

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

4 **In the Matter of :**)

Case No. 11-12

5 **Lydia Garrett, Ph.D.**)

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

6 **Holder of License No. 1382**)
7 **for the Practice of Psychology**)
8 **in the State of Arizona**)

9 On August 18, 2012, the Arizona Board of Psychologist Examiners (“Board”) met in
10 open session and held an Informal Interview regarding Case No. 11-12, Lydia Garrett, Ph.D.
11 (Licensee). Despite having been properly noticed, the Licensee was not present. The
12 proceedings in this matter are governed by A.R.S. §§ 32-2081 and 32-2082. Having read and
13 considered the documents contained in the complaint file (RFI 11-12), and having deliberated
14 fully, the Board adopted the following Findings of Fact and Conclusions of Law and Order on
15 August 18, 2012.

16 **JURISDICTION**

- 17 1. Licensee received sufficient and timely notice of the Informal Interview.
- 18 2. The Board is authorized to regulate the practice of psychology in Arizona
19 pursuant to A.R.S. § 32-2061, *et seq.*
- 20 3. Licensee is the holder of license number 1382 for the practice of psychology in
21 the State of Arizona.
- 22 4. The Board has personal and subject matter jurisdiction over Licensee pursuant
23 to A.R.S. § 32-2061, *et seq.*

24 **FINDINGS OF FACT**

- 25 5. This case arises out of a contentious custody proceeding involving the biological
26 parents (Father and Mother) of a minor child. The Complainant is the Father. Mother and
27 Father share joint custody of the minor child.
- 28 6. Pursuant to the Court order, a parent of the minor child may take the minor child
to a health professional for treatment or diagnosis but the parent must inform the other parent
within a certain time-frame and subsequently both parties must agree on a provider and

1 treatment.

2 7. Court Orders indicate that if the parents are unable to agree with respect to health
3 related issues involving the minor child, the parents shall abide by the recommendations of the
4 minor child's pediatrician pending resolution of the matter through the Parenting Coordinator
5 or the Court.

6 8. At the suggestion of the minor child's pediatrician, the Mother took the minor
7 child to Dr. Garrett to evaluate for separation anxiety on March 7, 2009. Dr. Garrett confirmed
8 the request with the pediatrician and commenced with the evaluation of the minor child.

9 9. On March 11, 2009, the Father sent correspondence to Dr. Garrett stating that he
10 does not consent to treatment or therapy for the minor child.

11 10. Subsequent to the Father's correspondence, Dr. Garrett engaged the minor child
12 in treatment/play therapy for a total of 23 sessions without the Father's consent.

13 11. On April 11, 2011, Dr. Garrett provided testimony to the Court regarding her
14 diagnosis/prognosis of the minor child, which may have affected the outcome of the custody
15 proceeding.

16 12. Dr. Garrett does not have appropriate training in forensic psychology to make a
17 custody recommendation in a Court of law.

18 **CONCLUSIONS OF LAW**

19 13. The conduct and circumstances described above and as set forth in the Findings of
20 Fact constitute unprofessional conduct pursuant to A.R.S. § 32-2061(13)(o) – providing
21 services that are unnecessary or unsafe or otherwise engaging in activities as a psychologist that
22 are unprofessional by current standards of practice by engaging the minor child in treatment
23 even though the Father did not consent.

24 14. The conduct and circumstances described above and as set forth in the Findings of
25 Fact constitute unprofessional conduct pursuant to A.R.S. §32-2061(13)(r) – failing to obtain a
26 client's informed and written consent to release personal or otherwise confidential information
27 to another party unless the release is otherwise authorized by law by Dr. Garrett's failure to
28 obtain Father's consent to provide treatment/play therapy to the minor child.

15. The conduct and circumstances described above and as set forth in the Findings
of Fact constitute unprofessional conduct pursuant to A.R.S. § 32-2061(13)(dd) – Violating an

1 ethical standard adopted by the Board, by violating Boundaries of Competence pursuant to
2 American Psychological Association Ethical Principles of Psychologists and Code of Conduct
3 §2.01 (2003) (hereinafter APA Code) by Dr. Garrett entering into a forensic proceeding by
4 providing testimony to the Court without having appropriate training in forensic psychology;
5 Multiple Relationships pursuant to APA Code §3.05 by Dr. Garrett conducting an evaluation
6 and subsequently providing treatment during a forensic proceeding, and Informed Consent
7 pursuant to APA Code § 3.10 by not obtaining informed consent from the Father to provide
8 treatment/play therapy to minor child.

9 **ORDER FOR PROBATION, PRACTICE MONITOR, CONTINUING EDUCATION**

10 Pursuant to A.R.S. §32-2081(I)(4) the Board has determined that the Licensee's conduct
11 in RFI No. 11-12 warrants disciplinary action. Based upon the foregoing Findings of Fact and
12 Conclusions of Law, IT IS ORDERED THAT:

13 16. **PROBATION:** Licensee's license as a Psychologist is placed on probation for
14 a minimum period of twelve months from the effective date of this Order. The effective date of
15 this Order is 35 days after the date it is mailed to the Licensee.

16 17. **PRACTICE MONITOR:** During the period of probation, Licensee shall
17 obtain a Practice Monitor to assist her in understanding the issues surrounding multiple
18 relationships, informed consent and forensic psychology. Within 15 days of the effective date
19 of this Order the Licensee shall choose a psychologist from the following list to serve as her
20 Practice Monitor. Within five days of choosing a Practice Monitor, Licensee shall notify the
21 Board who will be serving as her Practice Monitor.

- 22 1. David McPhee, Ph.D.
23 5320 N. 16th Street, Suite 207
24 Phoenix, AZ 85016
602-374-5345
- 25 2. John Moran, Ph.D.
26 1730 E. Northern Avenue, Suite 112
Phoenix, AZ 85020
602-795-4449
- 27 3. Brian Yee, Ph.D.
28 7220 N. 16th Street, Building K
Phoenix, AZ 85020
602-943-0447

1 The Licensee shall meet with the Practice Monitor face-to-face at least twice each month for
2 the full twelve months of her probationary period. The Practice Monitor shall submit to the
3 Board quarterly reports of the meetings to include topics covered and any modifications made
4 to the Licensee's practice. [A.R.S. §32-2081]. The Practice Monitor shall provide reports to the
5 Board 30 days after the end of each quarter. The first quarter shall begin on the effective date
6 of this Order. At the conclusion of twelve months, the Practice Monitor is to complete a final
7 written report to the Board summarizing his interaction with Dr. Garrett, topics discussed, areas
8 of progress, matters of remaining concern and overall impressions. The final report shall be
9 submitted to the Board within 30 days of the end of the last quarter of the term of probation.
10 Licensee shall present this Order to the Board approved Practice Monitor prior to the date of
11 the first meeting. The first meeting between Licensee and her Practice Monitor shall occur
12 within 30 days of the effective date of this Order. At the end of twelve months, the Licensee
13 must petition the Board in writing and request that she be released from Probation.

14 18. **CONTINUING EDUCATION REQUIREMENT:** Licensee shall complete
15 24 hours of continuing education in ethics and custody issues. These 24 hours of Continuing
16 Education may not be used toward the 60 hours required for license renewal and shall be
17 completed within 6 months of this Order, unless Licensee requests an extension from the
18 Board. Within two weeks of completion of the additional continuing education, Licensee shall
19 provide the Board with verification of completion of these hours. [R4-26-207(G)].

20 19. **EFFECTIVE DATE:** The effective date of this Order is 35 days after the date
21 that a copy, signed by the Board's Executive Director, or her designee, on behalf of the Board,
22 is mailed to the Licensee.

23 20. **CONSIDERATION IN FUTURE ACTIONS:** Licensee understands that this
24 Order, or any part thereof, may be considered in any future disciplinary action against her.

25 21. **FINAL RESOLUTION:** This Order constitutes a final resolution of this
26 disciplinary matter but does not constitute a dismissal or resolution of other matters currently
27 pending before the Board, if any, and does not constitute any waiver, expressed or implied, of
28 the Board's statutory authority or jurisdiction regarding any other pending or future
investigations, actions or proceedings. Further, this Order does not preclude any other agency,
subdivision or officer of this State from instituting other civil or criminal proceedings with

1 respect to the conduct that is the subject of this Order.

2 22. **TIME:** Time is of the essence with regard to this Order.

3 23. **COSTS:** The Licensee shall be responsible for all costs incurred as a result of
4 her compliance with this Order.

5 24. **NON-COMPLIANCE:** If Licensee fails to comply with the terms of this Order,
6 the Board shall properly institute proceedings for noncompliance with this Order, which may
7 result in suspension, revocation, or other disciplinary and/or remedial actions. Violation of this
8 Order is a violation of A.R.S. § 32-2061(13)(aa), which is “violating a formal board order,
9 Order, term of probation or stipulated agreement.”

10 25. **NON-RENEWAL OR LATE RENEWAL:** If Licensee fails to renew her
11 license while on probation and subsequently applies for late renewal of license or a new
12 license, the remaining terms of probation shall be imposed if the late renewal or reapplication
13 for license is granted.

14 26. **TOLLING:** If Licensee for any reason stops practicing psychology in Arizona
15 for more than 30 consecutive days or leaves Arizona to reside or practice psychology outside of
16 Arizona, the periods of temporary or permanent residency or practice outside of Arizona or the
17 non-practice within Arizona do not reduce the duration of probation under this Order. Licensee
18 shall notify the Board in writing within five days of the dates of departure or the dates on non-
19 practice in Arizona.

20 27. **PUBLIC RECORD:** This Order is a public record that may be publicly
21 disseminated as a formal action of the Board.

22 28. **RIGHT TO PETITION FOR REHEARING OR REVIEW:** Licensee is
23 hereby notified that she has the right to petition for a rehearing or review. Pursuant to A.R.S. §
24 41-1092.09, the petition for rehearing or review must be filed with the Board’s Executive
25 Director within 30 days after service of this Order. Pursuant to A.A.C. R4-25-308, the petition
26 must set forth legally sufficient reasons for granting a rehearing. Service of this Order is
27 effective five days after date of mailing. If a motion for rehearing is not filed, the Board’s
28 Order becomes effective 35 days after it is mailed to the Licensee.

Licensee is further notified that the filing of a motion for rehearing is required
to preserve any rights of appeal to the Superior Court.

1
2
3 Dated this 27th day of September, 2012.

4
5 ARIZONA BOARD OF PSYCHOLOGIST EXAMINERS

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7
8 By: Cindy Olvey, Psy.D.
9 Cindy Olvey, Psy.D.
10 Executive Director

11 ORIGINAL of the foregoing filed this
12 27th day of September 2012, with:

13
14 The Arizona State Board of Psychologist Examiners
15 1400 West Washington, Suite 235
16 Phoenix, Arizona 85007

17 COPY of the foregoing mailed by Certified Mail
18 No.70092250000111488275
19 this 27th day of September 2012, to:

20 Lydia Garrett, Ph.D.
21 Address of Record

22 Copy of the foregoing mailed by interagency mail this
23 27th day of September 2012, to:

24 Jeanne Galvin, Esq.
25 Office of the Attorney General
26 1275 West Washington, CIV/LES
27 Phoenix, Arizona 85007

28 By: Neeraj Desai