

IN THE MATTER OF * BEFORE THE MARYLAND
JOHN SETARO, Ph.D. * STATE BOARD OF
License No. 2364 * EXAMINERS OF PSYCHOLOGISTS
Petitioner *

* * * * *

CONSENT ORDER OF REINSTATEMENT

Procedural History

On July 11, 1991, the Maryland State Board of Examiners of Psychologists (the "Board") revoked the license of John Setaro, Ph.D. (the "Petitioner"), for having a sexual relationship with a patient in violation of the Board's governing statutes and regulations. Board regulations require that a person whose license has been revoked must wait at least five years before the Board will consider an application for reinstatement. Code of Maryland Regulations 10.36.01.11. On August 27, 1996, the Petitioner applied for reinstatement of his license to practice psychology. Because at least five years had elapsed since his license had been revoked, the Board considered his application for reinstatement under the authority of Md. Code Ann., Health Occ. Art. §18-317.

In considering the Petitioner's application for reinstatement, the Board conducted an extensive investigation, as well as interviewing witnesses from the time of the events that formed the basis for his license revocation as well as the Petitioner's current colleagues, his spouse, his health care providers and others. The Board also obtained an independent psychological evaluation of Dr. Setaro. In addition, the Board requested a review and

recommendations from the Administrative Prosecutions division of the Office of the Attorney General for the Department of Health and Mental Hygiene. Finally, the Board conducted repeated and extensive interviews with the Petitioner.

Board's Findings

In considering the petition for reinstatement, the Board has considered the following factors: (1) the nature and circumstances of the original misconduct; (2) the Petitioner's subsequent conduct and reformation; (3) the petitioner's present character; and (4) the Petitioner's present qualifications and competence to practice. Both the Board and the Petitioner agree that the violation in this case was a very severe breach of professional ethics and conduct. However, the Board is impressed with the Petitioner's efforts at rehabilitation made through his seeking further education regarding boundary issues, through his sharing of his experience with the Governor's Task Force to study Health Professional-Client Sexual Exploitation and most importantly, through his successful progress in therapy.

The negative recommendations regarding the reinstatement of the Petitioner that were made by one witness and the Administrative Prosecution division of the Office of the Attorney General ("Administrative Prosecutor") were based primarily upon their belief that the Petitioner's violation in this case was simply too severe, or too likely to recur, to permit the Petitioner to ever return to practice.

The Administrative Prosecutor also believed that the

Petitioner has rationalized his misconduct on the basis of his mental health problems and that further investigation would be required to insure that the Petitioner was not intimately involved with other patients as well. The Board does not believe that Petitioner has used his mental impairment as an excuse for his behavior but has instead consistently taken full responsibility for his actions. The Petitioner has gained insight into the potentially deleterious impact that his mental condition can have upon his judgement when left untreated but also understands that he is ultimately responsible for his actions. After completion of the second investigation requested by the Attorney General, the Board finds that this matter has been thoroughly investigated and that no reliable evidence of any intimate relationships with other patients has been found. Thus, the Board has no reason to doubt either the Petitioner's credibility or the sincerity of his remorse.

The Board agrees that the Petitioner's violation was very serious. However, the positive testimony of other witnesses including that of a family member of the patient harmed by Dr. Setaro's misconduct, the Petitioner's efforts at rehabilitation, his therapeutic progress as evidenced by his therapist's testimony, the results of the independent psychological evaluation report, and the Petitioner's own testimony all persuade the Board that reinstatement of the Petitioner's license under strict probationary conditions of supervision would be appropriate in this case.

The Board finds that the Petitioner is sincerely remorseful for his past misconduct and has made appropriate efforts to

rehabilitate himself, which efforts the Board has found to be successful. The results of the independent mental health evaluation, conducted by David Fago, Ph.D. and requested by the Board, show that the Petitioner has responded well to treatment and may practice psychology safely while remaining in treatment and under close supervision. Dr. Fago also found that the Petitioner demonstrated a well-developed knowledge, sensitivity, and thoughtfulness concerning issues of personal and professional boundaries. Based on the results of the mental health evaluation, Dr. Fago recommended that the Board require the Petitioner to practice under certain probationary conditions, the most important of which would include (1) formal supervision of the Petitioner's psychotherapy cases, (2) limitation of psychotherapy to office sites where other professional colleagues are present, and (3) continuation of treatment with his therapist. The Board concurs with Dr. Fago's recommendations, and based upon his findings, the Board concludes that the mental disorder present at the time of the misconduct has been successfully treated. Furthermore, the Board does not find any evidence to support the conclusion that the Petitioner has, or is likely to behave in a sexually predatory manner with patients. Nor does the Petitioner suffer from a personality disorder that would make future misconduct more likely. However, the Board finds that continued treatment and monitoring is necessary to guard against misconduct. Based upon the results of his therapy, the independent psychological evaluation, and the testimony of witnesses and the Petitioner, the Board believes that

the Petitioner's present character is sound and that he may safely return to practice under certain strict probationary conditions of supervision consented to by the Petitioner.

Board's Conclusion

On December 12, 1997, the Board convened to determine this matter. By a majority vote of a quorum of the Board, the Board decided to grant the Petitioner's petition for reinstatement of his license to practice psychology under certain conditions of probation provided that he consented to those conditions of probation. The Petitioner was then informed by telephone of the Board's decision pending issuance of this written order.

ORDER

The Board hereby orders that the Petitioner's license be reinstated provided that the Petitioner complies with the following conditions of probation:

1. The Petitioner must complete a formal application for licensure. However, the Board will waive the normal requirement that he submit copies of academic transcripts and new reference letters.

2. The Petitioner shall re-take and pass the state examination for licensure. The Board shall accept his previous passing score on the national examination for licensure. Corresponding application and state examination fees must be paid.

3. Upon successful completion of the application and examination requirements and acceptance of the conditions herein, the Petitioner shall be re-issued a license to practice psychology

under his previous license number.

4. Upon resumption of the practice of psychology, the Petitioner will be subject to the following probationary conditions:

A. The Petitioner shall limit his practice of psychology, specifically services involving direct patient contact, to office or clinic settings. The Petitioner shall see patients only at times when other professional colleagues or office staff are on site and are aware that he is seeing patients.

B. All psychotherapy cases shall be supervised by a licensed psychologist who is not closely affiliated with the Petitioner's practice group or employment. The supervisor must be approved by the Board. The Petitioner is responsible for all costs of this supervision.

C. Each patient shall be informed that the psychological services being provided by the psychologist are being supervised by another licensed psychologist. The supervisor's name shall be given to each patient.

D. The supervisor shall review all psychotherapy cases prior to each patient's third interview or therapy session for the purpose of approving the continuation of psychotherapy by the Petitioner with the patient. The supervisor shall determine the frequency and duration of any other supervision indicated by the supervisor's ongoing review of the Petitioner's cases and in accordance with good professional judgment, with the exception that the Petitioner's female patients shall especially be monitored in

any event.

E. The supervisor shall submit quarterly reports to the Board, attesting to the Petitioner's compliance with supervision and other practice conditions as indicated.

F. After three years of supervised practice in accordance with the foregoing conditions, the Petitioner may petition the Board for modification of the practice and supervision requirements.

5. The Petitioner shall remain in treatment with his current therapist or another qualified, licensed health care provider. The type, frequency and duration of treatment is to be determined by the licensed health care provider in conjunction with the Petitioner. The health care provider shall submit semi-annual reports to the Board attesting to the Petitioner's treatment compliance. The health care provider shall submit a report to the Board upon any termination of treatment services.

6. The Petitioner shall inform the Board in writing within ten days of any change in residence or employment within the State of Maryland.

7. The Petitioner shall promptly provide a copy of this Consent Order of Reinstatement to each employer, supervisor, or mental health provider until such time that the conditions of reinstatement are modified by the Board. And be it further

ORDERED that until such time that the Board approves termination of the restrictions on the Petitioner's practice of psychology, any violation of these conditions for license

reinstatement, deemed to be substantial at the Board's discretion, or violation of the Maryland Psychologists Act, Md. Code Ann., Health Occ. Art., §18-101, et seq., or the regulations of the Board, including the Code of Ethics and Professional Conduct, may result in the revocation of the Petitioner's license following notice and hearing; and be it further

ORDERED that this Consent Order of Reinstatement is a Final Order and is therefore a public record under the Maryland Public Information Act, Md. Code Ann., State Gov't Art., §10-611, et seq.

4/17/98
Date



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

CONSENT OF JOHN SETARO, Ph.D.

I, John Setaro, Ph.D., by affixing my signature hereto, acknowledge that:

1. I am represented by attorney Kathleen Howard Meredith, and have been advised by her of the legal implication of signing this Consent Order of Reinstatement.

2. I hereby consent and submit to the conditions set forth in this Consent Order of Reinstatement. By doing so I waive any right I may have had to a formal contested case hearing set forth in Md. Code Ann., Health Occ. Art. §18-315 and Md. Code Ann., State Gov't Art. §10-201 et seq. and any right to appeal set forth in Md. Code Ann., Health Occ. Art. §18-316 and Md. Code Ann., State Gov't Art.

§10-201 et seq.

3. 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.

4-8-98
Date

John Setaro, Ph.D.
John Setaro, Ph.D.

State of Maryland

City/County of Baltimore

I HEREBY CERTIFY that on this 27th day of April, 1998 before me, a notary public of the State of Maryland and the aforesaid City/County, personally appeared **John Setaro, Ph.D.**, License Number 2364, and made oath in due form of law that signing the foregoing Consent was a voluntary act and deed, and the statements made herein are true and correct.

As witnesseth my hand and notarial seal.

Jeannette C. Robinson
Notary Public

My Commission expires 12/15/98

A:\SETARO.CON