

IN THE MATTER OF
WILLIAM H. SMITH, Ph.D.

BEFORE THE MARYLAND
STATE BOARD OF EXAMINERS
OF PSYCHOLOGISTS

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER

Based upon certain information having come to the attention of the Maryland State Board of Examiners of Psychologists (the "Board") regarding the psychology practice of William H. Smith, Ph.D. (the "Respondent"), the Board determined to charge Respondent with violation of §16-312(7) of the Health Occupations Article of the Annotated Code of Maryland. The specific charge was as follows:

Subject to the hearing provisions of § 16-313 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may . . . reprimand any licensee, or suspend or revoke a license of any licensee if the . . . licensee:

(7) Violates the code of ethics adopted by the Board under § 16-311 of this subtitle.

Section 16-311 of the Health Occupations Article provides in pertinent part:

(a) The Board shall adopt a code of ethics for psychologists in this State. The code of ethics shall be designed to protect the public interest.

(b) In adopting the code of ethics, the Board shall consider:

- (1) The ethical standards of psychologists published by the American Psychological Association; and
- (2) The professional character of psychological services.

The Board's regulations, appearing at COMAR 10.36.01.09, state in pertinent part:

A. All persons who represent themselves to be psychologists in the State shall adhere strictly to the Ethical Standards of Psychologists adopted and published by the American Psychological Association and to any subsequent revisions and additions. . . .

B. Each psychologist in the State should be familiar with the provisions of the Health Occupations Article and its revisions, and shall adhere to these provisions in the interests of the welfare of the citizens of the State and of the highest standards of the science and profession of psychology.

The Board adopted by reference the Ethical Principles of Psychologists (the "Principles") published by the American Psychological Association at 36 American Psychologist 633-38 (June, 1981). It charged Respondent with violating the following provisions of the Principles:

Principle 1 - Responsibility: . . .

[Psychologists] accept responsibility for the consequences of their acts and make every effort to ensure that their services are used appropriately.

* * *

f. As practitioners, psychologists know that they bear a heavy social responsibility because their recommendations and professional actions may alter the lives of others. They are alert to personal [or] social . . . situations and pressures that might lead to misuse of their influence.

Principle 2 - Competence:

* * *

f. Psychologists recognize that personal problems and conflicts may interfere with professional effectiveness. Accordingly, they refrain from undertaking any activity in which their personal problems are likely to lead to inadequate performance or harm to a client. . . . If engaged in such activity when they become aware of their personal problems, they seek competent professional assistance to determine whether they should suspend, terminate, or limit the scope of their professional and/or scientific activities.

Principle 3 - Moral and Legal Standards:

Psychologists' moral and ethical standards of behavior are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities or reduce the public trust in psychology or psychologists. Regarding their own behavior, psychologists are sensitive to prevailing community standards and to the possible impact that conformity to or deviation from these standards may have upon the quality of their performance as psychologists

* * *

Principle 5 - Confidentiality:

Psychologists have a primary obligation to respect the confidentiality of information obtained from persons in the course of their work as psychologists. They reveal such information to others only with the consent of the person or the person's legal representative, except in those unusual circumstances in which not to do so would result in clear danger to the person or to others. Where appropriate, psychologists inform their clients of the legal limits of confidentiality.

* * *

Principle 6 - Welfare of the Consumer:

* * *

a. Psychologists are continually cognizant of their own needs and their potentially influential position vis-a-vis persons such as clients They avoid exploiting the trust and dependency of such persons. Psychologists make every effort to avoid dual relationships that could impair their professional judgment or increase the risk of exploitation. . . . Sexual intimacies with clients are unethical.

* * *

Principle 7 - Professional Relationships:

* * *

d. Psychologists do not exploit their professional relationships with clients . . . sexually or otherwise. Psychologists do not condone or engage in sexual harassment.

Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unwanted by the recipient.

Respondent was notified of the charges by letter dated December 22, 1983. A prehearing conference was held on January 20, 1984 before S. Michael Plaut, Ph.D., the Chair of the Board. Also present at this conference were Respondent; Ronald S. Gass, Assistant Attorney General and administrative prosecutor for the Board; Barbara Hull Foster, Assistant Attorney General and counsel to the Board, and Roslyn Blankman, Executive Director of the Board. Because he appeared at the prehearing without counsel, Respondent was informed of his right to counsel, and he voluntarily waived that right. Respondent also agreed to enter into the following Consent Order as proposed by the Board.

FINDINGS OF FACT

The Board finds:

1. That Respondent is a psychologist licensed to practice psychology in Maryland and was so licensed at all times relevant to this Order.
2. That in the fall of 1982, Respondent sexually harassed and had intimate sexual contact with an eighteen-year-old female patient, Patient A,* who had been referred to Respondent by a county health department mental health clinic (the "Clinic") for psychotherapy.
3. That between October, 1982 and December, 1982, Respondent sexually harassed a female patient, Patient B, during the course of psychotherapy in his private practice.
4. That during the course of therapy, Respondent dis-

*To protect patient confidentiality, the names of the patients corresponding to the code letter designations are contained in a separate sealed Appendix A.

closed to Patient B personal information about his marriage -- disclosures that were without any legitimate psychotherapeutic purpose.

5. That in May, 1983, Respondent sexually harrassed a female patient, Patient C, whom he was seeing in his private practice for psychotherapy.

6. That during the course of therapy, Respondent disclosed personal information to Patient C about his marriage and sexual proclivities -- disclosures that were without any legitimate psychotherapeutic purpose.

7. That even though Respondent knew or should have known that his actions with regard to these three female patients were professionally and ethically inappropriate and likely to be harmful to them, Respondent did not suspend, limit, or terminate his professional relationship with them but continued to treat them and other female patients in his private practice and at the Clinic.

8. That Respondent's unprofessional and unethical behavior and apparent insensitivity to the effects of his sexual harrassment on the welfare of these three female patients significantly contributed to the reduction of the public trust and confidence in psychology and psychologists.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact, the Board, by a unanimous vote of the members considering this case, concludes as a matter of law:

1. That Respondent VIOLATED §16-312(7) of the Health Occupations Article of the Annotated Code of Maryland and the following provisions of the Ethical Principles of Psychologists: Principle 1 (preamble and subsection f), Principle 2 (subsection f), Principle 3 (preamble), Principle 6 (subsection a), and

Principle 7 (subsection d).

2. That Respondent did NOT VIOLATE Principle 5 (preamble) of the Ethical Principles of Psychologists.

ORDER

Upon the foregoing Findings of Fact and Conclusions of Law, it is this 7th day of April, 1984, by a unanimous vote of those members of the Maryland State Board of Examiners of Psychologists considering this case

ORDERED that the license of Respondent, William H. Smith, Ph.D., an individual licensed to practice psychology in the State of Maryland, be and is hereby REVOKED; and be it further

ORDERED that if Respondent satisfactorily demonstrates to the Board that he has complied with each and every one of the following conditions and is competent to resume the practice of psychology, he may petition the Board to stay the foregoing revocation:

1. That within thirty (30) days of the date of this Order, Respondent shall (a) discontinue the practice of psychology in any setting whatsoever in any jurisdiction in which he is licensed to practice psychology, (b) appropriately refer all of his present private patients to other psychologists, and (c) not accept any new private patients from the date of this Order;

2. That in the event Respondent is employed as a mental health professional (i.e., counselor, therapist, etc., but not a psychologist), he shall refrain from seeing any female patients, unless a licensed mental health worker is present at all times, in any psychotherapy setting, including, but not limited to, couples, families and group psychotherapy;

3. That Respondent shall arrange for his mental health practice to be supervised by a Board-approved psychologist and

inform his supervisor of the terms and conditions of this Order;

4. That Respondent shall arrange for the psychologist supervising his mental health practice to submit to the Board written quarterly reports evaluating Respondent's professional ability and compliance with the terms and conditions of this Order;

5. That upon execution of this Order, Respondent shall immediately arrange for psychotherapy, at his own expense, with a Board-approved therapist;

6. That Respondent shall (a) inform his therapist of the terms and conditions of this Order, (b) promptly begin and continue any therapy or treatment recommended by his therapist, and (c) arrange for his therapist to submit written quarterly reports to the Board assessing Respondent's cooperation and progress in dealing with the problems that lead to this disciplinary action by the Board;

7. That Respondent shall continue in psychotherapy until discharged by his therapist;

8. That Respondent shall arrange to have his therapist notify the Board immediately in writing if he discontinues psychotherapy prior to being discharged;

9. That in the event that Respondent is discharged from therapy, Respondent shall arrange for his therapist to submit a final written discharge report to the Board;

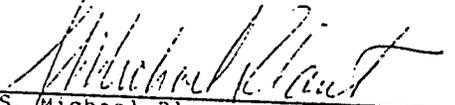
10. That Respondent shall submit written quarterly reports informing the Board about his progress in fulfilling the terms and conditions of this Order and in dealing with the problems that lead to this disciplinary action by the Board;

11. That during the time his license is revoked, Respondent shall meet or exceed the current continuing education requirements set by the Board for licensed psychologists; and

12. That Respondent shall at all times abide by the code of ethics adopted by the Board pursuant to §16-311 of the Health Occupations Article of the Annotated Code of Maryland and COMAR 10.36.01.09; and be it further

ORDERED that after one (1) year from the date of this Order, Respondent may petition the Board to stay the revocation of his license to practice psychology. The petition must demonstrate that he has complied with the foregoing conditions and that he is competent to resume the practice of psychology; and be it further

ORDERED that if the Board determines that staying the revocation of Respondent's license to practice psychology is not appropriate at that time, it may deny the petition for stay. In the event that the Board denies Respondent's petition to stay the revocation, Respondent shall be given the reasons for such denial in writing. The Board shall afford Respondent an opportunity to respond either in person or in writing, at its discretion.


S. Michael Plaut, Ph.D.
Chairperson
Maryland State Board of Examiners
of Psychologists

CONSENT

By this Consent, I agree to accept and submit to this Order. Although I do not acknowledge that the Findings of Fact and Conclusions of Law upon which the Board has based its Order is correct, I acknowledge the validity of the Order as if made after a hearing at which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf and to all other substantive and procedural protec-

tions provided by law. I also recognize that I am waiving my right to appeal any adverse ruling of the Board that might have followed any such hearing. By this Consent, I waive all such rights. I have been advised that I may consult with an attorney at any time prior to signing this Consent Order and have done so. I sign this Consent without reservation and fully understand its meaning.

William H. Smith
William H. Smith, Ph.D.

STATE OF MARYLAND)
CITY/COUNTY of P.D.) ss:

I HEREBY CERTIFY that on this 10th day of April, 1984, before me a notary public of the D.A. County aforesaid, personally appeared William H. Smith, Ph.D., and he made oath in due form of law that the foregoing is his voluntary act and deed.

As witness my hand and notarial seal.

Charlene L. Bessler
Notary Public

My Commission Expires: 7-1-86

