

BEFORE THE SOUTH CAROLINA STATE BOARD OF MEDICAL EXAMINERS

In the Matter of:

Robert Dudley Cox, III, M.D.,

Medical License #5351,

(M-265-98 and M-37-99) Respondent.

FINAL ORDER

This matter initially came before the Board of Medical Examiners (the Board) for hearing on July 23, 2001, as a result of the Notice and Amended Complaint served upon the Respondent and filed on March 21, 2001. At that time, upon finding that the Respondent violated the Medical Practice Act, the Board ordered the Respondent to undergo an evaluation at the Behavioral Medicine Institute of Atlanta, and to appear before the Board after the evaluation for a determination of sanction. The findings and conclusions of that decision are incorporated in this final order. Upon receipt of the results of the evaluation, the Board scheduled the matter for hearing on October 23, 2001 for further review and the development of a final sanction. A quorum of Board members was present. The hearing was held pursuant to S.C. Code Ann. §§40-47-200 and 211 (Supp. 1999). Clifford O. Koon, Jr., Esquire, represented the State. The Respondent was represented by V. Clark Price, Esquire.

The Respondent was charged with violation of S.C. Code Ann. §§40-47-200(F)(7) (Supp. 1999), and Regulation No. 81-60(A) and (D) (Supp. 1999) of the Rules and Regulations of the Board of Medical Examiners.

FINDINGS OF FACT

Based upon the preponderance of the evidence on the whole record, the Board finds the facts of the case to be as follows:

1. The Respondent is a physician duly licensed to practice medicine in South Carolina. He currently practices psychiatry with Affiliated Counseling & Psychotherapy Center, LLP, in Greenville, South Carolina.

Patient L.M.

2. The Respondent initially began treating L.M. on or about April 23, 1998 while he

was employed with the South Carolina Department of Mental Health at the Pickens Mental Health Clinic. During the course of the Respondent's counseling sessions with L.M., the Respondent made inappropriate sexual remarks to L.M., and on at least one occasion, touched L.M. in a sexually suggestive manner while in the confines of his office at the Pickens Mental Health Clinic.

Patient K.B.

3. The Respondent treated K.B. on or about January 1, 1999 while he was employed at the Orangeburg Area Mental Health Clinic. During the course of the Respondent's counseling session with K.B., the Respondent made inappropriate sexual remarks to K.B., including commenting on K.B.'s physical attractiveness. The Respondent acknowledged in his testimony that he may have made inappropriate comments during his session with K.B., but was dismissive of the comments as just his attempt at sarcasm.

Patient F.H.

4. The Respondent treated F.H. sometime in August or September 1998, following F.H.'s referral to the Pickens Mental Health Clinic for counseling after being attacked by a male who attempted to rape F.H. During the course of the Respondent's counseling session with F.H., the Respondent made inappropriate sexual remarks to F.H., including inquiring if F.H. was in a relationship and whether she and her partner engaged in "oral sex."

The Evaluation

5. The Respondent's evaluation (included in the record of the case) was conducted by the Behavioral Medicine Institute of Atlanta. The evaluation consisted of five (5) hours of clinical psychiatric interviews, social history, medical history and physical examination, neuropsychological assessment, psychological evaluation, psycho-physiological evaluation of sexual interest pattern, and polygraph examination.

6. The diagnostic impressions of the evaluation were classified and the specifics of each classification were placed in axes numbered 1 through 5. Specifically, Axis 1 describes the major psychiatric diagnoses contributing to the Respondent's problems; Axis 2 refers to the Respondent's personality; Axis 3 lists concurrent medical illnesses the Respondent has; Axis 4 identifies psycho-social and environmental problems that contribute to the Respondent's emotional conflict; and Axis 5 describes the current global assessment of functioning. The Respondent was diagnosed as suffering from a narcissistic personality disorder, and with showing symptoms that are labeled as "professional sexual misconduct" and characteristics of the disruptive physician. It was further determined that the Respondent's inappropriate sexual comments to patients emanated from his personality disorder.

7. The evaluation contained specific recommendations for the Respondent's participation in therapy to address his personality disorder and monitoring during the period he is in therapy. These recommendations are as follows:

A. The Respondent will participate in an ongoing therapeutic treatment plan to assist him in regards to his narcissistic personality.

B. The therapist will provide quarterly reports to the Board confirming the Respondent is continuing treatment, is motivated by the treatment and is responding to treatment.

C. Patient Satisfaction Sheets will be completed every six weeks by all patients the Respondent sees in a one-week period. The Patient Satisfaction Sheet should identify whether the patient sees the Respondent using harsh terms, makes the patient feel ill at ease, or demonstrates evidence of sexual harassment.

D. A local physician or Ph.D. supervisor will be appointed to supervise the Respondent, and provide feedback to the Board on a quarterly basis that the Respondent is not demonstrating excessive characteristics of his narcissistic personality.

E. The therapist or local supervisor will contact the Board if at any time the Respondent begins to demonstrate sexual harassment behavior or poses a danger to his patients.

F. The Respondent will be required to complete at least a twelve (12) page article on the subject of sexual assault on patients to be reviewed by his therapist.

G. The Respondent will undergo semi-annual polygraph examinations that focus on whether the Respondent has touched a patient for sexual gratification, said sexually inappropriate comments to any patients or staff, and whether patients have reacted to him as if they were upset by any sexual comments he made to them.

H. That the plan of treatment will be for a period of at least five (5) years.

I. It was noted that the Respondent had voluntarily put in place a plan to refer all patients with sexual problems to others which was felt to be appropriate given the Respondent's history.

8. The Respondent has voluntarily submitted himself to the care of a physician practicing psychiatry and addiction medicine in Greenville, South Carolina, for treatment of his personality disorder.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this matter, the Board finds and concludes as a matter of law that:

1. The Board has jurisdiction in this matter and, upon finding that a licensee has violated any of the provisions of S.C. Code Ann. §40-47-200, supra, has the authority to order the revocation or suspension of a license to practice medicine or osteopathy, publicly or privately reprimand the holder of a license, or take other reasonable action short of revocation or suspension, such as requiring the licensee to undertake additional professional training subject to the direction and supervision of the Board or imposing restraint upon the medical or osteopathic practice of the licensee as circumstances warrant until the licensee demonstrates to the Board adequate professional competence. Additionally, the Board may require the licensee to pay a civil penalty of up to ten thousand dollars to the Board and the costs of the disciplinary action.

2. The Respondent has violated S.C. Code Ann. §40-47-200(F)(7) (Supp. 1999), and S.C. Code of Regulations No. 81-60 (A) and (D)(Supp. 1999) of the Rules and Regulations of the Board, in the following particulars:

(A) The Respondent violated S.C. Code Ann. §40-47-200(F)(7) (Supp. 1999), in that he has violated the following Principles of Medical Ethics adopted by the Board:

(1) Regulation 81-60(A), in that he did not provide competent medical service with compassion and respect for human dignity, as evidenced by his making inappropriate sexual remarks to patients during the course of providing mental health counseling.

(2) Regulation 81-60(D), in that he failed to respect the rights of patients, as evidenced by his making inappropriate sexual remarks to patients during the course of providing mental health counseling.

3. The sanction imposed is consistent with the purpose of these proceedings and has been made after weighing the public interest and the need for the continuing services of qualified medical doctors against the countervailing concern that society be protected from professional ineptitude and misconduct.

4. The sanction imposed is designed not to punish the physician, but to protect the life, health, and welfare of the people at large.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

1. The Respondent shall be, and hereby, is publicly reprimanded.

2. The Respondent shall, within six (6) months of the date of this final order, pay a fine of Five Thousand (\$5,000.00) Dollars. This fine shall not be deemed paid until received by the Board.

3. The Respondent shall, within six (6) months of the date of this final order, pay the costs of this case in the amount of Six Thousand Six Hundred Ninety-Six and 12/100 (\$6,696.12) Dollars. These costs shall not be deemed paid until received by the Board.

4. The Respondent shall be allowed to continue to practice medicine subject to the following terms and conditions, which shall remain in effect for a period of not less than five (5) years or until further order of the Board:

A. The Respondent shall continue to participate in therapy for treatment of his personality disorder with his current psychiatrist or other therapist approved by the Board.

B. Patient Satisfaction Sheets shall be completed by all patients seen by the Respondent in a designated week, once every six (6) weeks. The Patient Satisfaction Sheets shall be forwarded to the Respondent's psychiatrist who will function as the Respondent's supervising therapist.

C. The Respondent's supervising therapist shall provide quarterly reports to the Board regarding the progress of therapy, and the results of Patient Satisfaction Sheets.

D. The Respondent shall complete at least a twelve (12) page article on the subject of sexual assault on patients that is to be reviewed by the Respondent's therapist who shall include comments on the article in his quarterly report.

E. The Respondent shall appear and report to the Board as requested by the Board.

F. The Respondent shall comply with the terms of this final order and all state and federal statutes and regulations concerning the practice of medicine.

G. The Respondent shall promptly advise the Board in writing of any changes in address, employment, practice, hospital privileges, professional status, or compliance with this final order. Correspondence and copies of reports and notices mentioned herein shall be directed to:

South Carolina Department of Labor,
Licensing and Regulation

State Board of Medical Examiners
Post Office Box 11289
Columbia, South Carolina 29211

5. Failure by the Respondent to abide by any of the aforementioned conditions, or if the Respondent is otherwise unable to practice with reasonable skill and safety to patients, shall warrant the immediate temporary suspension of his license to practice medicine in this State pending hearing into the matter and until further order of the Board.

6. The Respondent shall cooperate with the Board, its attorneys, investigators, and other representatives in the investigation of Respondent's practice and compliance with the provisions of this final order. It is the Respondent's responsibility to demonstrate compliance with each and every provision of this final order. The Respondent may be required to furnish the Board with additional information as may be deemed necessary by the Board or its representatives. In addition to such requests, the Board, in its discretion, may require the Respondent to submit further documentation regarding the Respondent's practice, and it is the Respondent's responsibility to fully comply with all such requests in a timely fashion. Failure to satisfactorily comply with such requests will be deemed a violation of this final order.

7. This final order shall take effect upon the service of the order on the Respondent or his counsel.

AND IT IS SO ORDERED.

STATE BOARD OF MEDICAL EXAMINERS

BY: s/ _____
LOUIS E. COSTA, II, M.D.
President of the Board

November 14, 2001.