

1. 9, David

IN THE MATTER OF	*	BEFORE THE MARYLAND
DAVID WELLS, Ph.D.	*	BOARD OF EXAMINERS
Respondent	*	OF PSYCHOLOGISTS
License No. 714	*	

* * * * *

FINAL ORDER

PROCEDURAL BACKGROUND

The Board of Examiners of Psychologists (the "Board") issued charges on November 14, 1994, against DAVID WELLS, Ph.D., (the "Respondent") under the Maryland Psychologists Act (the "Act"), Md. Health Occ. Code Ann. § 18-313(7) ("Violates the code of ethics adopted by the Board under §18-311 of this subtitle"), and §18-313(14) ("Is professionally, physically, or mentally incompetent"). The Board referred the case to the Office of Administrative Hearings and a hearing was held on September 28, 1995 before Administrative Law Judge Stephen J. Nichols. Judge Nichols issued his Recommended Decision and Proposed Order in the matter on October 26, 1995. The Respondent filed exceptions to the Recommended Decision and Proposed Order on November 15, 1995 and the State filed a Response to Respondent's Exceptions on January 5, 1996. After reviewing the record of the hearing before Judge Nichols and his Recommended Decision and Exceptions filed by the Respondent, a quorum of the Board heard oral argument on January 5, 1996, at which time the Board also reviewed the State's Response to the Respondent's Exceptions.

FINDINGS OF FACT

The Board adopts the statement of the case, summary of evidence, and findings of fact made by the Administrative Law Judge in the Recommended Decision issued on October 26, 1995.

The entire Recommended Decision and Proposed Order is attached and incorporated into this Final Order. To protect the privacy of the patient involved, her name has been deleted from the Findings and "Patient A" inserted in its place.

In addition, the Board finds that the Respondent made an agreement with Patient A that he would not terminate therapy if she would agree not to disclose to anyone their sexual relationship. (T. 24, 32, 37).

CONCLUSIONS OF LAW

With the exception of that portion of the Conclusions of Law which proposes that the sanction for the Respondent's conduct be based in part upon the amount of time in which the Respondent engaged in sexual intimacies with Patient A, the Board adopts the Conclusions of Law of the Administrative Law Judge as set forth in the Recommended Decision which is attached to and incorporated into this Order, which states that Respondent violated Md. Health Occ. Code Ann. § 18-313(7) and Md. Health Occ. Code Ann. § 18-313(14). The Board shall base the sanction for the Respondent's conduct on the nature of the sexual contact with Patient A, giving due consideration to the potentially harmful impact on Patient A's treatment and mental health.

SANCTION

Upon consideration of the evidence, the Board adopts the Administrative Law Judge's proposed sanction of a three-year suspension but rejects the Administrative Law Judge's recommendation that the suspension be stayed after one year. Instead, the Board orders that the Respondent be suspended for a period of at least two years, at which time he may petition the Board to lift the three-year suspension and place him on probation for a period of two years under the conditions set forth in the Administrative Law Judge's Recommended Decision and Proposed Order. In all other respects, the Board adopts the sanctions proposed by the Administrative Law Judge in his Recommended Decision and Proposed Order, including the conditions of probation set forth in his Recommended Decision and Proposed Order.

ORDER

IT IS HEREBY ORDERED on this 14th day of June, 1996, that the license to practice psychology in Maryland of **DAVID WELLS, Ph.D.**, is hereby **SUSPENDED**; and it is further

ORDERED that this suspension shall take effect thirty (30) days following the date of its issuance to provide for an orderly transition; and be it further

ORDERED that on the effective date of this Order, Respondent shall immediately deliver to the Board or its agent (1) his diploma-sized Certificate; (2) his current Department of Health and Mental Hygiene License Renewal Certificate; and (3) his current wallet-sized license renewal card; and be it further

ORDERED that on the effective date of this suspension, Respondent shall immediately deliver to the Board or its agent (1) his diploma-sized Certificate; (2) his current Department of Health and Mental Hygiene License Renewal Certificate; and (3) his current wallet-sized license renewal card; and be it further

ORDERED that this is a Final Order and as such shall be considered a **PUBLIC DOCUMENT** pursuant to § 10-611 et seq. of the Maryland State Gov't Code Ann. (1995 Repl. Vol.).

NOTICE OF RIGHT TO APPEAL

Pursuant to § 18-316 of the Maryland Health Occupations Code Ann., you have a right to take a direct judicial appeal. Any appeal shall be made as provided for judicial review of a final decision in the Administrative Procedure Act, State Government Article and Title 7, Chapter 200 of the Maryland Rules of Procedure.

6/14/96
Date

W. Sherod Williams
W. Sherod Williams, Ph.D.
Board Chairman