

IN THE MATTER OF * BEFORE THE STATE BOARD
MERRIL RASMUSSEN, Ph.D. * OF EXAMINERS FOR
License No. 1954 * PSYCHOLOGISTS
Respondent *

CONSENT ORDER

Based on information received and subsequent investigation by the Maryland State Board of Examiners of Psychologists (the "Board"), and subject to Health Occupations Article §18-313 of the Maryland Psychologists Act, Maryland Annotated Code (the "Act"), the Board charged Merrill Rasmussen, License No. 1954 (the "Respondent"), with violation of certain provisions of the Act.

Specifically, the Board charged the Respondent with violation of the following provisions:

Subject to the hearing provisions of §18-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of any licensee if the applicant or licensee:

- (7) Violates the code of ethics adopted by the Board under §18-311 of this subtitle;
- (12) Violates any rule or regulation adopted by the Board;
- (17) Commits an act of unprofessional conduct in the practice of psychology;

COMAR 10.36.05.03 A(3) and (6)

.03 Ethical Responsibility.

A. In general, a psychologist shall:

(3) Take appropriate steps to disclose to all involved parties conflicts of interest which arise, with respect to a psychologist's clients, in a manner which is consistent with applicable confidentiality requirements;

(6) Refrain from engaging in other relationships that could limit the psychologist's objectivity or create a conflict of interest;

COMAR 10.36.05.05 A (4) and (5)

.05 Client Welfare

A. Exploitation or Undue Influence. A psychologist shall:

(4) Avoid action that violates or diminishes the legal and civil rights of clients or of others who may be affected by the action; and

(5) Refrain from exploiting the trust and dependency of clients, students, and subordinates.

COMAR 10.36.05.07 A (2), (4) and (6) and B (3)

.07 Confidentiality and Client Records

A. In general, psychologists shall maintain confidentiality regarding information obtained from a client in the course of the psychologist's work, and shall:

(2) Release mental health records as permitted by Health General Article §§4-301 and 4-307, Annotated Code of Maryland;

(4) Reveal confidential information to others only with the informed written consent of the client or the client's legal representative, including:

(a) Information that relates to or identifies a client seen in couple, group or family therapy,

(6) Treat any assessment, result or interpretation regarding an individual as confidential information.

B. A psychologist shall inform clients of the legal and ethical limits of confidentiality and shall:

(3) Release confidential information as authorized by federal or State law or regulation.

The Code of Ethics adopted by the Board pursuant to §18-311, in effect prior to October 26, 1992, provides, in pertinent part, as follows:

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.

- a. Information obtained in clinical or consulting relationships, or evaluative data concerning children, students, employees, and others, is discussed only for professional purposes and only with persons clearly concerned with the case. Written and oral reports present only data germane to the purposes of the evaluation, and every effort is made to avoid undue invasion of privacy.

Principle 6 - Welfare of the Consumer - Psychologists respect the integrity and protect the welfare of the people and groups with whom they work. When conflicts of interest arise between clients and psychologists' employing institutions, psychologists clarify the nature and direction of their loyalties and responsibilities and keep all parties informed of their commitments. Psychologists fully inform consumers as to the purpose and nature of an evaluative, treatment, educational, or training procedure, and they freely acknowledge that clients, students, or participants in research have freedom of choice with regard to participation.

- b. When a psychologist agrees to provide services to a client at the request of a third party, the psychologist assumes the responsibility of clarifying the nature of the relationships to all parties concerned.

The Respondent was given notice of the charges and the issues underlying those charges by letter and charging document sent to Respondent on June 12, 1995. A prehearing conference on these charges was held on July 24, 1995 and was attended by

Daniel J. Malone, Ph.D., Board Member, Roslyn Blankman, Board Administrator; Paul Ballard, Assistant Attorney General and Counsel to the Board, Janet Klein Brown, Assistant Attorney General and Administrative Prosecutor, Respondent, and Patricia Tazzara, Esq., Counsel for Respondent.

Following the prehearing conference and hearing before an administrative law judge on February 9, 12 and 13th, 1996, the Board and Respondent agreed to enter into the following Consent Order:

FINDINGS OF FACT

The Board finds that:

1. At all times relevant to the charges herein, Respondent was licensed to practice psychology in the State of Maryland.
2. Respondent engages in the private practice of psychology at 5411 West Cedar Lane, Bethesda, Suite 207A Maryland 20814.
3. Patient A^{1/} first presented to Respondent in September 1989 and terminated therapy with Respondent in July 1991.
4. Patient A, who was born May 11, 1974, was a 15 ½ year old, single, female, high school student, recently discharged from The Psychiatric Institute of Washington, where she had been treated for depression and suicide ideation. She was living at

^{1/} Patient names are confidential but have been disclosed to Respondent and are maintained in a file by the Board.

home with her parents when she initially was referred to Respondent.

5. Respondent began treating Patient A on September 29, 1989 in individual therapy. Patient "A" was eventually diagnosed with eating disorders (anorexia and bulimia), obsessive compulsive disorder, bipolar affective disorder, and noted to have characteristics of borderline personality disorder.

6. Respondent also treated Patient A's brother and occasionally Patient A's younger sisters. On occasion, Respondent also met with Patient A and her parents in conjoint family therapy sessions. Respondent testified that she explained to A and her family that issues discussed in individual sessions would be shared with the parents and/or discussed during conjoint sessions. A and her family understood this condition.

7. On or about June, 1991, Patient A was hospitalized at Ann Arundel Hospital, and then at the Washington Hospital Center Eating Disorder Program. Upon discharge, Patient A was placed in a foster home.

8. On or about September 1991, Patient A informed Prince George's County Child Protective Services that her father had fondled her since she was a young child.

9. After July 1991, following Patient A's termination of treatment with Respondent, Respondent continued treatment with the remaining family members.

10. On May 11, 1992, Patient A became 18 years old. She moved to Idaho in June 1992 to attend college.

11. In spring or summer 1992, Respondent began to treat Patient A's father individually. Patient A's mother and sisters had left the D.C. area at that time, and Respondent assessed Patient A's father to be depressed, at times possibly suicidal, and in crisis. Respondent considered transferring the father's care, but believed that he was not stable enough to be transferred.

12. On or about July 1992, in a telephone contact with Patient A's mother, Respondent discussed "false memory syndrome" as one possible explanation for Patient A's accusing her father of having fondled Patient A. Respondent states that she also discussed the other possibilities, including that the events occurred as A stated them. Respondent did not obtain Patient A's consent prior to this discussion.

13. On or about September 22, 1992, Respondent contacted Patient A's new psychotherapist, by telephone. Without the consent of Patient A, but at the urging of A's parents, Respondent called her psychotherapist, at Ricks's College Counseling Center. Respondent wished to relay her and the parents' concern about A's emotional condition, in light of her living on her own, and with the father's trial approaching. Respondent stated that she had reason to believe some things Patient A said about her father did not actually happen, or did

not happen to the extent Patient A thought they did, and she also acknowledged that it was possible they did occur. Respondent testified that the psychotherapist participated in this conversation and offered information concerning Patient A's condition. Respondent pointed out to the therapist that there were inconsistencies in Patient A's statements to the police.^{2/} Respondent also discussed "false memory syndrome".

14. In the fall of 1992, Respondent discussed Patient A's clinical condition with Patient A's father's attorney without Patient A's consent. She did so because the attorney presented to her an authorization for release of medical and psychiatric information, executed by A and addressed to the State. Respondent testified that the father's attorney represented that this document had the legal effect of releasing this information to the defense as well as to the prosecution. In light of this representation, Dr. Rasmussen did not believe she needed to seek Patient A's consent before speaking with the father's attorney.

15. On or about November 25, 1992, Respondent appeared as a witness in Prince George's County Circuit Court, Case No. CT921030X, pursuant to a subpoena issued by counsel for Patient A's father. Patient A's father was on trial for criminal charges of child abuse, fourth degree sex offense and assault and

^{2/} In April, May 1992, Patient A gave a statement alleging her father's sexual abuse to a detective of the Prince George's County Police Department.

battery. Without Patient A's consent, but following the Court's ruling allowing response to the question, Respondent testified that she treated Patient A.

16. On or about January 29, 1993, Respondent appeared at a Mormon church council in Suitland, Maryland concerning Patient A's father. Respondent testified that a church council is a private disciplinary proceeding. Respondent provided expert information as a psychologist, regarding issues of sexual abuse and including false memory syndrome. She discussed the father, his character and personality, as well as diagnostic formulations concerning his individual therapy, particularly as they related to sexual abuse. The council knew that Respondent had been professionally involved with Patient A's entire family and was aware of the facts behind the criminal charges. Respondent states that she made prior arrangements with the council that she could not discuss Patient A or any aspect of her treatment of A, and she did not discuss her during the proceeding.

17. Respondent's records of treatment of Patient A fail to state a diagnostic formulation or treatment plan formulation. Respondent contends that her records reflected a diagnostic formulation and treatment formulation within the narrative recording and not in a structured, outline format.

18. Respondent's records of treatment fail to document collaboration with other health care professionals. Respondent's records do contain the reports of other health professionals with

whom Respondent consulted.

19. Discussion of possible diagnostic formulations with Patient A's mother is unprofessional conduct in the practice of psychology and is a violation of the Code of Ethics, Principle 5a.

20. Discussion of diagnostic formulations with Patient A's subsequent therapist is unprofessional conduct in the practice of psychology and is a violation of the Code of Ethics, Principle 5a.

21. Discussion of Patient A's clinical condition with Patient A's father's attorney is an act of unprofessional conduct and is a violation of the Code of Ethics, Principle 5a, and COMAR 10.36.05.07A(2), (4) and (6) and B(3).

22. Testifying on behalf of Patient A's father without informing Patient A and Patient A's father of a conflict of interest is an act of unprofessional conduct and is in violation of the Code of Ethics, Principle 6b, COMAR 10.36.03A(3) and (6) and COMAR 10.26.05.05A(4) and (5).

23. Discussion of diagnostic formulations with Patient A's father's church council without Patient A's consent, is an act of unprofessional conduct in the practice of psychology and is a violation of the Code of Ethics, COMAR 10.36.05.07A(2), (4) and (6) and B(3).

24. Failure to document a diagnosis, treatment plan and

Collaboration with other health professionals is unprofessional conduct in the practice of psychology.

25. Violations of the Code of Ethics are violations of the rules and regulations adopted by the Board.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Respondent violated §§18-313(7)(12) and (17) of the Act and COMAR 10.36.05.03A(3) and (6), COMAR 10.36.05.05A(4) and (5) and COMAR 10.36.05.07A(2), (4) and (6) and COMAR 10.36.05.07B(3) and Principle 5a and Principle 6b of the Code of Ethics adopted by the Board pursuant to Health Occupations Article, §18-311.

ORDER

Based on the Board's Findings of Fact and Conclusions of Law, and by agreement of the parties to settle this matter, it is this 15th day of November, 1996, by a majority of a quorum of the Board,

ORDERED effective on the date this Consent Order is signed by the Board Chair, that the license of Respondent, Merril Rasmussen, to practice psychology is hereby SUSPENDED for a period of two (2) years, but that the suspension shall be immediately STAYED and Respondent placed on PROBATION for two (2) years subject to the following conditions:

1. That Respondent's treatment cases shall be monitored as

follows:

a. Respondent shall select a supervisor from a list of names of psychologists selected by the Board. Respondent may supply the Board with names of psychologists proposed as supervisors, and, subject to approval of the Board, the names will be added to the list;

b. Respondent shall agree that the Board may communicate with said supervisor to provide him/her with guidelines for the monitoring process;

c. Respondent shall agree that the supervisor may be in the office of Respondent as needed for the two years of the probationary period;

d. Respondent agrees that the supervisor will meet at least monthly with Respondent to review all new cases for handling of potential conflicts of interest and to review all ongoing cases concerning Respondent's practices in keeping information confidential, conflicts of interest, treatment of patients nearing the age of majority, treatment of more than one family member, and treatment of patients who are members of Respondent's church. The supervisor will also randomly review Respondent's treatment records to assess Respondent's treatment plans and diagnostic formulations;

e. Respondent shall pay the supervisor directly after each office review;

f. Respondent shall request that the supervisor

submit reports quarterly to the Board of the results of the supervision process;

g. Respondent shall begin supervision within 30 days from the date this Consent Order is signed by the Board Chair unless the Board approves of an extension beyond 30 days; and

h. Respondent shall provide the supervisor with a copy of this Consent Order at least two business days prior to the first supervisory session.

2. Respondent shall take and pass a Board approved college or university level course on professional ethics.

3. Respondent shall complete 3 Category A continuing education credits in a Board approved course on developing treatment plans and documentation of diagnostic formulations; such credits to be in addition to the usual continuing education requirements for maintaining a psychologist license;

4. Respondent shall practice psychology in accordance with the Maryland Psychologists Act; and be it further

ORDERED that in the event the Board receives an unsatisfactory report about Respondent from the supervisor which it believes in good faith to be accurate with regard to Respondent's failure to comply with proper standards of care or ethics, in the event that the Board finds for any reason in good faith that Respondent has violated any provision of Title 18 of the Health Occupations Article, Maryland Annotated Code or the Regulations thereunder, or if Respondent violates any of the

foregoing conditions of probation, the Board, after notification to the Respondent, may take immediate action or impose any lawful disciplinary sanctions it deems appropriate, including but not limited to revocation or suspension of Respondent's license to practice psychology, after complying with any legal requirements for a hearing in accordance with the Administrative Procedure Act, State Government Article, §10-201 et seq.; and be it further

ORDERED that the conditions of this Consent Order are effective as of the date of this Order; and be it further

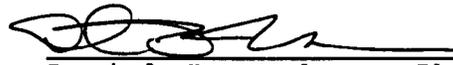
ORDERED that Respondent shall practice psychology in accordance with the Maryland Psychologists Act; and be it further

ORDERED that two (2) years from the date of this Consent Order, the Board may entertain a petition for termination of Respondent's probationary status and full reinstatement of her license to practice psychology without any probationary conditions. The Petition shall be accompanied by a final report by the supervisor completed within one month of the end of the probationary period. If the Board determines that the termination of probation and complete reinstatement would be inappropriate at the time, the Board may modify one or more conditions upon which Respondent was placed on probation. However, if Respondent fails to make any such petition then her probationary status shall continue indefinitely, subject to the conditions set forth in this Order; and be it further

ORDERED that this is a Final Order and as such is a public

document to §10-611 et seq. of the State Government Article,
Annotated Code of Maryland.

March 3, 1997
Date



Daniel J. Malone, Ph.D.
Chair
Board of Examiners of Psychologists

CONSENT OF MERRIL RASMUSSEN

I, Merrill Rasmussen, by affixing my signature hereto, acknowledge that:

1. I am aware of my right to be represented by an attorney and am represented by Patricia M. Tazzara, Esq.

2. I am aware that without my consent, my license to practice psychology in this State cannot be limited except pursuant to the provisions of §18-315 of the Act and §10-205 et seq. of the Administrative Procedure Act, State Government Article, Annotated Code of Maryland.

3. By this Consent Order and for the purpose of settlement, I consent to the Findings of Fact, Conclusions of Law, and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive any right to appeal as set forth in §18-315 of the Act and §10-215 of the Administrative Procedure Act. I acknowledge that by failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice psychology in the State of Maryland.

January 21, 1997
Date

Merril Rasmussen, Ph.D.
Merril Rasmussen, Ph.D.

STATE OF MARYLAND
CITY/COUNTY OF:

I HEREBY CERTIFY that on this 21st day of JANUARY,
1997, before me a Notary Public of the State of Maryland and
City/County aforesaid, personally appeared Merril Rasmussen, and
made oath in due form of law that signing the foregoing Consent
Order was her voluntary act and deed, and the statements made
herein are true and correct.

AS WITNESSETH my hand and notarial seal.

EAC Sajid Ali

Notary Public

My Commission Expires: 06-14-97.