

IN THE MATTER OF
F ANDRE. LEYVA, PH.D.
LICENSE NO. 2003

Respondent

* BEFORE THE
* STATE BOARD OF
* EXAMINERS OF
* PSYCHOLOGISTS
* * Case No.: 97-BP-015

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Examiners (the "Board"), and subject to Health Occupations Article, Title 19, Annotated Code of Maryland (the "Act"), on February 12, 1999, the Board charged F. Andre Leyva, Ph.D., (the "Respondent") with violations of the Act. Specifically, the Board Charged the Respondent with violation of the following provisions of § 18-313:

- (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[.]

A Case Resolution Conference was held on August 4, 1999 and was attended by, Milton F. Shore, Ph.D., Board Liaison; Lisa B. Hall, Staff Attorney Administrative Prosecutor; Paul J. Ballard, Assistant Attorney General, Board Counsel; James C.

Anagnos, Staff Attorney, Administrative Prosecutor; Joe F. Compton, Board Administrator; F. Andre Leyva, Ph.D., and Richard Bloch, Esquire.

Following the Case Resolution Conference, the Respondent and the Board agreed to resolve the matter by way of settlement. The Respondent and the Board agreed to the following:

FINDINGS OF FACT

1. At all times relevant to the charges herein, Respondent was licensed to practice psychology in the State of Maryland.

2. At all times of the alleged incidents Respondent was in private practice. Respondent received a Doctorate degree from Catholic University in the field of Human Development. Respondent was not trained as a clinical psychologist. Respondent's transcripts do not display adequate training in the area of clinical psychology. Notwithstanding Respondent's formal training, Respondent has practiced in a clinical setting. Patient specific allegations are detailed below.

Patient Specific Allegations

Patient A¹

3. According to Patient A, she initially sought counseling from Respondent to deal with marital problems, issues surrounding adoption, and her church-related concerns. At the suggestion of Respondent, Patient A's husband was also brought into the sessions. However, the husband of Patient A soon dropped out of counseling with Respondent. Patient A continued in counseling with Respondent for approximately two and a half years. Respondent stated that Patient A was depressed and had past traumas affecting her.

4. Patient A was a member of the Mother of God community (hereinafter "the MOG community") and was referred to Respondent in 1988 by a priest in the same MOG community for the purpose of obtaining marital counseling. Respondent was also a member of the MOG community. Commencing in June, 1994, MOG underwent radical changes and divisions within the community.

5. During counseling sessions with the Respondent Patient A presented with ambivalent and confused feelings over family relationship problems.

6. Regarding Patient A the following occurred:

a) During some of Patient A's counseling sessions Respondent discussed psychology, religion and the teachings of the MOG community. During counseling sessions Respondent would include at times, prayer and blessings with Patient A.

b) Both Patient A and her husband were psychologically tested by Respondent, utilizing the Minnesota Multiphasic Personality Inventory ("MMPI"). Respondent revealed the results of Patient A's husband's psychological testing to her without written consent. Respondent states that he explained the nature of marital counseling to Patient A. Patient A's husband was given a Rorschach test. Respondent did not score the testing on Patient A's husband because after explaining the cost/benefits they declined.

c) Respondent provided Patient A with a non-technical book on mood disorders and asked that Patient A read it and return to Respondent's office to discuss it. Patient A did read the book and reported to Respondent that she did not believe that she had manic depression.

¹ Patients' names are confidential

d) During individual counseling sessions, Respondent on several occasions had physical contact with Patient A by squeezing accupressure points on her shoulders to release tension and teach relaxation. During at least one session, Respondent encouraged Patient A to strike his hand as a target to educate Patient A on self defense to increase self-image and to enhance feelings of standing up for herself.

e) After termination of the counseling sessions, on occasion Patient A would telephone Respondent for advice. Subsequent to the termination of the counseling sessions, Patient A volunteered to perform secretarial duties for him. These included, in violation of prohibition against dual relationship and confidentiality, submitting insurance claims, filing in patients' records, and occasionally grading some of the tests which Respondent administered to his patients who were known to Patient A.

7. Respondent provided the Board with Patient A's treatment record. Respondent's patient record of Patient A contained a card to Respondent and his wife, from Patient A, dated February 24, 1994, a five page testimonial from Patient A, and a letter of appreciation for Respondent's help.

Patient B

8. Patient B, an adult and also a member of the MOG community, was referred to Respondent because she wanted to marry. Patient B's father made the arrangements and paid for the session with Respondent. Respondent administered what he called a "personality test" to both Patient B and her then intended husband.

Patient C

9. Patient C, a member of MOG, suffered a second trimester miscarriage and following an emotional outburst, went to see Respondent for counseling in order to better

handle her grief concerning the miscarriage, as well as other issues. It was reported that the miscarriage was quite traumatic to both Patient C and her husband, Patient G. Patient G was requested by Respondent to attend the counseling sessions with his wife, Patient C. According to Patient C the following occurred:

a) Respondent turned her grief issue into a marital issue and requested that Patient C's husband be brought into the counseling sessions as well.

b) According to both Patients C and G, Respondent discussed psychology, religion and the MOG community teachings in their counseling sessions. Additionally during counseling sessions, Respondent anointed Patients C and G, prayed over them, and blessed them. During the counseling sessions Patient C had great difficulty expressing her concerns about the teachings of the MOG community due to the manner in which Respondent would respond to her concerns.

c) During another session, Respondent had Patient C hit his hand as a target. Patient C found this session to be disturbing. Respondent stated that this was to teach self-defense to increase self-image and to enhance feelings of standing up for herself.

d) Respondent showed Patient C breathing and relaxing methods during the counseling sessions.

e) Respondent discussed other people in the MOG community during Patient C's sessions. At times, Respondent would report to Patient C that her name or that of her husband's, came up at MOG community meetings.

10. Respondent's patient records on Patient C begin with the date February 13, 1991 and appear to end in January, 1992. The record contains Patient C's notes and two

letters written by Patient C to Respondent dated January 8, 1992 and January 31, 1992. The Wechsler Adult Intelligence Scale-Revised ("WAIS") forms are included in the treatment record as well. On Respondent's January counseling note of Patient C appears a checklist, which according to Respondent, is from the DSM-III on Dependent Personality Disorder. Respondent administered a WAIS to Patient C without documentation as to why this was an appropriate test to administer to Patient C. Respondent administered to Patient C a psychological test utilizing TAT cards. Respondent failed to provide a written interpretation of this test and the clinical notes are devoid of any explanation as to why the test was administered.

Patient D

11. Patient D, also a member of the MOG community, began seeing Respondent in 1989 and continued to see him through part of 1993. Patient D. initially saw Respondent for marriage and family counseling and ultimately participated in individual counseling with Respondent. According to Patient D the following occurred:

a) Respondent at times would pray or bless over Patient D. Respondent would end the counseling sessions with Patient D with a prayer and then they would hug occasionally.

b) During counseling sessions, Respondent identified accupressure points on Patient D's back and shoulders in order to release tension and teach relaxation. This physical interaction between Respondent and Patient D caused confusion and an emotional involvement to Respondent by Patient D. Patient D reported to Respondent that she had feelings for him and also that she felt spiritually guilty because she was tempting Respondent.

c) During counseling sessions the Respondent would discuss psychology, religion and the teachings of the MOG community.

d) At times during the sessions Respondent would disclose aspects of his personal life.

e) Patient D became enamored with the Respondent and reported her feelings to him. Respondent gradually reduced the frequency of Patient D's sessions. Following termination the Respondent was given many letters and poems written by Patient D to Respondent that explained her feelings for him.

f) Respondent told Patient D that he would refer Patient D to another psychologist because of the transference issue.

12. Respondent provided two patient records on Patient D. In the first record there are notes beginning in or about March 1990. On June 10, 1992, Respondent and Patient D discussed the DSM III checklist on Borderline Personality Disorder. On April 23, 1993, Respondent and Patient D discussed the DSM III checklist on Narcissistic Personality Disorder with regards to Patient D's husband, Patient E. On a note written June 10, 1992, Respondent used the DSM III checklist for Borderline Personality Disorder with regards to Patient D. This record on Patient D also contained drawings, a Kuder Preference Record-Vocational on Patient D, and a WAIS-R adult intelligence test form on Patient D. In the second patient record on Patient D, Respondent provided a folder that contained numerous letters, poems, and stories written by Patient D to Respondent. This folder also contained cards to Respondent from Patient D, a copy of several newspaper editorials, and a printed paper with information about "borderline personality disorder." A third record provided by Respondent contains Respondent's

notes with regard to both Patients D and F. Respondent administered the WAIS-R test to Patient D without documentation as to why he administered this particular test.

Patient E

13. Patient E's record provided by Respondent contained Respondent's notes and two letters to Patient E. The first note is dated October 18, 1989. The last date noted in the record is December 12, 1991. The note on December 12, 1991 is a DSM III checklist on "narcissistic personality disorder." Based upon Respondent's observations of Patient E, Respondent discussed with Patient E the concept of narcissistic personality disorder. Prior to discontinuing therapy with Respondent, Patient E was administered the Myers-Briggs test.

Patient F

14. In or about 1989, Patient D and her husband, Patient E, members of MOG, began experiencing problems with their minor son, Patient F. Patients D, E and F went to Respondent for counseling to deal with these family issues. Patient F was aged 11 at the time of the initial session with Respondent. Patient F's record from Respondent contains the Respondent's notes; a psychological report from the Division of Child and Adolescent Psychiatry at the Johns Hopkins Medical Institutions; some drawings by Patient F; the Bender Visual Motor Gestalt Test Scoring Booklet; the WISC-R Intelligence Scale for Children; the WAIS-R test; copies of Respondent's bills for psychotherapy; insurance invoices; a copy of a Great Falls of the Potomac pamphlet, and a Beck inventory form on Patient F.

15. Patient D's son (Patient F) and husband (Patient E) were going through a difficult time and Patient F became depressed and was hospitalized. After discharge from

the hospital, Respondent accompanied Patient F in canoeing, rafting, and other activities, as alternative modes of therapy.

Patient G

16. Patient G, a member of MOG, came into counseling with Respondent at the request of Respondent, who at the time was treating Patient G's wife, Patient C, for her grief over a miscarriage. According to Patient G, the sessions that he attended seemed to be more focused on Respondent obtaining information that had nothing to do with the miscarriage. For example, Respondent brought prayer, psychology, religion, and the teachings of the MOG community into the counseling sessions. Respondent suggested that Patient G needed to turn his problems over to God for them to be solved.

17. Respondent provided a record of Patient G's treatment. This record contains a bill for individual psychotherapy, a copy of Patient G's resume and letter to Respondent from Patient G with regard to possible job opportunities and appreciation for Respondent's help, and two dates of Respondent's notes from sessions with Patient G.

18. According to Patient G, Respondent exerted a great amount of influence over him and his wife, Patient C. Respondent gave Patient G visualizations to perform which Patient G stated was unusual in a counseling context. These visualizations included religious symbols and teachings.

Patient H

19. Initially Patient H, a member of MOG, went to see Respondent for his depression. Patient H painted a door at Respondent's home office, in an inappropriate dual relationship.

Patient I

20. Patient I, a minor, and another son of Patients E and D, was seen by Respondent beginning in or about June 1993. The record contains Respondent's notes, a copy of some billing records indicating individual psychotherapy was provided and billed to a third-party insurer, drawings by Patient I, Woodcock-Johnson form, WISC-R maze patterns, and insurance remittance papers. The record did not contain documentation as to why the testing was administered or how the information would be utilized.

Respondent's Record-keeping

21. In response to the Board's request for records, Respondent provided his treatment records within his possession on Patients A through G. The records do not contain a treatment plan, there are no clear and definitive diagnoses in the provided records, Respondent's session by session notes are not consistently written, and the records contain no termination summaries.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Respondent violated §§ 18-313 of the Health Occupations Article, Annotated Code of Maryland.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 12th day, of May, ²⁰⁰⁰~~1999~~, by a majority of a quorum of the Board,

ORDERED that the Respondent is hereby REPRIMANDED.

ORDERED that the Respondent shall be placed on Probation for a period of two years from the date of this Order, subject to the following conditions:

1. The Respondent shall have his clinical practice supervised on a weekly basis by a Board-approved psychologist, who will provide the Board with quarterly reports. It is the Respondent's responsibility to ensure that the supervisor submits those reports on a timely basis.

2. Attend and successfully complete, with documentation to the Board, graduate level courses, which are pre-approved by the Board, one each in the areas of psychopathology, assessment, ethics and clinical interventions, totaling a minimum of 12 credit hours.

3. Attend and successfully complete, with documentation to the Board, a continuing education course, which is pre-approved by the Board, in record-keeping.

Following successful completion of Probation, the Respondent shall petition the Board to return to non-probationary status; and be it further

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it

ORDERED that should the Board receive a report that the Respondent's practice is a threat to the public health, welfare and safety, the Board may take immediate action against the Respondent, including suspension or revocation, providing notice and an opportunity to be heard are provided to the Respondent in a reasonable time thereafter. Should the Board receive in good faith information that the Respondent has substantially violated the Act or if the Respondent violates any conditions of this Order or of Probation, after providing the Respondent with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Respondent, including suspension or revocation. The burden of proof for any action brought against the

Respondent as a result of a breach of the conditions of the Order or of Probation shall be on the Respondent to demonstrate compliance with the Order or conditions.

ORDERED that for purposes of public disclosure, as permitted by § 10-617(h) State Government Article, Annotated Code of Maryland, this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order.



5/12/00

Daniel R. Malone, Chairman
State Board of Examiners of Psychologists

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CONSENT F. ANDRE LEYVA, PH.D.

I, F. Andrew Leyva, Ph.D., by affixing my signature hereto, acknowledge that:

1. I am represented by an attorney, Richard Bloch, and have been advised by him of the legal implication of signing this Consent Order;
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 §18-313 of the Act and §10-201, et seq., of the Administrative Procedure Act (APA), State Government Article, Annotated Code of Maryland;
3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in §18-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in §18-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my 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.

5-3-00

Date



F. Andre Leyva, Ph.D.

STATE OF MARYLAND,

CITY/COUNTY OF MONTGOMERY, TO WIT:

I HEREBY CERTIFY that on this 3rd day of MAY, 2000, before me, the undersigned, a Notary Public of said State, personally appeared F. Andre Leyva, Ph.D., License No. 2003, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESS my hand and notarial Seal.


Notary Public

My Commission Expires:

Richard D. Tucker, Notary Public
Frederick County
State of Maryland
My Commission Expires Aug. 26, 2001