

STATE OF FLORIDA
BOARD OF PSYCHOLOGY^v

Final Order No. DOH-98-0837 Date 7-21-98

IN RE: THE PETITION FOR
DECLARATORY STATEMENT OF:

FILED
Department of Health
Angela Hall, AGENCY CLERK

By: *Stephanie J. O'Neil*
Deputy Agency Clerk

HARRY J. REIFF, PSY.D.

PDS 98-1

FINAL ORDER

THIS CAUSE came before the Board of Psychology (Board) at a noticed public meeting held on June 27, 1998, in Key West, Florida, for the purpose of considering the Petition for Declaratory Statement (attached as Exhibit A) filed by Petitioner pursuant to section 120.565, Florida Statutes, and rule 28-105, Florida Administrative Code. Petitioner was present at the meeting.

Upon consideration of the Petition, the submitted supporting and opposing documentation, and being otherwise advised in the premises, the Board grants the Petition for a Declaratory Statement and makes the following findings and conclusions.

FINDINGS OF FACT

1. Petitioner Harry J. Reiff, a licensed psychologist in the State of Florida, prepared an evaluation report on a patient in which he recommended that a staff psychiatrist give consideration to placing the patient on anti-anxiety medication. Although the recommendation was made in the course of his employment at a psychiatric hospital, Petitioner was advised that such conduct was improper and outside the scope of his practice as a psychologist.

2. Petitioner subsequently altered his practice of psychology and no longer makes such recommendations.

3. The Petition for Declaratory Statement describes Petitioner's background, including coursework and training in psychopharmacology, and his experience on interdisciplinary treatment teams.

4. The medication recommendation was provided by Petitioner as a part of his evaluation of the patient. The psychological evaluation of the patient was requested by a staff psychiatrist.

5. Petitioner believes that he has a professional duty to provide all-relevant recommendations.

6. Petitioner's recommendation that a patient receive medication was communicated to a psychiatrist who exercised independent professional judgment to either prescribe or decline to prescribe the suggested medication.

7. The Petition for Declaratory Statement specifically requests an interpretation and the application to Petitioner's particular circumstances as set forth above of:

- 1) Subsection 490.003(4), Florida Statutes, defining the practice of psychology;
- 2) Subsections 490.009(2)(q) and (s), Florida Statutes, relating to discipline against a licensee for violations of law pertaining to licensed psychologists and the failure to meet minimum standards of performance; and
- 3) The disciplinary guidelines that implement the cited statutes as found in rule 64B19-17.002(1)(q) and (s), Florida Administrative Code.

CONCLUSIONS OF LAW

8. The Board has jurisdiction over this matter pursuant to section 120.565, Florida Statutes, and rule chapter 28-5, Florida Administrative Code.

9. Petitioner is a substantially affected person within the meaning of section 120.565(1), Florida Statutes.

10. The Petitioner stated with particularity his set of circumstances, arising during the course of his employment as a licensed psychologist, as required by section 120.565(2), Florida Statutes.

11. The Petitioner specified the statutory provisions and rules relating to the practice of psychology that may apply to his particular set of circumstances as required by section 120.565(2), Florida Statutes.

12. Among other things, the practice of psychology means the evaluation, interpretation, and modification of human behavior for the purpose of enhancing interpersonal, behavioral, mental, or psychological health. The practice of psychology includes, but is not limited to, the use of psychological methods to diagnose and treat mental, nervous, psychological, marital, or emotional disorders, illness, or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury, or disability, including neuropsychological evaluation, diagnosis, prognosis, etiology, and treatment.


§490.003(4), Fla. Stat.

13. In the practice of psychology, the competent psychologist may be cognizant of various agents, including medications, that may have a positive or negative impact on the mental or psychological well-being of a patient. When

significant, it is appropriate for the psychologist to bring these factors to the attention of a treating medical physician. With respect to recommendations regarding medications that may be lawfully prescribed only by a medical doctor, the doctor exercises independent professional judgment in the initiation or cessation of medications.

WHEREFORE, the Board concludes that subsection 490.003(4), Florida Statutes, subsections 490.009(2)(q) and (s), Florida Statutes, and rule 64B19-17.002(1)(q) and (s), Florida Administrative Code, do not prohibit or proscribe Petitioner from recommending that a patient receive medication, which does not include the prescribing, ordering, or dispensing of the medication. Petitioner may use his judgment, training, experience, and powers of observation to make medication recommendations to medical doctors under chapter 490, Florida Statutes, and the Board rules that pertain to the psychological profession.

DONE AND ORDERED this 14 day of July, 1998.


ANA A. RIVAS-VAZQUEZ, Ph.D., CHAIR
BOARD OF PSYCHOLOGY

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this final order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of appeal with the agency clerk of the Department of Health and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First

District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within thirty (30) days of rendition of the order to be reviewed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail to Harry J. Reiff, Psy.D., 1523 Silver Oak Lane, Jacksonville, Florida 32223, and Donna Erlich, Assistant Attorney General, Office of the Attorney General, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050, this 21st day of July, 1998.

A handwritten signature in cursive script, appearing to read "Amy Sliver".

Exhibit A

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IN RE Harry J. Reiff, Psy.D.
PUBLIC INFORMATION
AGENCY FOR HEALTH
CARE ADMINISTRATION

PETITION FOR DECLARATORY STATEMENT BEFORE
THE FLORIDA BOARD OF PSYCHOLOGY

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK *Stephanie Q. L.*
DATE 6-3-98

Petitioner requests a declaratory statement from the Florida Board of Psychology regarding Florida licensed psychologists making recommendations for medications to physicians, including psychiatrists, as well as to other health care professionals, who are granted the authority to prescribe medications. In support of this request petitioner sets forth the following particular set of circumstances:

1. Petitioner is a psychologist duly licensed to practice psychology in the State of Florida.
2. During petitioner's graduate education at an APA accredited program in clinical psychology, petitioner completed coursework in psychopharmacology. Petitioner completed an APA accredited internship in clinical psychology within an inpatient psychiatric facility where he participated in training involving psychopharmacology. Petitioner completed his residency training within an inpatient psychiatric facility where he received further exposure to the use of medications through his participation on interdisciplinary treatment teams. Since becoming licensed, petitioner has completed multiple continuing education credits in psychopharmacology and the medical aspects of psychology.
3. Petitioner participated in the completion of a psychological evaluation for a patient within a psychiatric hospital setting where he is employed. The evaluation was requested by one of the staff psychiatrists, to assist with diagnosis and treatment. Several recommendations were made in the conclusion section of the evaluation, including a

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recommendation that consideration be given to placing the patient on antianxiety medication.

4. After receiving the report, the referring psychiatrist expressed concern that a recommendation involving medications had been made by a psychologist. He expressed his belief that making such a recommendation was outside the scope of practice of psychology and indicated that if recommendations for medication were made by psychologists in the future, the psychologist would be "reported to the Board" for practicing medicine without a license. It was later mentioned to the petitioner that an article written by another Florida psychiatrist had appeared in the Florida Psychiatric Society's newsletter suggesting that M.D.'s take just this action when they see or hear of a psychologist making medication recommendations.

5. Petitioner attempted to distinguish making recommendations for medications from actually prescribing medication to the psychiatrist, but without success.

6. As a direct result of this event, petitioner has suspended making any medication recommendations, even when making such a recommendation would be in the best interest of a patient, and when the petitioner believes he has a professional duty to provide all relevant recommendations. This substantially affects the petitioner's practice of psychology.

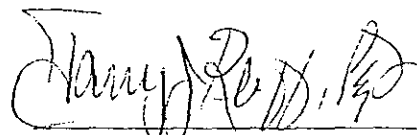
7. The following statutes and administrative rules appear to apply to this set of circumstances: Chapter 490.003 (4) F.S., outlining the practice of psychology; Chapter 490.009 (2)(q) F.S., involving violating provisions of this chapter, or of Chapter 455, or any rules adopted pursuant thereto; Chapter 490.009 (2)(s) F.S., involving failing to meet the minimum standards of performance and professional activities...including the undertaking of activities for which the licensee is not qualified by training or experience;

Chapter 64B19-17.002 (1)(q) F.A.C., involving disciplinary action for violations of Chapter 490, F.S.; Chapter 64B 19-17.002 (1)(s) F.A.C., involving undertaking activities for which the licensee is not qualified by training or experience.

8. Petitioner notes that in addition to graduate psychopharmacology training, psychologists are trained to be critical readers and reviewers of psychological and medical literature inclusive of psychopharmacology. Additionally, the American Psychological Association has had a Division of Psychopharmacology and Substance Abuse for over twenty years. Its members conduct psychopharmacological research and report it in refereed medical and psychological journals. Furthermore, the American Psychological Association has approved psychopharmacology to be a domain of psychology.

WHEREFORE, petitioner requests the Florida Board of Psychology issue a declaratory statement directing whether petitioner, as a Florida licensed psychologist, may make recommendations for medications to physicians, including psychiatrists, as well as to other health care professionals, who are granted the authority to prescribe medications.

RESPECTFULLY SUBMITTED,
Date: May 28, 1998



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Florida Licensed Psychologist
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