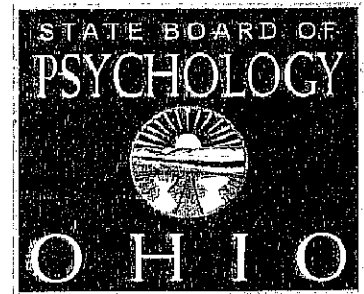


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BEFORE THE STATE BOARD OF PSYCHOLOGY
001200

IN RE: The Suitability of Douglas C. Darnall, Ph.D.
To Retain His License to Practice Psychology

Notice of Opportunity for Hearing issued December 9, 2002

DECISION AND ORDER OF THE BOARD

This matter came on for hearing before the State Board of Psychology of Ohio (hereinafter "Board") and Hearing Examiner Marc Myers, Esq., beginning on September 30, 2004 at 10:10 AM in Room 1960 on the 19th floor of the Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. The Findings of Fact, Conclusions of Law, and Order of the Board referenced herein are solely the product of the Board. Marc E. Myers, Esq., served exclusively as a facilitator of the hearing as arbiter of issues relative to the clarification of evidentiary and procedural issues raised therein.

A Notice of Opportunity for Hearing (hereinafter "Notice") approved by the Board on December 9, 2002 sent by USPS Certified Mail, return receipt requested, was received by Douglas C. Darnall, Ph.D. (hereinafter "Dr. Darnall") and his counsel. A hearing was timely requested in response to the Notice. At the hearing the Notice was amended by agreement between the parties and this Order is based on that amended Notice.

A hearing was conducted in this matter pursuant to Chapter 119, and Section 4732.17 of the Ohio Revised Code (ORC) relative to a Notice captioned as "Regarding the Suitability of Douglas C. Darnall, Ph.D. to Retain His License to Practice Psychology." The hearing on these charges was consolidated with charges in a Notice issued on September 12, 2003. A separate Order shall be mailed to Dr. Darnall relative to the charges in the September 2003 Notice. The hearing was conducted before a quorum of the Board on September 30, October 1, and October 2, 2004; November 3, 2004; January 20 and January 21, 2005; and February 10, 2005.

SUMMARY OF THE EVIDENCE

Dr. Darnall is a psychologist licensed to practice psychology in the State of Ohio, holds License # 1730, original date of licensure February 7, 1975, and is subject to all laws and rules of Ohio regulating the practice of psychology. Dr. Darnall is employed as a psychologist in private practice at PsyCare Inc. in Youngstown, Ohio and as a psychologist by the Trumbull County Family Court in Warren, Ohio.

At the Trumbull County Family Court, by magistrate's order, Dr. Darnall engaged in the provision of psychological services to Client W from approximately October 2000 through approximately February 2001. Dr. Darnall held one (1) individual session with Client W at his private practice in Youngstown, Ohio in February 2000. Despite recognizing that Client W was initially referred to his private practice by an attorney and was seeking a custody evaluation, Dr. Darnall conducted an initial evaluative session in his private practice before clarifying the

nature of the referral and the possible presence of a multiple relationship, given his employment by the Trumbull County Family Court. After starting the evaluative process in his private practice, Dr. Darnall suggested to Client W that she seek the evaluation by him through the Trumbull County Family Court. 001201

Dr. Darnall subsequently conducted a court-ordered evaluation and rendered an opinion regarding Client W's parenting behaviors to the Court. The court Order directed the parties to be "psychologically evaluated" by Dr. Darnall. Dr. Darnall wrote in his report that a purpose of the report was one "...of providing the Court recommendation (sic) regarding the custody of their son, Nicholas age 3" (Darnall report, State's Exhibit 2B). Dr. Darnall expanded the scope of the evaluation beyond the court-ordered psychological evaluation to one that included custody issues, but did not inform Client W or the Court of the expansion of the scope when conducting the evaluation, and did not discuss in his report any rationale for the expanded scope.

Dr. Darnall was aware that the court order did not request opinions on custody issues, but despite this knowledge he did not limit the scope of the evaluation, the content of the report, or his recommendations. Instead, Dr. Darnall opined regarding Client W's parenting behaviors and issues involving companionship time between Client W's son and his father. In the summary section of the report, Dr. Darnall characterized Client W as exhibiting behaviors of concern and behaviors unsupportive of her child's relationship with the father. Dr. Darnall did not summarize the father's self-reported behaviors that were not supportive of the child's relationship with Client W, including a failure to pay child support and alienating behaviors identified in the self-report measure known as the Parental Alienation Scale.

Although Dr. Darnall was aware of concerns expressed by Client W and her counsel about his role as the court appointed evaluator, he failed to remove himself from the evaluation and in his report he did not address the possible impact of those concerns on Client W's cooperation as a subject of his evaluation. Dr. Darnall failed to properly and accurately identify Client W in the report, suggesting that Client W was known as Delores McGuire, although further in his report he identifies that Client W was not married to Mr. McGuire and the court order referenced her name as "Wargo." The report therefore reflects a lack of professionalism and is inconsistent with the standards normally expected of a psychologist. In addition, the report contains language suggesting that Client W "waived their rights of confidentiality" but no records were produced that indicate informed written consent from Client W was obtained to release confidential information.

At the Trumbull County Family Court, by magistrate's order, Dr. Darnall engaged in the provision of psychological services to Client S from July 2000 through January 2001. The Court ordered Client S to submit to an evaluation by Dr. Darnall (Order dated June 26, 2000) indicating that the purpose of the evaluation was a "psychological " evaluation of Client S, her former spouse, and their children's paternal grandparents. Dr. Darnall included in his report of the evaluation (State's Exhibit 3B) that the purpose of the evaluation included the visitation between the children and the father. The stated purpose in Dr. Darnall's report exceeded the scope of his court-ordered evaluation. By rendering a recommendation to the Court about parameters of the relationship of the children with their father, treatment recommendations about the children, and the capacity of Client S to meet the needs of the children, Dr. Darnall rendered psychological opinions beyond the court's stated purpose.

Dr. Darnall never met the children at issue in the evaluation and he relied exclusively on parent-child observations conducted by staff and volunteers in training at a local agency, the Solace Center, to inform his opinions. Testimony by the Director of the Solace Center, Ms. Mary Olesh, indicated that no procedures were in place to train the Solace Center staff members creating the observation notes nor inter-rater procedures, creating a substantial risk that the observations reflect unstandardized observation procedures and unreliable and invalid information. Dr. Darnall did not address this possible limitation to the reliability and validity of those data in his report.

Dr. Darnall in his work for the Court and in the matter reflected in State's Exhibit 3B used a taxonomy not subjected to reliability and criterion-based validation procedures, and for which no base-rates regarding correct or incorrect classification are known, to classify Client S's behavior as "consistent with individuals who are active or obsessed alienators." Dr. Darnall also used non-validated interpretations of the Minnesota Multiphasic Personality Inventory-Revised (MMPI-2) and the Millon Clinical Multiaxial Personality Inventory-Third Edition (MCMI-III) as the bases for assigning these labels. Dr. Darnall made prognostic judgments regarding Client S' response to treatment based solely on these categories, which lack scientific evidence that they have utility for such clinical purposes, and inconsistent with the MCMI-III computer-based actuarial interpretation of Client S' profile.

Dr. Darnall used an insufficiently validated instrument, the "Parental Alienation Scale" as a basis for reaching conclusions in psychological assessments. Testimony from Dr. Darnall and his expert, Dr. Sandra McPherson, indicated that the Parental Alienation Scale was used to gather information similar to a written interview. The content of reports written by Dr. Darnall indicated that Parental Alienation Scale scores were calculated by Dr. Darnall and were provided in reports, and those scores were used to form opinions.

FINDINGS OF FACT

Based upon the evidence presented at the hearing, including the exhibits and the testimony, the Board makes the following Findings of Fact:

1. At the Trumbull County Family Court, by magistrate's order, Dr. Darnall engaged in the provision of psychological services to Client W from approximately October 2000 through approximately February 2001.
2. Dr. Darnall held one (1) individual session with Client W at his private practice in February 2000. The session was *not* a psychotherapy session as alleged in the Notice. Dr. Darnall conducted this initial evaluative session before clarifying the nature of the referral and the possible presence of a multiple relationship, given his employment by the Trumbull County Family Court.
3. Dr. Darnall subsequently conducted a court-ordered evaluation and rendered an opinion regarding Client W's parenting behaviors to the Court. The court order stated that the parties were to be "psychologically evaluated" by Dr. Darnall. Dr. Darnall wrote that a purpose of the evaluation was "...providing the Court recommendation (sic) regarding the custody of their son, Nicholas age 3" (Darnall report, State's Exhibit 2B). Dr. Darnall expanded the scope of the evaluation beyond the court-ordered psychological evaluation to one that included custody issues. Dr. Darnall did not limit the scope of the evaluation, the content of the report, or his recommendations. Dr.

Darnall opined regarding Client W's parenting behaviors and issues involving companionship time between Client W's son and his father.

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4. Dr. Darnall was aware of concerns expressed by Client W and her counsel about his role as the court appointed evaluator. Dr. Darnall failed to remove himself from the evaluation and in his report he addressed the existence of Client W's concerns, but failed to address the possible impact of those concerns on Client W's cooperation as a subject of his evaluation.
 5. At the Trumbull County Family Court, by magistrate's order, Dr. Darnall engaged in the provision of psychological services to Client S from July 2000 through January 2001.
 6. The Court ordered Client S to submit to an evaluation by Dr. Darnall (Order dated June 26, 2000) indicating that the purpose of the evaluation was a "psychological" evaluation of Client S, her former spouse, and their children's paternal grandparents. Dr. Darnall included in his report of the evaluation (State's Exhibit 3B) that the purpose of the evaluation included issues of visitation between the children and the father. The stated purpose in Dr. Darnall's report exceeded the scope of the court order. By rendering a recommendation to the Court about parameters of the relationship of the children with their father, treatment recommendations about the children, and the capacity of Client S to meet the needs of the children, Dr. Darnall rendered psychological opinions beyond the court's stated purpose.
 7. Dr. Darnall never met the children at issue in State's Exhibit 3B and he relied exclusively on parent-child observations conducted by staff and volunteers in training at a local agency, the Solace Center, to inform his opinions.
 8. Dr. Darnall in his work for the Court and in the matter reflected in State's Exhibit 3B used a taxonomy not subjected to reliability and criterion-based validation procedures, and for which no base-rates regarding correct or incorrect classification are known, to classify Client S's behavior as "consistent with individuals who are active or obsessed alienators." Dr. Darnall also used non-validated interpretations of the Minnesota Multiphasic Personality Inventory-Revised (MMPI-2) and the Millon Clinical Multiaxial Personality Inventory-Third Edition (MCMI-III) as bases for assigning these labels. Dr. Darnall made prognostic judgments regarding Client S' response to treatment based solely on these categories, which lack scientific evidence that they have utility for such clinical purposes.
 9. Dr. Darnall used an insufficiently validated instrument, the "Parental Alienation Scale" as a basis for reaching conclusions in psychological assessments. Testimony from Dr. Darnall and his expert witness, Dr. Sandra McPherson, indicated that the Parental Alienation Scale was used to gather information similar to a written interview. The content of reports written by Dr. Darnall indicated that Parental Alienation Scale scores were calculated by Dr. Darnall and were provided in reports, and those scores were used to form opinions and influence legal decision-making.

CONCLUSIONS OF LAW

Based upon the Findings of Fact set forth above, the State Board of Psychology reaches the following Conclusions of Law:

- A. Dr. Darnall's conduct, as set forth in the Findings of Fact in paragraphs 2, 3, 4, 6, 7, 8 and 9 clearly constituted the violation of ORC Section 4732.17 (A) (5) and (7), as effective from June 1, 2000, and Ohio Administrative Code (OAC) 4732-17-01, General Rules of Professional Conduct, as effective from July 15, 2000, and which provides:
- (B) Negligence:
- (1) A psychologist or school psychologist shall be considered negligent if his/her behaviors toward his/her clients, supervisees, employees or students, in the judgment of the board, clearly fall below the standards for acceptable practice of psychology or school psychology.
- B. Dr. Darnall's conduct, as set forth in the Findings of Fact in paragraphs 6 and 7 clearly constituted the violation of ORC Section 4732.17 (A) (5) and (7), as effective from June 1, 2000, and OAC 4732-17-01, General Rules of Professional Conduct, as effective from July 15, 2000, and which provides:
- (C) Welfare of the client:
- (2) Sufficient professional information. A psychologist or school psychologist rendering a formal professional opinion or recommendation about a person shall not do so without substantial professional client information.
- C. Dr. Darnall's conduct, as set forth in the Findings of Fact in paragraphs 2 and 4 clearly constituted the violation of ORC Section 4732.17 (A) (5) and (7), as effective from June 1, 2000, and OAC 4732-17-01, General Rules of Professional Conduct, as effective from July 15, 2000, and which provides:
- (E) Impaired objectivity and dual relationships:
- (2) Multiple relationships affecting psychologist's or school psychologist's judgment. A psychologist or school psychologist should avoid multiple relationships with any client that might impair professional judgment or increase the risk of client exploitation. He/she shall not undertake or continue a professional relationship with a client, supervisee, or student when the objectivity or competency of the psychologist or school psychologist is or could reasonably be expected to be impaired or where the relationship with the client, supervisee or student is exploitative. The psychologist or school psychologist should be particularly aware that familial, social, emotional, financial, supervisory, political, administrative, or legal relationships with a client or a person related to or associated with the client must be carefully considered to insure that impaired judgment or exploitation is not involved. For purposes of this rule:
- (a) Psychologists and school psychologists must always be sensitive to the potentially harmful effects of other contacts on their work and on those persons with whom they deal. A psychologist or school psychologist refrains from entering into or promising another personal, scientific, professional, or other relationship with such persons if it appears likely that such a relationship reasonably might impair the psychologist's or school psychologist's objectivity or otherwise interfere with the psychologist or school psychologist effectively performing his/her functions as a psychologist or school psychologist or might harm or exploit the other party.

(b) If a psychologist or school psychologist finds that, due to unforeseen factors, a potentially harmful, multiple relationship has arisen, the psychologist or school psychologist attempts to resolve it with due regard for the best interests of the affected person and maximal compliance with board rules.

D. Dr. Darnall's conduct, as set forth in the Findings of Fact in paragraphs 2, 3, 6, 7, 8 and 9 clearly constituted the violation of ORC Section 4732.17 (A) (5) and (7), as effective from June 1, 2000, and OAC 4732-17-01, General Rules of Professional Conduct, as effective from July 15, 2000, and which provides:

(H) Competence:

(2) Specialty standard of care. A psychologist or school psychologist shall exercise sound judgment and care in determining what constitutes his/her area(s) of competence. A guiding principle is that one who undertakes practice in a given specialty area will be held to the standard of care within that specialty while he/she is practicing in that area.

ORDER OF THE BOARD

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby the Order of the State Board of Psychology:

1. Dr. Darnall's license to practice psychology in the State of Ohio (license #1730) shall be suspended for two (2) years, effective May 9, 2005, with a minimum of the initial six (6) months being an Active term of suspension.
2. Effective May 9, 2005 Dr. Darnall is prohibited, for a minimum of six (6) months, from delivering psychological services or services of a psychological nature in any institution, agency, or private practice, from supervising the provision of services of a psychological nature, and from delivering services of a psychological nature under the supervision of a psychologist, physician, or any other mental health professional or person. During his Active suspension Dr. Darnall may not use his prior permissions granted by virtue of his licensure to allow or guide others in the use of instruments whose purchase or administration is protected by the copyright holder.
3. Dr. Darnall shall, between the date of the mailing of this Order and May 9, 2005, pursuant to OAC 4732-17-01 (C) (10) and (11), make arrangements for another appropriate professional or professionals to deal with the emergency needs of clients while his license is under Active suspension, and make reasonable efforts to plan for continuity of care for all clients receiving psychological services.
4. The Active suspension shall end effective November 6, 2005, with the remainder of the suspension stayed, contingent on Dr. Darnall receiving Board approval of a practice monitor and monitoring plan. The Active period of suspension shall continue beyond November 6, 2005 for a maximum period of two (2) years if Dr. Darnall fails to receive Board approval of a Monitor by failing to make a good faith effort to make timely nomination(s) of qualified psychologists to fill this role. The Board shall make reasonable and timely efforts to approve a qualified nominee to monitor Dr. Darnall's practice.

5. During the Active term of suspension, Dr. Darnall is responsible for locating and nominating a doctoral level psychologist with expertise in Forensic Psychology to serve as a monitor of Dr. Darnall's psychological practice.

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6. Dr. Darnall shall nominate a Monitor in writing by causing that person to supply the Board with a copy of a nominee's current resume or curriculum vitae and a signed letter on official professional letterhead from the nominee outlining: (1) that he/she has received and read this Order and the incorporated Notice of Opportunity for Hearing; and (2) that he/she fully understands his/her responsibilities to Dr. Darnall and to the Board. Dr. Darnall shall incur all costs associated with this Monitoring relationship. The Board shall respond to the nomination within thirty (30) days of receipt thereof. Failure to respond within (30) thirty days of receipt shall constitute acceptance of the nomination.
7. Monitoring sessions shall be held for a minimum of eighteen (18) months on a schedule to be determined between the Board and the approved Monitor. The Monitor shall send to the Board reports providing a summary of all Monitoring sessions. Monitoring sessions shall focus on, but not be restricted to, strategies for identifying risk factors associated with and avoiding loss of objectivity in the conduct of evaluations and therapy with children, families, and adults in legal disputes. The reporting schedule and specific monitoring plan shall be arranged between the approved practice Monitor and the Board. The Monitoring period shall continue indefinitely and for a minimum of eighteen (18) months after its inception and until the Board judges that circumstances warrant lifting of the monitoring requirement.
8. The Monitor shall have access to all referral and caseload information in the possession of Dr. Darnall. The Monitor shall not form a psychological supervisory relationship for the purpose of delegating work to Dr. Darnall or accepting professional responsibility for Dr. Darnall's work. Dr. Darnall shall be responsible for notifying each client in writing of the extra limits of confidentially secondary to the presence of the monitoring relationship by providing the conditions of the monitoring relationship and the identity of the monitor.
9. In the event that the Monitor becomes unable or unwilling to so serve, the Monitor shall immediately notify the Board and Dr. Darnall in writing. Dr. Darnall shall make arrangements following the requirements specified above to nominate another Monitor within thirty (30) days of his receipt of notification of the Monitor's inability to continue to serve. Unless the Board rejects the proposed Monitor within thirty (30) days of receipt of a nomination in writing, the proposed Monitor shall be approved to serve as the Monitor as outlined above.
10. Dr. Darnall is ordered to complete thirty (30) hours of remedial continuing education in the content area of psychological services related to domestic relations issues. No fewer than twelve (12) hours shall be in the content area of ethics, practice standards, and professional conduct specific to psychological evaluations with high-conflict divorced or divorcing families. Said credits must be earned by attending workshops or courses offered by American Psychological Association or Ohio Psychological Association approved providers of continuing professional education and shall be approved by the Board prior to participation. Home study courses shall not be approved to meet the requirements of this Order. Dr. Darnall shall forward copies of the completion certificates to the Board and shall not forward them to Ohio Psychological

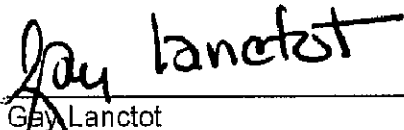
Association—Office of Mandatory continuing Education or Ohio School Psychologists
Association—Office of Mandatory Continuing Education.

11. Said thirty (30) hours of remedial continuing education credit shall be completed by July 1, 2006. These credits may not be counted toward the Mandatory Continuing Education credits required for biennial license registration (renewal) in 2006 pursuant to ORC 4732.141 and OAC 4732-2-01.
12. This Order and the Order mailed this same date relative to the Notice of Opportunity for Hearing issued in September 2003 are intended to reflect the same action, and shall be in effect concurrently.

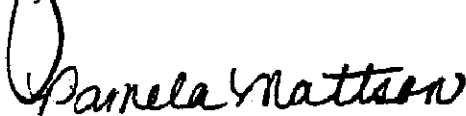
It is so ordered by the State Board of Psychology, this 8th day of April 2005.



Jane Z. Woodrow, Ph.D.
President



Gay Lanctot



Pamela Mattson



Kevin D. Arnold, Ph.D., ABPP



Michael Distelhorst

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