

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
CHARLENE J. KAVANAGH, PH.D., : LS 0509061 PSY
RESPONDENT. :

[Division of Enforcement Case #'s 02 PSY 040 & 03 PSY 037]

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

Charlene J. Kavanagh, Ph.D.
206 Ozark Trail
Madison, WI 53705

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

PROCEDURAL HISTORY

This matter was commenced by filing and service on September 6, 2005. The parties have agreed to the terms and conditions of the attached Stipulation as the final decision of 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. Charlene J. Kavanagh, Ph.D., Respondent, date of birth December 22, 1946, is licensed by the Wisconsin Psychology Examining Board to practice psychology in the state of Wisconsin pursuant to license number 1252, which was first granted October 10, 1986.

2. Respondent's last address reported to the Department of Regulation and Licensing is 206 Ozark Trail, Madison WI 53705.

3. On July 28, 2003, the mother of a 24-month-old boy brought him to Respondent for assessment and possible treatment. A court order of April 19, 2002 granted the boy's parents joint legal custody and joint and/or shared physical placement to be worked out informally with each parent having the boy for overnights about half the time. About three months prior to July 28, the father's actual periods of physical placement had increased. The mother reported that she had become concerned after observing severe behavioral changes in the boy following this change in physical placement.

4. Respondent observed and interacted with the toddler during the 90 minutes she interviewed his mother and aunt. Respondent had no contact with the father. Based upon her observations and the history provided by the mother and aunt Respondent diagnosed the boy as being clinically depressed (DSM-IV 296.23, Major Depressive Disorder, single episode severe without psychotic features). As part of her preliminary treatment plan, Respondent noted she needed to speak with the attorney about delaying an upcoming hearing to formalize the informal agreement regarding visitation until Respondent could complete her evaluation and testify.

5. On July 30, at the request of the mother, Respondent wrote a letter to the mother's attorney which stated:

“On the basis of my training, experience, and research, this young child is clinically depressed. Treatment needs to begin ASAP or his condition will deteriorate. He is already exhibiting physical and cognitive problems associated with depression in addition to depressed mood. These symptoms first appeared in May and have worsened since then. Treatment for a child of this age needs to be primarily environmental and with his primary caretaker. It needs to be predictable and consistent and under close supervision (I would provide via phone and regular contacts.) [The boy]’s mother is best positioned and equipped to work with me on [the boy]’s behalf. The current visitation arrangement will not allow for this and needs to be rethought with my consultation. I will unfortunately be out of town until 11 Aug’ 03.”

6. Prior to August 19, 2003, the boy’s father, who had the legal right to Respondent’s records of the boy’s treatment, made a telephone request of Respondent for copies of those records. Respondent did not provide the father with the records, but did not inform the father that he needed to provide a written request for the records. The father complained to the Department of Regulation and Licensing. On October 14, 2003, the Division of Enforcement sent Respondent a legally sufficient consent to release of information form executed by the father and requested the boy’s records. Respondent did not based on the advice of counsel, provide the records and through her attorney, incorrectly contended that she could not provide the records because the mother would not consent to the release of the records. The Division’s attorney sent several letters to Respondent’s attorney explaining that the father could legally release the records and the Division was legally entitled to them. Respondent did not provide the records to the Division until February 5, 2004.

7. In providing psychological services to this and other clients who Respondent assessed to have been abused or mistreated by others, Respondent’s background significantly affected her professional judgment and actions.

8. On May 17, 2006, Respondent took and completed “Confidentiality of Medical Records,” a continuing education program providing 6 hours of continuing education credit which was presented in Madison, Wisconsin by Lorman Education Services.

CONCLUSIONS OF LAW

1. The Wisconsin Psychology Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 455.09 and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent’s conduct, set out above, was a violation of Wis. Adm. Code § PSY 5.01(4) and subject Respondent to discipline pursuant to Wis. Stat. 455.09(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of Charlene J. Kavanagh, Ph.D., to practice psychology in the State of Wisconsin is hereby LIMITED, as follows:

a. Respondent shall, within 90 days of the date of this Order, provide proof sufficient to the Board, or its designee, of Respondent’s satisfactory completion of continuing education programs or courses of study, which shall be:

- 1) Approved by the Board, or its designee, before completion.**
- 2) Three or more total hours of credit related to record keeping.**
- 3) In addition to the hours of continuing education required for the biennial renewal of Respondent’s license.**
- 4) The completed course “Confidentiality of Medical Records,” set out in Finding of Fact 8, is hereby approved and credited for these required hours**

b. Within 60 days of the date of this Order, Respondent shall commence psychotherapy with an experienced Psychotherapist who is a psychiatrist or psychologist and who has been approved by the Board or its designee.

- 1) In the event that the Psychotherapist is unable or unwilling to continue as Respondent's psychotherapist, subsequent psychotherapists shall be approved by the Board or its designee.
- 2) Respondent shall immediately provide all psychotherapists with a copy of this Final Decision and Order.
- 3) The Division may provide the Psychotherapist with any information which the Division believes may be of assistance to the Psychotherapist.
- 4) The Psychotherapist shall provide appropriate psychotherapy, including assisting Respondent to understand how her own background may affect the treatment she provides to others.
- 5) The schedule of psychotherapy shall be determined by the Psychotherapist after a thorough evaluation of Respondent.
- 6) Treatment shall continue until such time as the Psychotherapist recommends that it be ended and the Board accepts that recommendation.
- 7) Respondent shall provide and keep on file with the Psychotherapist current releases which permit the Psychotherapist to disclose and discuss Respondent's treatment with the Board or any member thereof. Copies of these releases shall be filed simultaneously with the Department Monitor.
- 8) Respondent shall provide and keep on file with the Psychotherapist a current release which permits the Psychotherapist to disclose and discuss the progress of Respondent's diagnosis and treatment with the Practice Mentor, identified below. A copy of this release shall be filed simultaneously with the Practice Mentor.
- 9) Respondent's Psychotherapist shall submit quarterly reports to the Board regarding Respondent's participation and progress in treatment. Submission of the reports by the Psychotherapist shall be Respondent's responsibility. The due date for the first report and subsequent reports shall be determined by the Department Monitor.
- 10) Upon becoming aware that Respondent has failed to cooperate with treatment, or has otherwise violated the terms of this Order, Respondent's Psychotherapist shall immediately submit written notification to the Board.

c. Within 60 days of the date of this Order, Respondent shall begin consultation with a Practice Mentor who shall be an experienced psychotherapist who is not Respondent's Psychotherapist and who is a psychiatrist or psychologist and approved by the Board or its designee.

- 1) In the event that a Practice Mentor is unable or unwilling to continue as Respondent's Practice Mentor, subsequent Practice Mentors shall be approved by the Board or its designee.
- 2) Respondent shall immediately provide all Practice Mentors with a copy of this Final Decision and Order.
- 3) The Division may provide the Practice Mentor with any information which the Division believes may be of assistance to the Practice Mentor.
- 4) The Practice Mentor shall provide appropriate case consultation to Respondent, as directed in writing by the Board or its designee.
- 5) The schedule of consultation shall initially be at least one hour every other week but can be decreased as determined to be appropriate by the Practice Mentor.
- 6) Consultation shall continue until such time as the Practice Mentor recommends that it be ended and the Board accepts that recommendation.
- 7) The Practice Mentor shall be able to disclose and discuss Respondent's consultation with the Board or any member thereof, or with the Department Monitor.
- 8) The Practice Mentor shall be able to disclose and discuss Respondent's consultation with the Psychotherapist, identified above.

9) Respondent's Practice Mentor shall submit quarterly reports to the Board regarding Respondent's participation and cooperation in case consultation. Submission of the reports by the Practice Mentor shall be Respondent's responsibility. The due date for the first report and subsequent reports shall be determined by the Department Monitor.

10) Upon becoming aware that Respondent has failed to cooperate with case consultation, or has otherwise violated the terms of this Order, Respondent's Practice Mentor shall immediately submit written notification to the Board.

d. If Respondent fails to cooperate with treatment or case consultation, or has otherwise violated the terms of this Order, Respondent shall immediately submit written notification to the Board.

2. Respondent may petition the Board for modification of any term of this Order, but whether to grant the petition shall be in the Board's discretion.

3. If Respondent believes that any recommended psychotherapy or case consultation or the Board's refusal to end psychotherapy, to end case consultation or to modify any term of this Order is inappropriate, Respondent may seek a class 1 hearing pursuant to Wis. Stat. § 227.01(3)(a) in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious. The Board's decision shall remain in effect until there is a final decision in Respondent's favor on the issue.

4. Respondent shall pay costs of this proceeding in the amount of \$1,500 within 90 days from the date of this Order, and an additional \$1,500 prior to September 30, 2007. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing.

5. Requests for modifications or approval, notification of completion of educational program(s), reports and payment shall be faxed, mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax (608) 266-2264
Telephone (608) 267-3817
Fax (608) 266-2264

6. This Order has no effect on the Board's Final Decision and Order of May 5, 2004.

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, the Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

8. This Order is effective on the date of its signing.

Psychology Examining Board

**By: Don Crowder
A Member of the Board**

**2/7/07
Date**

STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
CHARLENE J. KAVANAGH, PH.D.,	:	<u>LS 0509061 PSY</u>
RESPONDENT.	:	

[Division of Enforcement Case #'s 02 PSY 040 & 03 PSY 037]

It is hereby stipulated between Charlene J. Kavanagh, Ph.D., Respondent; Bruce J. Rosen of Pellino, Rosen, Mowris & Kirkhuff, S.C., attorneys for Respondent; and John R. Zwieg, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary proceeding against Respondent's licensure and a pending investigation by the Division of Enforcement. Respondent consents to the resolution of this matter by stipulation and without a hearing.

2. Respondent understands that by signing this Stipulation, she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision and the right to petition for rehearing.

3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or her attorney, for purposes of speaking in support of this agreement and answering questions that any

member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

Charlene J. Kavanagh, Ph.D.
Respondent
206 Ozark Trail
Madison, WI 53705

Date

Bruce J. Rosen
Pellino, Rosen, Mowris & Kirkhuff, S.C.
Attorneys for Respondent
131 W. Wilson Street, Suite 1201
Madison, WI 53703

Date

John R. Zwieg
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date

[02 PSY 040 & 03 PSY 037: Costs \$3,000.00]