

Before the
Administrative Hearing Commission
State of Missouri



STATE COMMITTEE OF PSYCHOLOGISTS,)

Petitioner,)

vs.)

JOHN BOPP,)

Respondent.)

No. 98-002204 PS

CONSENT ORDER

The licensing authority filed a complaint. Section 621.045, RSMo Supp. 1998, gives us jurisdiction.

On March 10, 1999, the parties filed a "Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. *Buckner v. Buckner*, 912 S.W.2d 65, 70 (Mo. App., W.D. 1995). We conclude that the licensee is subject to discipline under section 337.035.2(15), RSMo 1994. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order under Regulation 1 CSR 15-2.450(1)(B). We certify the record to the licensing agency under section 621.110, RSMo 1994.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3. This is consistent with the holding that we have no role in superintending agency compliance with statutory procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W.2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied.

SO ORDERED on March 19, 1999.

WILLARD C. REINE
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

STATE COMMITTEE OF PSYCHOLOGISTS,)
)
Petitioner,)
)
v.)
)
JOHN BOPP)
)
Respondent.)

MAR 10 1999

ADMINISTRATIVE HEARING
COMMISSION

No. P974 938 899

JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE ADMINISTRATIVE HEARING COMMISSION AND
STATE COMMITTEE OF PSYCHOLOGISTS AND CONSENT ORDER
WITH JOINT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-2.450(1)) and pursuant to the terms of § 536.060, RSMo 1994, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 1994, the parties waive the right to a hearing of the above-styled case by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the State Committee of Psychologist under § 621.135, RSMo 1994, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the psychologists license of Respondent for violations of statutes set forth below.

Respondent acknowledges that he has received and reviewed a copy of the Complaint filed by the State Committee of Psychologists in this case and the parties submit to the jurisdiction of the Administrative Hearing Commission.

The Respondent acknowledges that he is aware of the various rights and privileges afforded him by law, including the right to appear and be represented by counsel; the right to have a copy of the complaint served upon him by the Administrative Hearing Commission prior to the entering of its order; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided the Respondent by operation of law, the Respondent, John Bopp, knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of Hearing Before the Administrative Hearing Commission and State Committee of Psychologists and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

Based upon the foregoing, the Petitioner and the Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. The State Committee of Psychologists (the "Committee") is an agency of the state of Missouri created and established pursuant to § 337.050, RSMo 1994, for the purpose of executing and enforcing the provisions of Chapter 337, RSMo.

2. Respondent, John Bopp, ("Licensee") is licensed by the Committee as a psychologist, License No. PY00917. Licensee's Missouri license was at all times relevant herein, and is now, current and active.

3. On or about November 1994, CB began therapy with Licensee.

4. On or about November 1995, CB worked as an independent contractor typing reports for Licensee.

5. On or about December 1995, CB approached Licensee to seek part-time employment with Licensee.

6. Licensee told CB that if she worked for him, Licensee would have to terminate therapy.

7. In Licensee's opinion, CB needed to continue therapy but Licensee offered to employ CB part-time.

8. On or about December 1995, Licensee terminated therapy with CB.
9. On or about January 1996, CB began working for Licensee as a part-time typist.
10. During her employment, CB had access to Licensee's client files and billing records.
11. On or about July 1996, Licensee terminated CB's employment with him.
12. Under 4 CSR 235-5.030, the ethical rules of conduct governing the practice of psychology state in pertinent part:

(1) General Principles.

(A) Purpose. The ethical rules of conduct constitute the standards against which the required professional conduct of a psychologist is measured.

...

(C) Responsibility for Own Actions. The psychologist, when functioning as a licensed psychologist, shall be fully responsible for his/her own professional decisions and professional actions.

(D) Violations. A violation of these ethical rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of either original licensure, reinstatement or renewal of licensure.

...

(4) Impaired Objectivity and Dual Relationships.

...

(C) Prohibited Dual Relationship.

2. The psychologist, in interacting with any current client or with a client to whom the psychologist has at anytime within the previous twenty-four (24) months rendered counseling, psychotherapeutic or other professional psychological services for the treatment or amelioration of emotional distress or behavioral inadequacy, shall not enter into a financial or other potentially exploitative relationship with him/her/them.

JOINT PROPOSED CONCLUSIONS OF LAW

13. Cause exists for discipline against Licensee's psychologist license pursuant to § 337.035.2(15) RSMo 1994, which states in pertinent part:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(15) Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as adopted by the committee and filed with the secretary of state.

II

DISCIPLINARY ORDER

I. DISCIPLINE IMPOSED

A. By agreement of the parties, License No. PY00917 of John Bopp ("Licensee") is hereby placed on probation for a period of six (6) months or

until he successfully completes an ethics course as stated in IIA. During the period of probation, Licensee must comply with the following terms and conditions:

II. REQUIREMENTS REGARDING ETHICS COURSE

- A. Licensee must complete a professional education course on the topic of ethics approved by the State Committee of Psychologists. Such course must be taken in a department of psychology/counseling/behavioral studies from a regionally accredited university for graduate credit of no less than three (3) semester hours. The Licensee must obtain a grade of B or higher in the course. Readings courses, correspondence courses or independent study courses are unacceptable. The following course has been approved by the State Committee of Psychologists as meeting the above requirements in regards to Licensee: CPCE #650 entitled "Seminar in Current Issues In Counseling Psychology," University of Missouri at Kansas City.

III. OTHER REQUIREMENTS

- A. During the probationary period, Licensee must inform Licensee's employers, and all hospitals, institutions, and managed health care organizations with which licensee is affiliated, that Licensee's work as a professional psychologist is under probation by the State Committee of Psychologists.

B. During the probationary period, if Licensee is practicing as a professional psychologist, his practice shall be monitored on a bimonthly basis by a psychologist approved by the State Committee of Psychologists. Within twenty (20) business days of the effective date of this agreement or within twenty (20) days of beginning practice as a psychologist, licensee shall submit a list of no less than five (5) proposed psychologists to monitor licensee's practice as a professional psychologist. The Committee may approve a psychologist from this list or may require a second list of five (5) psychologists which the licensee shall submit within twenty (20) business days of the Committee's request. Monitoring is defined as one hour per week of individual, face-to-face discussions reviewing clinical issues, case management, other professional activities (e.g. - self management, ethical issues, self monitoring, mental status, behavioral etc.) in monitor's or licensee's office. Issues to be addressed are dual relationships, ethics, diagnosis, counter transference and issues with the church. Licensee must secure the monitoring psychologist within twenty (20) business days from when he is notified of the Committee's approval of the monitoring psychologist. If the Licensee fails to do so, the Licensee shall cease practicing psychology until a monitoring psychologist is secured. Licensee shall be responsible for any payment associated with the monitoring.

C. In the event the monitoring psychologist becomes unable or decides not to continue serving in his/her capacity as a monitoring psychologist or otherwise ceases to serve as a monitoring psychologist during the period of probation, then, the Licensee shall:

1. within three (3) business days of being notified of the monitoring psychologist's inability or decision not to continue serving as the monitoring psychologist, advise the State Committee of Psychologists in writing that he/she is needing to secure a monitoring psychologist and the reason for such change; and
2. within twenty (20) business days of being notified of the monitoring psychologist's inability or decision not to continue serving as the monitoring psychologist, or otherwise learning of the need to secure a supervising psychologist, secure a monitoring psychologist pursuant to and in accordance with the terms and conditions set forth in this agreement. After twenty (20) business days of being notified of the Committee's approval of a named monitoring psychologist, the Licensee shall not practice if he or she has not secured the monitoring psychologist.

- D. In any professional activities in which Licensee is involved (i.e., treatment, evaluations, consultations, or services provided), the State Committee of Psychologists or its representatives shall have the right to review the treatment records. However, all personal identifiers of the patients shall be removed.
- E. Licensee's monitoring psychologist must report every six (6) months on Licensee's compliance with this Agreement.
- F. If Licensee is not practicing as a professional psychologist, Licensee will provide the Committee with a notarized affidavit stating he is not practicing as a professional psychologist. Licensee must provide the Committee with this affidavit within twenty (20) days of the effective date of this agreement or within (20) days of him ceasing to practice psychology, whichever applies first.

IV. GENERAL REQUIREMENTS

- A. Licensee may not serve as a supervisor for any psychological trainee, psychological intern, psychological resident, psychological assistant, or any person undergoing supervision during the course of obtaining licensure as a psychologist, professional counselor, or social worker.
- B. Licensee must keep the State Committee of Psychologists apprised at all times, in writing, of Licensee's current home and work addresses and telephone numbers.

- C. Licensee is required to pay to the State Committee of Psychologists, in a timely fashion, all requisite fees required by law to renew and keep current Licensee's psychology license in Missouri.
- D. Licensee is required to comply with all provisions of Chapter 337, RSMo, the rules and regulations duly promulgated by the State Committee of Psychologists and state and federal criminal laws.
- E. Licensee must provide periodic reports of Licensee's compliance with this agreement every six (6) months.
- F. At Licensee's expense, Licensee must agree to meet with the State Committee of Psychologists at reasonable intervals designated by the Committee.
- G. Upon the expiration of the disciplinary period, the Licensee's license as a psychologist in Missouri shall be fully restored, provided all provisions of this Order and all other requirements of law have been satisfied.
- H. If the State Committee of Psychologists determines that the Licensee has violated a term or condition of his discipline, or has otherwise failed to comply with the provision of Chapter 337 RSMo, which violation would be actionable in a proceeding before the State Committee of Psychologists or the Administrative Hearing Commission or a circuit court, the State Committee of Psychologists

may elect to pursue any lawful remedies or procedures afforded to it, and is not bound by this order in the selection of remedies concerning such violation.

- I. Licensee hereby waives and releases the State Committee of Psychologists, its members and any of its employees, agents, or attorneys, including any former Committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to §536.087, RSMo, or any claim arising under 42 USC 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this joint stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this joint stipulation in that it survives in perpetuity even in the event that any court of law deems this joint stipulation or any portion thereof void or unenforceable.
- J. The parties to this Order understand that the State Committee of Psychologists will maintain this Order as an open record of the Committee as provided in Chapters 337, 610, and 620 RSMo.

RESPONDENT

John Bopp 2/24/99 date

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