

Marty M. Snyder, S. Ct. #11317
Assistant Attorney General
120 SW 10th Avenue, 2nd Floor
Topeka, KS 66612
(785) 296-2215

BEFORE THE BEHAVIORAL SCIENCES REGULATORY BOARD

In the Matter of)
)
) **Case No. 08-LP-0013**
)
DARWIN D. ANDERSON, Ph.D., LP #0759)
Respondent _____)

CONSENT AGREEMENT AND ORDER

NOW, on this 5 day of December, 2008, the above-captioned matter comes before the Kansas Behavioral Sciences Regulatory Board (Board) by agreement of Darwin D. Anderson, Ph.D. (Licensee) and the Kansas Behavioral Sciences Regulatory Board for the purpose of resolving the above-captioned case.

Licensee hereby acknowledges the following:

1. Darwin D. Anderson, Ph.D., is currently and, at all times relevant, has been a Licensed Psychologist within the meaning of the Licensure of Psychologists Act of the State of Kansas, K.S.A 74-5302, *et seq.*, and amendments thereto.
2. On or about July 16, 2007, the Board received a report of information concerning Licensee's conduct, alleging Licensee may have violated certain statutes and regulations governing the practice of psychology related to his job as a Licensed Psychologist.
3. The Board conducted an investigation concerning Licensee's alleged violation of statutes and regulations. During the investigation, Licensee was informed of the reported information, was given the opportunity to respond to the allegations, and did respond in his letter dated October 16, 2007.

4. As a result of the investigation, the Board finds probable cause that the following facts have been established by clear and convincing evidence:
- a. Licensee was retained to provide an evaluation of a visually disabled individual for a disability review process by the Social Security Administration.
 - b. The individual's basis for disability was his legal blindness. Two ophthalmologic evaluations confirmed the patient was legally blind due to open angle glaucoma and damage to the optic nerve.
 - c. Licensee failed to perform any evaluation of the applicant's visual functioning, failed to review the fourteen years of medical documentation of the visual impairment, including the recent ophthalmologic testing results, and failed to contact the applicant's eye doctors regarding the condition.
 - d. Instead, he diagnosed the blind applicant with Adjustment Disorder with Mixed Anxiety and Depressed Mood. He changed this diagnosis after a second appointment to Conversion Disorder despite the absence of any DSM criteria to support such a diagnosis.
 - e. The applicant's benefits were initially denied due to the faulty diagnoses, but he was later successful in proving Licensee had not reviewed the medical evidence supporting the existence of a physical disability and had no documented knowledge of the applicant's past medical status. Benefits were then awarded and continue to the present time.

5. The Board finds that reasonable grounds exist to believe Licensee has committed unprofessional conduct in violation of K.A.R. 102-1-10a, "Unprofessional conduct," as defined as follows:

- a) Practicing psychology in an incompetent manner.
- j) improperly using assessment procedures, which shall include the following acts:
 - (1) Basing assessment, intervention, or recommendations on test results and instruments that are inappropriate to the current purpose or to the patient characteristics;
 - (2) failing to identify situations in which particular assessment techniques or norms may not be applicable or failing to make adjustments in administration or interpretation because of relevant factors, including gender, age, race, and other pertinent factors;
 - (3) failing to indicate significant limitations to the accuracy of the assessment findings;
 - (5) endorsing, filing, or submitting psychological assessments, recommendations, reports, or diagnostic statements on the basis of information and techniques that are insufficient to substantiate those findings.

HOWEVER, Licensee and the Board mutually desire to enter into a Consent Agreement and Order in lieu of adjudicative proceedings to resolve the report of alleged violations.

WHEREFORE, Licensee waives all rights to an adjudication of facts and law which could be determined pursuant to a hearing conducted in accordance with the Kansas Administrative Procedure Act in relation to Case No. 08-LP-0013.

WHEREFORE, Licensee waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions in relation to Case No. 08-LP-0013.

WHEREFORE, Licensee consents to continuation of his license without restriction under the following conditions:

- A. Licensee will attend six (6) hours of continuing education in the area of diagnosis within ninety days of the effective date of this Order. Licensee shall provide a copy of his certificate of attendance to the Board. Such training shall be in addition to licensure requirements.
- B. Licensee shall be responsible for any costs incurred in satisfying the terms of this Order.
- C. Evidence of Licensee's breach, violation or failure to comply with any of the conditions will result in an order to appear and show cause why Licensee's license should not be suspended temporarily pending full compliance with this Consent Agreement and Order. At such show cause hearing, the issues will be limited to whether this Consent Agreement and Order has been violated and the appropriate sanction for such violation.
- D. Licensee acknowledges that proof submitted to the Board by affidavit or other form of competent evidence that Licensee has breached, violated or failed to meet the conditions of this Consent Agreement and Order shall be good and sufficient evidence to support an alleged violation of breach, violation or non-compliance.

- E. Licensee understands that a notification of this Consent Agreement and Order shall be provided to any other state licensing board if Licensee is also licensed, registered or certified in another state.
- F. Licensee acknowledges an affirmative duty to notify the Board within five (5) days of any changes in personal or professional status which would inhibit compliance with any condition of this Consent Agreement and Order. In such event, a designee of the Board is authorized to modify or amend this Order in writing.
- G. If the Board does not approve this Consent Agreement and Order, Licensee waives any right he may have to object to the composition of any subsequent hearing panel due to hearing panel members having knowledge of matters contained within this Consent Agreement and Order.
- H. This Consent Agreement and Order constitutes the entire agreement between the Licensee and the Board and may be modified or amended only by written agreement signed by Licensee and the Board or a designee of the Board.

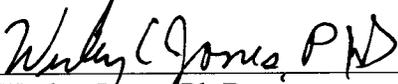
WHEREFORE, Licensee consents to the submission of this Consent Agreement and Order to the Board's Complaint Review Committee, and understands that, upon approval of the Complaint Review Committee, this Consent Agreement and Order becomes a final order of the Board. The Board has authorized the Complaint Review Committee to approve this Consent Agreement and Order.

WHEREFORE, the Board agrees that, so long as Licensee complies with the above conditions, the Board will not initiate further disciplinary action against Licensee in relation to violation of K.A.R. 102-1-10a listed above.

WHEREFORE, the Board further agrees that, upon determination of Licensee's compliance with the conditions stated herein, Licensee shall be unconditionally licensed as a Licensed Psychologist.

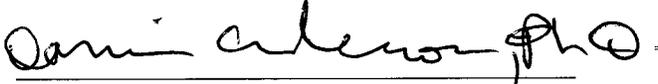
WHEREFORE, the provisions above are consented to and are hereby made the final order of the Kansas Behavioral Sciences Regulatory Board which become effective on the date indicated in the below Certificate of Service.

IT IS SO ORDERED.

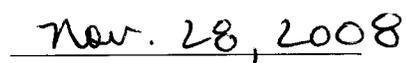


Wesley Jones, Ph.D.
Chair, Complaint Review Committee

APPROVED AND CONSENTED TO:



Darwin D. Anderson, Ph.D.,
Respondent



Date

REVIEWED AND APPROVED BY:

Counsel for Respondent

Date

CERTIFICATE OF SERVICE

This is to certify that on the 8th day of December, 2008, a true and correct copy of the above and foregoing Consent Agreement and Order was deposited in the U.S. mail, first class postage prepaid, addressed to:

Darwin D. Anderson, Ph.D.

[counsel]



Roger Scullock
For the Behavioral Sciences Regulatory Board