

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street, Fifth Floor
Post Office Box 45029
Newark, New Jersey 07101
Attorney for the State Board of Psychological Examiners

FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
ON September 10, 2007

By: Carmen A. Rodriguez
Deputy Attorney General
(973) 648-3696

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF :
: Administrative Action
: :
: :
KEVIN B. DEMPSEY, PSY.D. :
: CONSENT ORDER
: :
: :
TO PRACTICE PSYCHOLOGY MEDICINE :
IN THE STATE OF NEW JERSEY :
: :
:

This matter was opened by the State Board of Psychological Examiners ("Board") following the Board's review of a consumer complaint filed by Carlos Acosta, on or about June 6, 2006, concerning his psychological treatment in 2006. Mr. Acosta alleged that Dr. Dempsey, (Respondent) engaged in professional misconduct, in that he failed to give Mr. Acosta medication as well as made inappropriate remarks of a racial nature to Mr.

Acosta.

In his response to the Board, dated July 3, 2006, Dr. Dempsey maintains that the allegations are untrue and a result of a patient's psychosis. Specifically, Dr. Dempsey acknowledges that he treated Mr. Acosta while working with the Atlantic County Justice Facility, as an employee of the Center for Family Guidance (CFG). According to the respondent, the patient was referred to him because he had assaulted another inmate. Dr. Dempsey's responsibility was then to coordinate his care per the diagnosis and recommendation of the psychiatric staff. Mr. Acosta was diagnosed by psychiatrists as malingering and mentally competent to await trial at the correctional facility.

The respondent testified that Mr. Acosta constantly requested medication and refused counseling services. Then in April of 2006, Mr. Acosta threatened to kill Dr. Dempsey, due to his belief that respondent was the reason he was not being transferred to a psychiatric hospital and was denied medication. Dr. Dempsey at this point, discontinued his interaction with the patient, and asked that he no longer be responsible for the patient's treatment so that he could pursue criminal charges against the patient.

Upon review of the complaint the Board found insufficient cause for action, however, based upon underlying facts regarding the complaint, it came to light that the respondent has engaged

in the practice of psychology for approximately twelve(12) months without a license while in the employment of CFG which is a private entity and does not qualify as an exempt setting for licensure. In these circumstances, Dr. Dempsey was required to have a license pursuant to N.J.S.A. 45:14B-2. Dr. Dempsey testified that he was the Director of Behavioral Health Care at an Atlantic County Justice facility from July 2005 to approximately July 2006. As director he was a provider of mental health programs at the prison including substance abuse treatment and mental health counseling. Accordingly, the Board found that respondent's conduct violated N.J.S.A. 45:14B-2, as he engaged in activities which constitute the practice of psychology at a private facility and therefore requires a license. Respondent may however perform psychological services at an exempt setting as permitted by N.J.S.A. 45:14B-6 despite entry of this order.

Additionally, the Board's records confirmed that the respondent applied and received a three year permit to engage in the practice of psychology from January 22, 2002 through January 22, 2005 under the supervision of a licensed psychologist. It was respondent's testimony that this permit was returned to his supervisor at CFG upon his termination of employment in April of 2004. Thus, the Board has concluded that respondent's conduct, as detailed above, constitutes a violation of N.J.S.A. 45:1-21(h), specifically N.J.A.C. 13:42-3.5, in that he failed to

properly return his permit to the Board.

The conduct detailed above establishes a basis for disciplinary action by the Board against Dr. Dempsey.

It appearing that the respondent desires to resolve this matter without further proceedings; and the respondent acknowledging and not contesting the findings of fact and conclusions of law made by the Board; and the Board having been satisfied that the within resolution adequately protects the public health, safety and welfare; and for good cause shown:

ACCORDINGLY, IT IS ON THIS 10th DAY OF
J. M. K. ~~August~~ ^{September} 2007, ORDERED that:

1. The respondent, Kevin B. Dempsey, Psy.D shall cease and desist from engaging in the practice of psychology unless and until he obtains a license to practice psychology pursuant to N.J.S.A. 45:14B-2.

2. Dr. Dempsey is hereby assessed a civil penalty, pursuant to N.J.S.A. 45:1-22(b), in the amount of \$500.00 for the unlicensed practice of psychology in violation of N.J.S.A. 45:14B-2, and failure to comply with the provisions of any act or regulation administered by the Board in violation of N.J.S.A. 45:14B-2 and N.J.A.C. 13: 42-3.5 as detailed above. Such penalty shall be paid by certified check or money order made

payable to the State Board of Psychological Examiners and shall be forwarded to J. Michael Walker, Executive Director, Board of Psychological Examiners, 124 Halsey Street, Sixth Floor, Post Office Box 45017, Newark, New Jersey 07101, within thirty (30) days of the entry of this Order. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

NEW JERSEY STATE BOARD OF
PSYCHOLOGICAL EXAMINERS

By: Nancy E. Friedman Ph.D.
NANCY E. FRIEDMAN, Ph.D.
Chair

I have read and understand the within Consent Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.

K. B. Dempsey, Psy.D.
KEVIN B. DEMPSEY, Psy.D.

DATED: 8-28-07