

1 **BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS**
2 **FOR THE STATE OF ARIZONA**

3 In the Matter of)

4 **Lydia B. Garrett, Ph.D.**)

No. 04-48

5 Holder of License No. 1382)
6 for the practice of Psychology)
7 in the State of Arizona)

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER OF PROBATION**

8 On June 3, 2005, Lydia B. Garrett, Ph.D. ("Licensee") appeared for an Informal Interview
9 before the Board of Psychologist Examiners ("Board"). After interviewing Licensee and based
10 on the information and documents presented, the Board adopted the following Findings of Fact,
11 Conclusions of Law, and Order.

12 **FINDINGS OF FACT**

13 1. Licensee failed to comply with appropriate state reporting requirements regarding
14 suspected child abuse.

15 2. Licensee failed to make records available to Father upon written request;

16 3. Licensee failed to provide a written explanation of the reasons for denying
17 Father's access to the records and failed to document such in her medical records;

18 4. Licensee made a definitive, yet uncorroborated, statement that Father had verbally
19 and physically abused the child in Father's household and Licensee failed to declare the
20 foundations or limitations of her conclusion;

21 5. Licensee did not communicate to Father the possibility that the child may inflict
22 harm on Father (i.e. "the child's murderous rage");

23 6. Licensee failed to provide an informed consent that included information about
24 child abuse reporting, confidentiality limits and privacy practices.
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CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board adopts the following Conclusions of Law:

1. The Board of Psychologist Examiners of the State of Arizona possesses jurisdiction over the subject matter and Lydia B. Garrett, Ph.D.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-2061(A)(13)(k) – “Violating any federal or state laws or rules that relate to the practice of psychology or to obtaining a license to practice psychology”;

3. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-2061(A)(13)(o) – “...engaging in activities as a psychologist that are unprofessional by current standards of practice”;

4. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-2061(A)(13)(cc) – “Failing to make available to available to a client or to the client’s designated representative, on written request, a copy of the client’s record, excluding raw test data, psychometric testing materials and other information as provided by law”;

5. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 13-3620(A) – “Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person

1 who does not have care, custody or control of the minor, the report shall be made to a peace
2 officer only. ..." and (D) – "Reports shall be made immediately by telephone or in person and
3 shall be followed by a written report within seventy-two hours...";

4
5 6. The conduct and circumstances described above constitute unprofessional conduct
6 pursuant to A.R.S. § 12-2293(C) – "If the health care provider denies a request for access to or
7 copies of the medical records, the health care provider must note this determination in the
8 patient's medical record and provide to the patient or the patient's health care decision maker a
9 written explanation of the reason for the denial of access. The health care provider must release
10 the medical record information for which there is not a basis to deny access under subsection B of
11 this section";

12
13 7. The conduct and circumstances described above constitute unprofessional conduct
14 pursuant to A.R.S. § 25-403(H) – "Unless otherwise provided by court order or law, on
15 reasonable request both parents are entitled to have equal access to documents and other
16 information concerning the child's education and physical, mental, moral and emotional health
17 including medical, school, police, court and other records directly from the custodian of the
18 records or from the other parent. A person who does not comply with a reasonable request shall
19 reimburse the requesting parent for court costs and attorney fees incurred by that parent to force
20 compliance with this subsection. A parent who attempts to restrict the release of documents or
21 information by the custodian under this subsection without a prior court order is subject to
22 appropriate legal sanctions"; and

23
24
25 8. The conduct and circumstances described above constitute unprofessional conduct
26 pursuant to § 164.524(b)(2)(A)(B) of the HIPAA Regulations – 2A – "Timely action by the
27 covered entity.(i) Except as provided in paragraph (b)(2)(ii) of this section, the covered entity
28

1 must act on a request for access no later than 30 days after receipt of the request as follows. (A)
2 If the covered entity grants the request, in whole or in part, it must inform the individual of the
3 acceptance of the request and provide the access requested, in accordance with paragraph (c) of
4 this section. (B) If the covered entity denies the request, in whole or in part, it must provide the
5 individual with a written denial, in accordance with paragraph (d) of this section".
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8 **ORDER OF PROBATION**

9 Based on the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED as follows:
10

11 1. Lydia B. Garrett, Ph.D. is censured.

12 2. Lydia B. Garrett, Ph.D. is placed on probation on the following terms and
13 conditions:

14 **A. DURATION**

15 Licensee is placed on probation for a period of one year, subject to the tolling provisions of
16 this Order. Licensee shall not request modification or termination of this Order until she
17 completes the course work required in Paragraph K below. In this Order, "toll" means to delay or
18 hold off the running of the period of probation. If the period of probation is tolled under the
19 terms of this Order, the time during which probation is tolled does not apply to reduce the
20 duration of probation.
21

22 **B. OBEY ALL LAWS**

23 Licensee shall obey all federal and state laws pertaining to the practice of psychology.
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25 **C. INTERVIEW**

26 Licensee shall appear in person for interviews with the Board or its designee upon request
27 at various intervals and with reasonable notice.
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1 **D. COMPLIANCE CERTIFICATION**

2 Thirty days after the effective date of this Order and on first day of each month thereafter,
3 Licensee shall submit a written statement under penalty of perjury to the Board certifying
4 whether Licensee has complied with this Order. The statement must be received at the Board's
5 office by the due date.
6

7 **E. ACCESS TO RECORDS**

8 Upon reasonable request, the Board and its representatives shall have access to Licensee's
9 records related to the practice of psychology.
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11 **F. PAYMENT OF COMPLIANCE COSTS**

12 Licensee shall promptly pay all costs of compliance with this Order. Failure to promptly
13 pay the costs shall be considered a violation of probation.
14

15 **G. CURRENT ADDRESS AND PHONE NUMBER**

16 Within five days of changing home or business address or telephone number, Licensee shall
17 notify the Board in writing of the change.
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19 **H. NON-RENEWAL OR LATE RENEWAL**

20 If Licensee fails to renew Licensee's license while on probation and subsequently applies
21 for late renewal of license or a new license, the remaining term of probation shall be imposed if
22 the late renewal or reapplication for license is granted.
23

24 **I. TOLLING**

25 If Licensee for any reason stops practicing psychology in Arizona for more than 30 days or
26 leaves Arizona to reside or practice psychology outside Arizona, the periods of temporary or
27 permanent residency or practice outside Arizona or the non-practice within Arizona do not apply
28 to reduce the duration of probation under this Order. Licensee shall notify the Board in writing

1 within five days of the dates of departure or the dates of non-practice in Arizona.

2 **J. STRICT ENFORCEMENT**

3 The Board shall strictly enforce the terms of this Order. Any violation of the Order by
4 Licensee shall be grounds for disciplinary action, including summary suspension, pending
5 hearing for revocation or other action. Licensee bears responsibility for the timely delivery to the
6 Board's office of all reports, information, and documents required to be submitted under this
7 Order. Lack of timely receipt at the Board's office constitutes a violation of this Order.
8

9 **K. EDUCATION**

10 Licensee shall successfully complete three semester hours of course work at the graduate
11 level at an accredited education institution. The course shall be in the area of Ethics which
12 includes legal issues. "Successfully complete" means with a grade of "B" or better. Within 30
13 days of the effective date of this Order, Licensee shall submit to Board staff in consultation with
14 the Board's chairperson for prior approval a plan for meeting this course work requirement. In-
15 person classroom attendance in specifically required.
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18 **NOTE:** In order to be eligible for appeal ("judicial review") pursuant to
19 Arizona Revised Statutes §§12-901 through 12-914, you are required to exhaust
20 your administrative remedies by filing a motion for rehearing or review with
21 the Board within thirty-five days after these Findings of Fact, Conclusions of
22 Law and Order of Probation are mailed to you. The mailing date is indicated
23 on the mailing certificate below. If you do not file a motion for rehearing or
24 review within those 35 days, you will be prohibited from appealing to superior
25 court ("seeking judicial review") of the Board's decision. A.R.S. § 41-
26 1092.09(B). The Board's administrative rule regarding rehearing or review is
27 A.A.C. 4-26-308, available on the Board's website, www.psychboard.az.gov.
28 The Board may grant rehearing or review on the grounds stated in A.A.C. 4-26-
308(C). If you file a motion for rehearing or review, it must specify the
particular grounds for rehearing or review, and should state the facts or law
that support those grounds. This Order will become effective 35 days after the
date of mailing, unless you file a Motion for Rehearing or Review pursuant to
A.R.S § 41-1092.09 and A.A.C. 4-26-308(C) within that time period. If you file a
timely Motion for Rehearing or Review, the Order will become effective at the
time the Board rules on the motion.

1 Dated this 10th day of June, 2005.
2

3 STATE OF ARIZONA BOARD OF
4 PSYCHOLOGIST EXAMINERS

5 BY:



6 Maxine McCarthy
7 Executive Director
8 1400 W. Washington, Rm. 235
9 Phoenix, AZ 85007
10 Phone: 602-542-8162

11 **ORIGINAL** on file at the office of the
12 Arizona Board of Psychologist Examiners

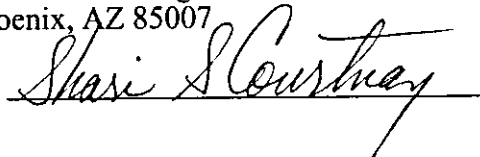
13 **COPY** of the foregoing mailed by Certified
14 Mail No. 7000 1670 0009 3607 5416
15 this 10th day of June, 2005, to:

16 Lydia B. Garrett, Ph.D.
17 Address of Record

18 **COPY** of the foregoing mailed via Interagency Mail to:

19 Elizabeth Campbell
20 Assistant Attorney General
21 Civil/LES
22 1275 W. Washington
23 Phoenix, AZ 85007

24 By



25 S: Findings of Fact/Garrett 04-48
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