUDGED that:

1. Respondent's license is hereby placed on inactive status pursuant to the provisions of Chapter 21U-19, Florida Administrative Code.

2. Respondent may not reactivate his license until he has complied with the terms of the Board's final order of August 22, 1989 and until he has complied with the reactivation provisions of Rule 21U-19.003, Florida Administrative Code.

DONE AND ORDERED on this 31st day of December, 1990.

BOARD OF PSYCHOLOGICAL EXAMINERS


DR. E. CAROL WEBSTER
CHAIR