



1       3. On April 2, 2004, Complainant contacted Licensee's office to obtain information about  
2 making an appointment for a neuropsychological evaluation for her fifteen-year old son, P.Y.  
3 Licensee's receptionist informed complainant that Licensee was a contracted provider with  
4 Blue Cross of Arizona, and that the cost of the neuropsychological evaluation would be  
5 \$1250, which included the consultation before the evaluation, complete testing, meeting with  
6 Licensee to review his findings, and meeting with Licensee and personnel from the son's  
7 school. Complainant was further informed that Licensee would require full payment at the  
8 time of the evaluation and that Complainant could then seek reimbursement from her  
9 insurance company, Blue Cross of Arizona. That same day, Licensee's staff confirmed this  
10 same information to Complainant in two e-mails.

11       4. On April 2, 2004, Complainant scheduled an appointment for her son's  
12 neuropsychological evaluation to be conducted by Licensee on April 6, 2004.

13       5. On April 5, 2004, Complainant signed Licensee's Consent for Neuropsychological  
14 Evaluation and/or Psychological Consultation/Therapy form, which stated in pertinent part:

15           If I am covered by an insurance company that Dr. Pool is contracted with (e.g.  
16           Blue Cross, Aetna, Medicare/Medicaid, Cigna), then he will accept that  
17           contracted rate plus my co pay. Otherwise, the typical cost for a  
            psychological/neuropsychological evaluation and /or consultation/treatment is  
            **\$150 per hour**. Additional information on fees is available on request.

18       6. On April 5, the day before the evaluation, Complainant asked Licensee's office staff  
19 for the CPT billing codes that Licensee would use for the evaluation on the billing statement.  
20 She received the billing codes at the end of the day, too late for her to contact Blue Cross,  
21 her insurance company.

22       7. On April 6, the day of the evaluation, Licensee's office staff again informed  
23 Complainant that Licensee was a Blue Cross provider. On April 7, 2004, when Complainant  
24 learned from Blue Cross that Licensee was not a Blue Cross provider, she promptly informed  
25 Licensee's staff. Staff claimed that Blue Cross was wrong—that Licensee was, in fact, a  
Blue Cross provider.

1 8. During the investigation of Complainant's complaint to the Board, Licensee sent a  
2 handwritten note to the Board's investigator on August 26, 2004, stating that he has never  
3 been in a network with Blue Cross/Blue Shield.

4 9. Licensee's consent form was misleading in that it referred to insurance companies for  
5 which Licensee is not a participating provider (e.g. Blue Cross).

6 10. Complainant paid the full \$1250 fee to Licensee's office staff on April 6, 2004 before  
7 the evaluation was conducted. Although Licensee's consent form stated that "[a] reduced  
8 rate is offered for those people who would like to pay in full at the time of service," he did not  
9 offer a reduced rate to Complainant for her full payment.

10 **Prolonged Refusal to Provide Receipt for Payment**

11 11. Licensee indicated at the informal interview that his usual practice, which he  
12 remembers following in this case, was for the patient to write a check at the end of the  
13 assessment and for Licensee to enter the payment into the computer and hand her the  
14 receipt.

15 12. Complainant did not receive a receipt for her payment. When Licensee' staff took  
16 Complainant's payment on April 6, 2004, the staff person was in a hurry and told  
17 Complainant that she would provide a receipt the following day. Complainant did not receive  
18 a receipt the following day. She contacted the staff person numerous times by e-mail, fax,  
19 and phone messages, continuing to ask for a receipt. Eventually, the staff person stated that  
20 she had given Licensee all the e-mails, faxes and phone messages to handle.

21 13. Licensee's consent contains confusing and contradictory information regarding the  
22 amount of Licensee's hourly rate.

23 **The Evaluation and Report**

24 14. On April 6-8, 2004, Licensee evaluated P.Y. The evaluation consisted of an interview  
25 and the administration of the WASI; ABAS; WIAT-II; CPT-II; WISC-IV; Trail Making Test –  
Parts A & B; D-KEFS Verbal Fluency Test; D-KEFS Color-Word Interference Test; WCST;

1 and the Rey Complex figure test.

2 15. Licensee misused and misinterpreted the tests given to P.Y. He also failed to  
3 adequately supervise the work of his two practicum students and an intern who committed  
4 serious scoring errors on half of the tests administered to P.Y.

5 16. In May 2004, Licensee completed his Pediatric Neuropsychological Evaluation report,  
6 which diagnosed P.Y. with autistic disorder and major depressive disorder.

7 17. Licensee's report failed to address the reason for which P.Y. was evaluated and  
8 lacked sufficient evidence to support the diagnosis of autism.

9 18. In his report, Licensee failed to address incidents of inter-test and intra-test  
10 discrepancies. For example, on page three of the report, Licensee stated that P.Y.'s "verbal  
11 working memory as measured by his performance on the CMS numbers sub-test was above  
12 expected level." On page five, however, he stated that the boy "has difficulty holding an  
13 appropriate amount of information in active memory for further processing, encoding and/or  
14 mental manipulations. He may have difficulty sustaining working memory." As another  
15 example, although the report showed a verbal I.Q. of 88 and a performance I.Q. of 131,  
16 Licensee failed to account for that difference in the report or the fact that an earlier  
17 neuropsychological evaluation estimated the I.Q. to be in the average range.

18 19. The report stated that P.Y. "identified as a goal that he wanted to find a way off this  
19 planet." At the informal interview, Licensee indicated that the message of the goal was  
20 hopelessness and distress and was potentially indicative of suicidal ideation. Licensee did  
21 not address the issue of suicide with P.Y because he did not want to "put an idea in his head"  
22 and did not conduct a risk assessment for suicidality.

23 20. Licensee's report incorporated a computer software-generated report that contains an  
24 explanation of test scales and results from the *Behavior Rating Inventory of Executive*  
25 *Function (BRIEF)*. Licensee failed to cite the source of the information or give credit to the  
author of the report.

1        **Failing to Retain Materials Used in the Evaluation**

2        21. For the evaluation, Licensee was provided test results from P.Y.'s school, along with  
3 a copy of a previous neuropsychological evaluation of the boy. He returned the materials  
4 and did not keep a copy for his records.

5        **Billing for Non-Existent Therapy**

6        22. On April 20, 2004, Licensee met for one hour with Complainant, Complainant's son  
7 and an educational advocate hired by Complainant to go over the results of Licensee's  
8 evaluation. Licensee billed Complainant's insurance company \$200 for this meeting, calling  
9 it "family therapy," even though no therapy was conducted. According to Licensee, he had  
10 no intention of collecting \$200 from Complainant, and he billed the insurance company "to  
11 recover what I can for the patient." Licensee denied that the bill was ever sent to  
12 Complainant. The Complainant stated she did receive the bill for \$200 for "family  
13 therapy." None of these payment procedures was provided to Complainant in a written  
14 format, but were "explained informally" to her, according to Licensee.

15        23. Complainant believed that the April 20, 2004 meeting was part of the services  
16 included in her payment of \$1250.

17        24. The insurance company paid part of the bill for \$200.

18        25. On August 10, 2004, Licensee and his billing service person communicated by e-mail  
19 about various clients' billing matters. Referring to Complainant, the billing person asked  
20 Licensee, "Do you want me to bill her? She still owes \$92.00." Licensee responded, "I don't  
21 know. She's already giving me a lot of crap at the Psyc Board. Really, I just want her to go  
22 away. Better write it off."

23        **Failure to Adequately Respond to Board Subpoena**

24        26. On June 25, 2004, the Board issued a subpoena duces tecum to Licensee requiring  
25 him to deliver copies of the following to the Board:

All records and materials in any form or medium in your possession or subject

1 to your control pertaining to assessment, evaluation, consultation treatment, or  
2 the provision of psychological services concerning P.Y. and family, including  
3 but not limited to a TYPEWRITTEN VERBATIM copy of any and all  
4 handwritten session notes, any and all reports, summaries, test results,  
5 diagnoses, treatments, informed consent forms, telephone messages,  
6 correspondence, invoices or billing statements.

7  
8 **27.** On July 13, 2004, Licensee submitted some, but not all, of the records in his  
9 possession that were responsive to the subpoena. He failed to provide a typewritten  
10 verbatim copy of his notes or a written response to the complaint.

11  
12 **28.** At the October 4, 2004 informal interview, when Licensee was asked why he failed to  
13 comply with the subpoena, he stated that he did not understand the word "verbatim" and did  
14 not understand the task.

15  
16 **29.** On August 11, 2004, the Board issued a second subpoena duces tecum to Licensee,  
17 again requiring production of all records and materials pertaining to his evaluation of P.Y., as  
18 stated in the first subpoena.

19  
20 **30.** In response to the second subpoena, Licensee produced documents that he failed to  
21 provide in response to the first subpoena.

22  
23 **Untrue Statement on Curriculum Vita Provided to Board**

24  
25 **31.** On September 16, 2004, Licensee submitted a supplemental response to the Board  
that included his curriculum vita (C.V.). Licensee misrepresented his qualifications on his  
C.V. by stating that he had earned the American Board of Professional Psychology (ABPP)  
Certificate in Clinical Psychology when, in fact, he had not earned that certificate.

**32.** On November 17, 2004 Dr. Pool sent the Complainant a check for \$1,500.00 to  
reimburse her for the cost of P. Y.'s evaluation.

**33.** Licensee's activities as a psychologist described in Findings of Fact 3-32 above are  
unprofessional by current standards of practice. A reasonable and prudent psychologist in  
the circumstances would have:

- Provided adequate training and information to office staff so they could communicate accurate information to clients and potential clients.

- 1 • Responded to Complainant's request for a receipt.
- 2 • Used a consent form that was clear and accurate.
- 3 • Followed the policies and practices stated in the consent form and ensured that all
- 4 information on the preprinted form was accurate and up-to-date.
- 5 • Reimbursed Complainant when it was determined that office staff had provided
- 6 misinformation regarding insurance and billing.
- 7 • Ensured the accuracy of test administration and scoring conducted by the practicum
- 8 students and intern under the psychologist's supervision.
- 9 • Ensured that administrative and interpretive procedures were accurately followed.
- 10 • Refrained from using interns or practicum students in the administration of tests that
- 11 require course advanced course completion.
- 12 • Charged for services only as agreed upon in advance with the client.
- 13 • Billed Complainant and/or the insurance company only for services provided
- 14 • Fully responded to Board subpoenas in a timely manner.
- 15 • Provided an adequate foundation for client's diagnosis.
- 16 • In listing professional credentials on the curriculum vita, included only accurate
- 17 information, and refrained from listing credentials that the psychologist does not
- 18 possess
- 19 • Not presented incorrect test data in report.
- 20 • Reconciled contradictory test information.
- 21 • Addressed the referral questions in the psychological report.
- 22 • Addressed the issue of suicide with client to determine risk.
- 23 • Kept a copy of previous test results for his records.

#### 24 **CONCLUSIONS OF LAW**

- 25 1. The Board of Psychologist Examiners of the State of Arizona possesses jurisdiction  
over the subject matter and David Pool, Psy. D.
2. The conduct and circumstances described above constitute unprofessional conduct  
pursuant to A.R.S. § 32-2061(A)(13)(a) ("Obtaining a fee by fraud or misrepresentation".)

1 3. The conduct and circumstances described above constitute unprofessional conduct  
2 pursuant to A.R.S. § 32-2061(A)(13)(h) ("Failing or refusing to maintain and retain adequate  
3 business, financial or professional records pertaining to the psychological services provided to  
4 a client".)

5 4. The conduct and circumstances described above constitute unprofessional conduct  
6 pursuant to A.R.S. § 32-2061(A)(13)(j) ("Making a fraudulent or untrue statement to the  
7 board or its investigators, staff or consultants".)

8 5. The conduct and circumstances described above constitute unprofessional conduct  
9 pursuant to A.R.S. § 32-2061(A)(13)(o) ("Providing services that are unnecessary or unsafe  
10 or otherwise engaging in activities as a psychologist that are unprofessional by current  
11 standards of practice")

12 6. The conduct and circumstances described above constitute unprofessional conduct  
13 pursuant to A.R.S. § 32-2061(A)(13)(p) ("Falsely or fraudulently claiming to have performed a  
14 professional service, charging for a service, or representing a service as the licensee's own  
15 when the licensee has not rendered the service or assumed supervisory responsibility for the  
16 service".)

17 7. The conduct and circumstances described above constitute unprofessional conduct  
18 pursuant to A.R.S. § 32-2061(A)(13)(q) (Representing activities or services as being  
19 performed under the licensee's supervision if the psychologist has not assumed  
20 responsibility for them and has not exercised control, oversight and review".)

21 8. The conduct and circumstances described above constitute unprofessional conduct  
22 pursuant to A.R.S. § 32-2061(A)(13)(bb) ("Failing to furnish information in a timely manner to  
23 the board or its investigators or representatives if requested by the board as prescribed by  
24 this chapter".)

25 **ORDER**

Based upon the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED:



1       **1. PROBATION DURATION**

2           Licensee is placed on probation for a period of 4 years, subject to the tolling  
3 provisions of this Order. Licensee shall not request modification or termination of this Order  
4 for a period of 3 years. In this Order, "toll" means to delay or hold off the running of the  
5 period of probation. If the period of probation is tolled under the terms of this Order, the time  
6 during which probation is tolled does not apply to reduce the duration of probation.

7       **2. OBEY ALL LAWS**

8           Licensee shall obey all federal and state laws pertaining to the practice of  
9 psychology.

10       **3. INTERVIEW**

11           Licensee shall appear in person for interviews with the Board or its designee upon  
12 request at various intervals and with reasonable notice.

13       **4. COMPLIANCE CERTIFICATION**

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

18       **5. ACCESS TO RECORDS**

19           Upon reasonable request, the Board and its representatives shall have access to  
20 Licensee's records related to the practice of psychology.

21       **6. PAYMENT OF COMPLIANCE COSTS**

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

24       **7. CURRENT ADDRESS AND PHONE NUMBER**

25           Within five days of changing home or business address or telephone number,  
Licensee shall notify the Board in writing of the change.

1        **8. NON-RENEWAL OR LATE RENEWAL**

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

5        **9. TOLLING FOR PERIODS OF NON-PRACTICE**

6            If Licensee for any reason stops practicing psychology in Arizona for more than 30  
7 days or leaves Arizona to reside or practice psychology outside Arizona, the periods of  
8 temporary or permanent residency or practice outside Arizona or the non-practice within  
9 Arizona do not apply to reduce the duration of probation under this Order. Licensee shall  
10 notify the Board in writing within five days of the dates of departure and return or the dates of  
11 non-practice in Arizona.

12        **10. STRICT ENFORCEMENT**

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

18        **11. COURSE WORK**

19            *By May 30, 2006*, Licensee shall successfully complete not less than 6 hours of  
20 course work at the graduate level at an accredited educational institution in  
21 psychodiagnostics.

22            "Successfully complete" means with a grade of "B" or better. Course work must be  
23 pre-approved by the Board or its designee. Within 30 days of the effective date of this Order,  
24 Licensee shall submit to the Board or its designee for prior approval a plan for meeting this  
25 course work requirement. In-person classroom attendance is specifically required; correspondence or self-study or home study course work shall not count toward meeting this

1 requirement. The course work must be in addition to the continuing education required for  
2 license renewal.

## 3 **12. PRACTICE SUPERVISION**

### 4 **A. Approval of Supervisor**

5 Beginning not more than 30 days after the effective date of this Order, a supervisor  
6 approved by the Board or its designee shall supervise Licensee's practice of psychology.  
7 Within 15 days of the effective date of this Order, Licensee shall submit to the Board or its  
8 designee for prior approval the names and current curriculum vitae of no fewer than three  
9 psychologists who agree to monitor Licensee's practice under the terms of this Order if  
10 approved. If requested by Board staff, Licensee shall continue to submit names and vitae  
11 until a supervisor is approved. The supervisor shall:

12 (1) Be an Arizona-licensed psychologist who is not currently subject to a disciplinary  
13 order of the Board;

14 (2) Have no previous business, professional, personal or other relationship with  
15 Licensee;

16 (3) Not be the same person as Licensee's psychotherapist, if any;

17 (4) Have practiced clinical psychology at least ten years;

18 (5) Have previously supervised post-doctoral students in a post-doctoral training  
19 experience; and

20 (6) Practice in the same field of practice as Licensee.

### 21 **B. Supervisor's Duties**

22 The supervisor shall supervise Licensee's practice of psychology, which shall include  
23 the following duties at a minimum:

24 (1) Review Licensee's business and client records (including, for example, informed  
25 consent forms and session notes) to determine the adequacy and quality of the records and  
whether the records are consistent with the current standards of practice;

- 1 (2) Review case conceptualizations and treatment plans;
- 2 (3) Evaluate psychological assessments and report writing
- 3 (4) Review all billings for adequacy and completeness;
- 4 (5) Countersign all assessments, treatment plans, session notes, reports,
- 5 correspondence, and billings; and
- 6 (6) Sit in with Licensee on at least ten hours of client sessions in the first three
- 7 months of supervision.

8 The supervisor shall document in each client record the date and nature of each  
9 supervisory contact. The supervisor may request that Licensee audio tape or video tape  
10 client sessions. The supervisor shall have the right of access to all Licensee's records  
11 relating to his practice of psychology and to all health care professionals involved in the  
12 treatment of Licensee's clients. For supervisory purposes, the supervisor shall make  
13 scheduled and unscheduled visits to Licensee's office.

14 **C. Minimum Contact Hours**

15 Licensee shall meet in person with the supervisor at least two hours per week for the  
16 first year of supervision. For the remainder of the supervision, the supervisor may reduce the  
17 number of meetings to at least one hour per week, and shall document the rationale for  
18 reduction in the frequency of meetings.

19 **D. Supervision Agreement**

20 Prior to beginning supervision, Licensee and the supervisor shall enter into a written  
21 supervision agreement that sets forth the terms of supervision specified in this Order and  
22 such other terms as Licensee and the supervisor find appropriate. Financial arrangements  
23 shall be specified in the agreement. Prior to beginning supervision, Licensee shall provide a  
24 copy of the agreement to the Board.

25 **E. Reports**

1 The supervisor shall submit written reports to the Board regarding the  
2 appropriateness of Licensee's practice of psychology. For the first year of supervision, the  
3 supervisor shall submit two reports per month, which must be received at the Board's office  
4 not later than the first day and the fifteen day of each month. For the remainder of the  
5 supervision, the supervisor shall submit one report per month, which must be received at the  
6 Board's office not later than the first day of each month. At a minimum, the reports shall  
7 include an anonymous description of each person seen or treated by Licensee, including age  
8 and gender; the reason the person seeks psychological services; adequacy of session notes,  
9 billing and insurance documents, case conceptualization, and treatment plan developed for  
10 each client; number of persons seen by Licensee; appropriateness of boundaries; and the  
11 date and duration of each supervisory contact between the supervisor and Licensee. The  
12 reports shall also include issues or areas of concern to the supervisor.

13 **F. Costs**

14 Licensee shall promptly pay all costs associated with supervision. Failure to promptly  
15 pay these costs shall be considered a violation of probation.

16 **G. Disclosure of Supervision and Probation**

17 Licensee shall not provide psychological services to any person without first providing  
18 the person a written statement disclosing that Licensee's practice of psychology is  
19 supervised under a Board Order of Probation. The written statement shall also provide the  
20 supervisor's name and the procedure for contacting the supervisor. Licensee shall obtain  
21 each person's signature on a copy of the written statement, acknowledging receipt, and  
22 retain the signed document in his records. Licensee shall document the supervisory  
23 relationship in each client's record. If any supervisory act specified in this Order requires the  
24 consent of the client, Licensee shall obtain prior informed consent in writing. Prior to  
25 beginning supervision, Licensee shall provide a copy of this Order to the supervisor.  
Licensee shall execute a release authorizing the supervisor to divulge all information

1 required under this Order and such other information as the Board or its designee may  
2 request.

3 **H. Replacement Supervisor**

4 If the supervisor quits or is otherwise no longer available, Licensee shall obtain  
5 approval from the Board for a new supervisor within 30 days. If no new supervisor is  
6 approved within 30 days, Licensee shall not practice until a new supervisor has been  
7 approved by the Board or its designee. During this period of non-practice, probation will be  
8 tolled and will not commence again until the period of non-practice is completed.

9 **13. EMPLOYMENT OR SUPERVISION OF TRAINEES**

10 Licensee shall not employ or supervise or apply to employ or supervise a  
11 psychological assistant, intern, post-doctoral student, or trainee during the term of this  
12 probation. In accordance with professional standards, Licensee shall terminate any such  
13 relationship in existence on the effective date of this Order.

14 **NOTICE:** In order to be eligible for appeal (“judicial review”) pursuant to  
15 Arizona Revised Statutes §§ 12-901 through 12-914, you are required to  
16 exhaust your administrative remedies by filing a motion for rehearing or  
17 review with the Board within thirty-five days after these Findings of Fact,  
18 Conclusions of Law and Order of Probation are mailed to you. The  
19 mailing date is indicated on the mailing certificate below. If you do not  
20 file a motion for rehearing or review within those 35 days, you will be  
21 prohibited from appealing to superior court (“seeking judicial review”) of  
22 the Board’s decision. A.R.S. § 41-1092.09(B). The Board’s administrative  
23 rule regarding rehearing or review is A.A.C. 4-26-308, available on the  
24 Board’s website, [www.psychboard.az.gov](http://www.psychboard.az.gov). The Board may grant  
25 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.

Dated this 23<sup>rd</sup> day of February 2005.

STATE OF ARIZONA BOARD OF  
PSYCHOLOGIST EXAMINERS

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BY: Maxine McCarthy  
Maxine McCarthy  
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**COPY** of the foregoing mailed  
by Certified Mail No.  
7000 1670 0009 3607 6178  
this 22<sup>nd</sup> day of February 2005, to:

David Pool, Psy. D.  
Address of Record

**COPY** of the foregoing mailed this  
22<sup>nd</sup> day of February 2005, to:

Larry Cohen, Esq.  
P. O. Box 10056  
Phoenix, AZ 85064  
Attorney for Licensee

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

Nancy J. Beck  
Assistant Attorney General  
Civil/LES  
1275 W. Washington  
Phoenix, AZ 85007

By Shari Stoutney