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STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

MICHAEL P. TOMARO, Ph.D.

FINAL DECISION AND ORDER

RESPONDENT

LS0101121PSY

The parties to this action for the purposes of § 227.53, Stats., are:

Michael P. Tomaro, Ph.D.

4800 S. Howell Ave.

Milwaukee, WI 53207

Wisconsin Psychology Examining Board

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision in this matter, subject to the approval of the Psychology Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Michael P. Tomaro, Ph.D., Respondent, date of birth September 17, 1944, is licensed by the Wisconsin Psychology Examining Board as a psychologist in the state of Wisconsin, pursuant to license number 501, which was first granted April 5, 1974.
2. Respondent's last address reported to the Department of Regulation and Licensing is 4800 South Howell Ave, Milwaukee, WI 53207.
3. Ms. A first met Respondent in October 1990, when she enrolled in his seminar for fearful flyers.
4. Beginning in November 1990, following Ms. A's completion of the fear of flying program, Respondent provided individual psychotherapy to Ms. A until the end of 1994. Frequency of sessions varied from approximately once per week to three times per week.
5. Respondent's initial diagnosis of Ms. A was anxiety disorder with panic attacks. Subsequently, Respondent

diagnosed depression and Ms. A received antidepressants from her family practitioner. During the course of therapy, Ms. A engaged in self-mutilating behavior and described suicidal ideation. On August 12-13, 1994, Ms. A was hospitalized at St. Mary's Hospital in Milwaukee with an admitting diagnosis of suicide ideation/overdose after ingesting several benzodiazepine tablets.

6. Billing records for sessions prior to May 6, 1992 have been destroyed and are unavailable. Billing records from May 6, 1992 through December 31, 1994 show that Respondent provided psychotherapy to Ms. A on at least 112 occasions, during that two and one half year period.

7. Respondent made a few clinical notes of the first session or two but did not make or maintain any progress notes or records of any of Ms. A's subsequent psychotherapy sessions. Ms. A frequently wrote letters to Respondent relating her activities and expressing her feelings. Respondent kept those writings as his records of Ms. A's progress.

8. Respondent's records of Ms. A's treatment were inadequate to communicate to another mental health care professional what had occurred in treatment.

9. For a portion of the time Ms. A was in therapy with Respondent, her insurance paid for the sessions. During other periods, Ms. A had no insurance and had difficulty paying for the sessions. Respondent continued to provide Ms. A with therapy even when she was unable to pay her bill and the balance owed to Respondent was increasing.

10. Prior to providing therapy to Ms. A, Respondent did not clarify with Ms. A when she would be responsible to pay for sessions and when she would not. Respondent told Ms. A not to worry about her bill and did not send any her billing statements from April through November 1994, during which time there were 31 additional therapy sessions.

11. When Ms. A advised Respondent that she was selling her house and moving to another state, they had a discussion regarding her payment of accumulated fees. Respondent told Ms. A the full value of the unpaid services he provided Ms. A were approximately \$25,000. Respondent and Ms. A agreed that the amount to be paid by Ms. A would be \$2,500.

12. During the 4/94 - 11/94 period, Respondent and Ms. A agreed that Ms. A would do the following to receive a credit toward her therapy bill:

a) Ms. A washed and waxed Respondent's airplane and received an unspecified amount of credit toward her therapy bill.

b) Ms. A received \$700 from Respondent for the purpose of purchasing, repairing and selling two motorcycles. Ms. A sold the two motorcycles for a total of \$1200 and returned all the money to Respondent with the additional \$500 to be credited toward her therapy bill.

13. Subsequent to the above events, at the suggestion of the Division of Enforcement, Respondent voluntarily took and completed "Professionals at Risk: Boundaries in Human Services," a 6-hour continuing education course presented by psychologist Gary Schoener and offered by the University of Wisconsin - Extension on November 9, 1997. The course content relates to concerns about Respondent's conduct during the events. Respondent has provided proof of completion to the Division of Enforcement.

CONCLUSIONS OF LAW

1. The Wisconsin Psychology Examining Board has jurisdiction over this matter pursuant to § 455.09, Stats.

2. The Wisconsin Psychology Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

3. Respondent, by failing to keep adequate records of Ms. A's treatment, has performed professional services inconsistent with training, education, or experience, which constitutes a violation of Wis. Adm. Code § PSY 5.02(4) and subjects Respondent to discipline pursuant to § 455.09(g), Stats.

4. Respondent, by failing to provide Ms. A with a description of what may be expected in the way of fees and billing, has violated Wis. Adm. Code § PSY 5.02(15) and is subject to discipline pursuant to § 455.09(g), Stats.

5. Respondent, by allowing Ms. A to polish his airplane and by providing Ms. A with money to buy the motorcycles, failed to avoid dual relationships or relationships that might impair Respondent's objectivity or create a conflict of interest, which constitutes a violation of Wis. Adm. Code § PSY 5.02(17) and is subject to discipline pursuant to § 455.09(g), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. MICHAEL P. TOMARO, PHD., is hereby REPRIMANDED for the above conduct.
2. Within 90 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of a full-day program addressing the issues of health care provider - patient relationship boundaries and record keeping.
3. The course taken and completed by Respondent, set out in Finding of Fact 13, satisfies the requirement of paragraph 2 of this order.
4. Effective immediately, Respondent shall keep at least the following information in each of his client's clinical treatment records:
 - a. An initial assessment which shall include but is not limited to:
 - 1) The client's presenting problems with the onset and course of symptoms, past treatment response, and current manifestation of the presenting problems;
 - 2) Preliminary diagnosis;
 - 3) Personal and psychosocial history.
 - b. A written description of what may be expected in the way of fees and billing, which has been discussed with and signed by the client as soon as feasible in the professional relationship.
 - c. A treatment plan, upon completion of the diagnosis and evaluation.
 - d. A progress note regarding each individual and group therapy session Respondent has with that client, which shall include but need not be limited to:
 - 1) Date of session;
 - 2) Whether it was an individual or group session;
 - 3) Status and activity information about the patient that relates to the treatment plan;
 - 4) Sufficient information of what occurred and was discussed during the session to allow interpretation by other mental health care practitioners for the benefit of the client;
 - 5) Be sufficiently legible to be read and understood by other mental health care practitioners;
 - 6) Be personally signed by Respondent.
 - e. A discharge summary containing a synopsis of treatment given, progress and reasons for discharge, when services are terminated.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 12th day of January, 2001.

Barbara A. Van Horne, Ph.D.

Chairperson

Psychology Examining Board