

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF PSYCHOLOGICAL EXAMINERS  
OAL DOCKET NO. BDS 08602-17

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IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

L.BARRY HELFMANN, PSY.D.  
LICENSE NO: 35SI00124500

FINAL DECISION  
AND ORDER<sup>1</sup>

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TO PRACTICE PSYCHOLOGY IN THE  
STATE OF NEW JERSEY

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FILED WITH THE BOARD OF  
PSYCHOLOGICAL EXAMINERS

ON 15 August 2018

*Michael J. Palazzo*

Overview

This matter was returned to the Board of Psychological Examiners (the "Board") on May 17, 2018, following the issuance of

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<sup>1</sup> This Order details the Board's determinations, made on June 25, 2018 (following consideration of written and oral exceptions to the A.L.J.'s Initial decision, and following a supplemental penalty phase hearing) to adopt the A.L.J.'s proposed findings of fact and conclusions of law, but to modify her recommendations as to penalty and to impose, *inter alia*, a two year suspension of license, one year of which is to be served as an active period of suspension and one year of which shall be a period of probation.

The Board specifically reserved decision on June 25, 2018 on the issue of costs and attorneys' fees to be assessed against Respondent, instead allowing the parties to supplement the record both to correct mathematical errors in the initial submissions made, and to afford the parties an opportunity to present arguments upon the reasonability of the amended application for attorneys' fees. Additionally, subsequent to the June 25, 2018 hearing, Respondent requested that the Board stay its Order pending an appeal.

The Board entertained oral argument on both the cost application and upon Respondent's request for a stay at a meeting held on August 6, 2018. The Board then voted to impose all expert fee costs, transcript costs and enforcement bureau costs, along with 60% of all attorneys' fees, for an aggregate total cost assessment of \$110,542.05 and to deny Respondent's request for a stay pending appeal. Given that decision-making on those two applications was substantially delayed, in part because Respondent failed to seek a stay on June 25, 2018, those two determinations are not addressed herein so that the Board can instead comply with the August 15, 2018 deadline to finalize a written Order memorializing the Board's determination whether to adopt, reject or modify the Initial Decision. The Board will, however, enter a supplemental Order that addresses both the decision on costs and the decision to deny Respondent's motion for a stay.

an Initial Decision by A.L.J. Carol Cohen. In that decision, A.L.J. Cohen concluded that Respondent L. Barry Helfmann, Psy.D., breached professional standards for maintaining patient confidentiality when he turned over "true bills" - which included explicit information about individual patients' psychological diagnoses and types of treatment - to collection attorneys for his practice group. A.L.J. Cohen also found that Respondent failed to document eighteen treatment sessions in patient P.D.S.' record, and, based thereon, concluded that he intentionally failed to prepare and maintain required treatment records. Finally, A.L.J. Cohen dismissed charges that Dr. Helfmann had failed to timely release treatment records in response to a patient's request, had failed to adequately supervise and instruct temporary office staff regarding the need for confidentiality and preservation of records, and that he had failed to prepare other patient records in accordance with professional standards.

Although A.L.J. Cohen specifically recognized that the two most serious charges against Respondent had been sustained (see ID, p. 59), she found that Respondent had not intended to harm any patient. Based thereon, she recommended that the Board not impose any disciplinary sanctions (i.e., a suspension or revocation of license) against Respondent. Rather, A.L.J. Cohen recommended that penalties be limited to a \$10,000 aggregate fine, and that Respondent be assessed two-fifths of the amount of attorneys' fees

and enforcement fees incurred in the prosecution of this matter, along with all expert witness costs and transcript costs.<sup>2</sup>

We have carefully reviewed A.L.J. Cohen's Initial Decision, and found good cause to fully adopt all of the findings of fact and conclusions of law set out in her 60 page opinion. It is clear that A.L.J. Cohen carefully analyzed and considered the extensive trial record below, and then proceeded to detail 91 separate findings of fact (66 of which were stipulated by the parties) which ultimately were the predicate for her legal conclusions.

We part company with A.L.J. Cohen, however, in her recommendations regarding penalty, as we consider the violations that Dr. Helfmann was found to have committed in this case to be serious violations of professional ethics and of the law governing the practice of psychology in New Jersey which amply support, if not dictate, a suspension of licensure. Specifically, we find that Dr. Helfmann's practice of providing his collection attorneys with

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<sup>2</sup> A.L.J. Cohen recommended that Dr. Helfmann be assessed enforcement bureau costs and attorneys' fees in an aggregate amount of \$6,675.22, based on her understanding that the total amount of those costs and attorneys' fees was \$16,688.05. In actuality, the total amount of attorneys' fees sought was in excess of \$100,000, and that error should have been apparent to all of the parties below. Given the magnitude of the miscalculation of attorneys' fees at the OAL hearing, we initially declined to make any ruling on the question of the quantum of costs to be assessed against Dr. Helfmann, instead reserving that issue for briefing and then for oral arguments of counsel heard on August 6, 2018. We then decided that all of the attorneys' fees sought in this matter were reasonable under a lodestar analysis, but that the aggregate amount of fees awarded should be limited to 60% based on the fact that the Attorney General did not prevail on all charges made. All determinations made at the August 6, 2018 Board meeting will be addressed within a supplemental Order, see footnote 1.

"true bills," containing the DSM (diagnosis) and CPT (treatment modalities) codes for individual patients in his group practice (including many cases involving the treatment of children, see ID, findings of fact #63, 64, 66) constituted a fundamental breach of the responsibilities incumbent on him as a licensed psychologist to preserve the sanctity of the psychologist-patient relationship and to preserve the confidentiality integral to that relationship. Dr. Helfmann eschewed his core ethical responsibilities when he provided his collection attorneys with sensitive patient information, without engaging in any "due diligence" to ensure that such information was not released to the public, and without engaging in any real effort to determine whether the information was even "necessary" to provide to the attorneys. Most significantly, the responsibility to maintain the information concerning diagnoses and treatment was Dr. Helfmann's alone as a licensed psychologist; Dr. Helfmann's breach of his ethical obligations thus occurred when the "true bills" were provided to the attorneys, not when the attorneys publicly disseminated that information by attaching copies of the "true bills" to Complaints filed in the Superior Court in collection actions.

Dr. Helfmann shattered the trust of his patients by providing their most sensitive information to third parties. Even accepting A.L.J. Cohen's conclusion that Dr. Helfmann did not intend to harm any patient through his conduct, we find that Dr. Helfmann's

failure to preserve patient confidentiality strikes at the very core of his ethical obligations as a psychologist, and his actions bespeak a fundamental abrogation of his core responsibilities as a licensee.<sup>3</sup> We unanimously conclude that a period of licensure suspension is fully supported in this case and, after balancing all evidence to include the mitigation evidence that was presented on Dr. Helfmann's behalf, conclude that Dr. Helfmann's license is to be suspended for a period of two years. The first year of suspension is to be served actively; thereafter, the second year will be stayed and served as a period of probation, subject to a supervision requirement to assure that Dr. Helfmann complies with confidentiality requirements and record keeping standards.

We set forth below a summary of the procedural history of this matter, along with a more detailed explanation of the basis for our determination to amend A.L.J. Cohen's penalty recommendations.

#### *Procedural History*

On or about April 7, 2017, the Attorney General filed a five count administrative complaint against Dr. Helfmann, seeking the suspension or revocation of Dr. Helfmann's license. Briefly summarized, Count 1 of the Complaint alleged that the Respondent, as a licensed practicing psychologist and managing partner of Short

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<sup>3</sup> Dr. Helfmann's failure to have recorded any notes in his patient record for 18 sessions with patient P.D.S. provides an independent basis for disciplinary sanction. While that violation arguably is not as egregious as his failure to preserve confidential information, it further supports our conclusion that the findings made below are appropriately redressed by the imposition of an active suspension of Dr. Helfmann's license.

Hills Associates in Clinical Psychology, a four-psychologist owned group practice, failed to take reasonable measures to protect confidentiality of clients' protected health information (mainly diagnostic codes and treatment codes) by providing copies of the client's "true bills" to his attorney in debt collection matters, in violation of the confidentiality law at N.J.S.A. 45:14B-28, N.J.S.A. 45:1-21(h), and Board rule N.J.A.C. 13:42-8.1.<sup>4</sup> Count 2 alleged that the Respondent failed to prepare and properly maintain a permanent client record accurately reflecting the client contact for treatment purposes by failing to document various sessions for patient P.D.S. in violation of N.J.S.A. 45:1-21(h) and N.J.A.C. 13:42-8.1 and 13:42-8.3. The Respondent billed for 65 treatment sessions but prepared treatment notes documenting 46 sessions, thus leaving 19 sessions undocumented (one of the nineteen sessions was determined to be a "no-show" visit).

Count 3 alleged that Respondent failed to maintain a client record of professional quality, as notes were scant and negligently prepared in violation of N.J.S.A. 45:1-21(h) and Board rule N.J.A.C. 13:42-8.1. Count 4 alleged that the Respondent failed to timely release treatment records on the client's request within the requirement of Board rule N.J.A.C. 13:42-8.1 and in violation of N.J.S.A. 45:1-21(h). Finally, Count 5 alleged that

<sup>4</sup> As found by A.L.J. Cohen and adopted herein, a "true bill" includes the name of the individual responsible for payment of the bill, dates of services, fees charged, name of the patient, the mental-health diagnosis, and the procedure. See Finding of Fact, ¶75, ID p. 37).

Respondent's negligent failure to ensure instruction and supervision of temporary office staff regarding confidentiality and preservation of records resulted in the absence of thirteen notes out of eighteen treatment sessions for client S.B. (based on his staff's failure to scan and copy the reverse side of Respondent's handwritten notes), in violation of N.J.S.A.45:1-21(h) and Board rule N.J.A.C. 13:42-7.7. The records were not reviewed and the omissions were not recognized before all of the original client's records were eventually destroyed.

Dr. Helfmann, through his counsel Scott Piekarsky, Esq., filed an Answer and Affirmative Defenses on April 28, 2016, denying the charges against him. The Board deemed the matter contested, and transferred the case to the Office of Administrative Law for adjudication. On September 6, 2017, Respondent filed a Motion seeking disqualification of Joan D. Gelber, Senior Deputy Attorney General, from representing the State in this matter. A.L.J. Cohen denied that motion, and the matter was thereafter tried at the OAL on November 3, 6, 16, and 20, 2017. Post hearing submissions were filed on February 20, 2018, and the record was closed on April 18, 2018.

Judge Cohen issued an Initial Decision on May 17, 2018, sustaining the allegations against Dr. Helfmann within Counts 1 and 2 of the Complaint, and dismissing the charges within Counts 3, 4 and 5. Judge Cohen meticulously reviewed the testimony offered at

the trial, and ultimately made 91 specific findings of fact, 66 of which were jointly stipulated to by the parties (see ID, 24-40). While Judge Cohen found the two Counts that had been sustained to be the most serious of the charges against Dr. Helfmann, she recommended that the Board not impose any specific disciplinary sanction. ALJ Cohen further recommended that Respondent be assessed all expert fee and transcript costs, but that he be assessed only two-fifths of all enforcement bureau costs and attorneys' fees because charges were sustained in only two of the five counts of the complaint. ALJ Cohen thus did not make any effort to factor the relative seriousness of the charges in each Count into her recommendations regarding the percentage of costs that should be assessed. Finally, ALJ Cohen recommended that Respondent be responsible to pay a civil penalty of \$10,000.

The Board secured an extension of time until August 15, 2018, to issue a final decision adopting, rejecting or modifying A.L.J. Cohen's initial decision. The Attorney General filed exceptions on May 29, 2018. Mr. Piekarsky was granted an extension of time to file exceptions, which were received on June 6, 2018. On that date, Dr. Helfmann also submitted his own written exceptions. The Attorney General submitted a reply on June 14, 2018.



The Board heard oral arguments on the exceptions on June 25, 2018.<sup>5</sup> Mr. Piekarsky argued generally that the Board should reject the ALJ's finding that Respondent violated standards of patient confidentiality when he provided "true bills" to his collection attorneys. Specifically, he maintained that in the absence of a statute or rule specifically prohibiting a psychologist from providing his attorney with a patient invoice to collect a debt, it was not improper for a licensee to do so. He further argued that the information on the bills should not be considered "personal identifiers" under the New Jersey Rules of Court, because they were not enumerated in R. 1:38-7(a). Moreover, he asserted that Dr. Helfmann relied upon the expertise of his collections attorney who had represented his group practice for over 25 years, that it was the attorney's responsibility to know what should be appropriately included in a collections complaint, and that it was not incumbent on Dr. Helfmann to advise the attorney that the "true bills" should be treated as confidential information. In sum, Mr. Piekarsky maintained that there should be no finding of a breach of confidentiality where a psychologist relies on private counsel to prosecute collections actions.

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<sup>5</sup> Dr. Helfmann also addressed the Board during the argument on exceptions. He contended that SDAG Gelber's exceptions misrepresented the nature of inquiries that the Respondent brought previously before the Board on behalf of members of the New Jersey Psychological Association. Respondent contended that his prior interaction with the Board concerned the definition of "minimally necessary" as it pertained to an insurer's violation of the Peer Review Law and HIPAA and not debt collection.

S.D.A.G. Gelber urged the Board to adopt the ALJ's findings of fact and conclusions of law. She maintained that the facts amply demonstrated that Respondent released confidential health information to his collection attorney, and that the conduct provided a basis for discipline. She argued that Dr. Helfmann knew that his actions violated his patient's rights to confidentiality, as he informed his clients in writing that they had a right to confidentiality (with limited exceptions such as when release would be necessary to prevent imminent risk of harm) and admitted, during the OAL proceedings, that a patient's psychological diagnosis was sensitive and confidential information. S.D.A.G. Gelber asserted that Dr. Helfmann failed for many years to protect confidential patient information by sending "true bills" to his collection attorney, without so much as a discussion of the confidentiality of the information contained therein. S.D.A.G. Gelber thus urged the Board to adopt the ALJ's conclusion "that the Respondent failed to use due diligence in being sure that confidential information was not released and his patients were protected." (ID p. 56)

Addressing Respondent's assertions that no sanction was warranted in this case because he did not intend to violate any law, S.D.A.G. Gelber argued that the State was not required to prove intent. Further, addressing assertions that no patient was harmed, S.D.A.G. Gelber stressed that the potential for harm is the relevant standard under established principles of administrative

law. She further noted that the ALJ specifically found that P.D.S. was in fact upset by the public release of his confidential information. S.D.A.G. Gelber also recounted that Respondent himself acknowledged that release and disclosure of a psychological diagnosis would be embarrassing to anyone.

The State further urged that the Board adopt the finding the Respondent's failure to document services for eighteen billed treatment sessions for patient P.D.S. violated Board regulations. The Respondent's records reflected P.D.S. was billed for 65 sessions, but the client's chart had no notes for at least 18 of the billed sessions. Thus, the ALJ correctly found that Respondent's failure to make progress notes for multiple treatment sessions violated Board regulations.

The Attorney General submitted that the factual findings in the Initial Decision were supported by a preponderance of the credible evidence as to Counts 1 and 2 of the Administrative Complaint. She suggested that the facts should be found sufficient to support the imposition of a significant disciplinary sanction, with the sanction serving as a punishment for the wrongful conduct, a deterrent to future violations, and a clear signal to the regulated community that breaching confidentiality is a serious infraction.

Upon consideration of arguments of counsel, comments of Dr. Helfmann regarding exceptions, the underlying record, including

transcripts, civil action complaints with attached true bills, the client chart of P.D.S. and other exhibits, we conclude that good cause exists to adopt the entirety of the findings of fact and the conclusions of law set forth in the Initial Decision. We find that ALJ Cohen went to great lengths to exhaustively review and detail testimony and evidence presented, and we find an adequate predicate exists to fully adopt the proposed findings of fact along with the conclusions of law. Accordingly, we adopt ALJ Cohen's conclusions that respondent did not take reasonable measures to protect the confidentiality of his patients' protected health information and that he intentionally failed to prepare and maintain a permanent client record which accurately reflected all of P.D.S.'s treatment, in turn forming a basis to sustain all of the charges within Counts 1 and 2 of the Administrative Complaint. Likewise, we too conclude that the Attorney General failed to meet the burden of proof to establish the charges against Dr. Helfmann in Counts 3, 4 and 5 of the Administrative Complaint, and we adopt her recommendation that those Counts be dismissed.

After voting to adopt the findings of fact and conclusions of law of A.L.J. Cohen, the Board proceeded to conduct a hearing on penalty, during which hearing Dr. Helfmann was afforded the opportunity to present evidence in mitigation of penalty. During that hearing, five character witnesses testified. Three of those character witnesses were New Jersey licensed psychologists, who

knew the Respondent as partners in his current practice or through his affiliation with the New Jersey Psychological Association ("NJPA"). The Respondent's office manager and a former Executive Director of the NJPA also testified. The witnesses testified generally that they have known Dr. Helfmann on a personal and professional level for over 30 years. Two of the witnesses, Dr. Kearse and Dr. Savrin are psychologists and partners with Dr. Helfmann. Dr. Lum testified that he and Dr. Helfmann worked together and were instrumental in developing the Peer Review Law in New Jersey which deals with the information that psychologist are permitted to present to insurance carriers. All three psychologists agreed that Dr. Helfmann is a competent psychologist in running a practice and very astute in a clinical setting. They all commented on his ethics and passion for psychology and his commitment to his work and to his patients. Jane Selzer, a former Executive Director of the NJPA, testified as to Dr. Helfmann's dedication and volunteerism with the Association. She confirmed that Dr. Helfmann served as Director of Professional Affairs for 12 years answering practice questions on privacy, insurance and various other topics until he stepped down from his position. She admired his integrity and his ethics. Audrey Muratone, the billing manager at Dr. Helfmann's practice, testified that she has known and worked for Dr. Helfmann and the practice for 24 years. She attested to Dr. Helfmann's integrity and the guidance that he provided to her about

issues of confidentiality and privacy regarding billing matters over her years of employment.

Dr. Helfmann then offered mitigation testimony on his own behalf. Dr. Helfmann stated he has been a practicing psychologist for 40 years, that he has been extensively involved with the New Jersey Psychological Association, and that he served as the NJPA's Director of Professional Affairs for 12 years. Dr. Helfmann has been the managing partner for Short Hills Associates, a psychology practice, for 35 years. He testified that he was instrumental in working with the State Legislature in the development and drafting of the Peer Review Law, and as such he was very familiar with privacy issues.

Addressing the findings made in this case, Dr. Helfmann asserted " ... I put myself on the line for privacy and I have no apologies including this case." Respondent suggested that he has suffered serious professional repercussions merely from the filing of this action and the attendant newspaper and internet articles which have been written concerning this case. Finally, Dr. Helfmann testified that he has decided and has counseled his partners not to send any clients who are delinquent in their payments for collection actions.

In closing, Respondent's attorney argued that multiple articles in newspapers and on the internet resulted in substantial business losses to Respondent and his practice as well as to Dr.

Helfmann's name and reputation. Mr. Piekarsky asked the Board to consider the submission dated June 20, 2018 which included correspondence from Alan Nessman, Esq. of the APA, the Expert Report from William Lum, Psy D., several emails from SDAG Gelber and some 17 character reference letters from various psychologists. Mr. Piekarsky requested that the Board consider that costs were driven by the aggressive prosecution in this matter. He agreed with the ALJ's resolution to reduce costs based on the prosecution's success on two of the five counts in the Complaint.

The Attorney General did not present any witnesses during the mitigation phase. SDAG Gelber urged the Board to modify the ALJ's recommendation that only two-fifths of the costs be awarded, arguing that the Board should recognize the seriousness of issues raised in Counts I and II of the complaint, and that the State had been successful on those two counts. In addressing costs, she noted the report of State's expert witness was substantially related to the conduct underlying Counts 1 and 2. Therefore, she argued, it was appropriate to recover the expert, transcript, and investigative costs.

As to legal fees, SDAG Gelber provided the Director of the Division of Law's memorandum on the hourly rate to be used in actions to recover attorney fees. She advanced that myriad number of hours were spent responding to multiple motions filed by the Respondent which were successfully defended by the Attorney

General. SDAG Gelber noted that time sheets were submitted to the ALJ and Board outlining the amount of time and identifying the specific tasks performed along with a breakdown of the amount of costs and fees.

At its June 25, 2018 hearing, the Board noted that it would schedule a hearing on the cost and fees application. That hearing was held on August 6, 2018.

#### Discussion on Sanctions

Following our consideration of the record in this matter, we unanimously conclude that good cause exists to modify A.L.J. Cohen's recommendation that no disciplinary sanction (beyond a civil monetary penalty and cost assessment) should be assessed against Respondent. Simply put, we find the violations which Dr. Helfmann committed in this case are violations which necessarily compromised the privacy and confidentiality interests of each and every patient whose "true bill" was provided to his collection attorneys. We conclude that A.L.J. Cohen erred when she suggested that the absence of any intention by Dr. Helfmann to "directly flaunt the rules or harm the public" militated against a disciplinary sanction. The preservation of a patient's confidentiality interests is a core, non-delegable responsibility of each and every licensee. A licensee must recognize that confidential information disclosed by a patient during a treatment



session is to remain strictly confidential, absent risk of imminent harm to the patient or others, possible child abuse or Court Order. See N.J.A.C. 13:42-8.5.

Information developed during treatment sessions, to include a specific patient's diagnosis and/or the methods by which a patient is treated, is likewise among the most sensitive of information entrusted to a licensed psychologist. Disclosure of that information is tantamount to disclosing information revealed in a treatment session, and thus DSM and CPT codes should be strictly guarded and held confidentially by all licensees. Dr. Helfmann's failure, as the managing partner of his group, to have taken adequate measures to prevent the unnecessary disclosure of sensitive and confidential information violated his fundamental ethical obligations to his patients specifically and to the profession as a whole. Whether his actions were or were not intentional is simply not a relevant factor in assessing discipline.

We likewise find Dr. Helfmann's argument that he should be exonerated from responsibility because the patient information was provided to an attorney, or because he didn't intend to harm any patient, to be hollow. As a licensed psychologist, Dr. Helfmann has a legal, ethical and moral duty to protect the confidentiality of his client's mental health information. He violated his professional obligations, and the requirements of both

Board regulations and of the Uniform Enforcement Act, when he repeatedly disclosed that information, and his violation of professional norms was flagrant and egregious.<sup>6</sup>

In conclusion, the findings made in this case fully support - if not dictate - imposition of a period of license suspension. The misconduct that was found to have occurred in this case - both as to the repeated breaches of confidentiality and Dr. Helfmann's intentional failure to prepare and maintain a patient record accurately reflecting contact for treatment purposes -- are serious breaches, with the breach of confidentiality being clearly among the most egregious infractions a licensed psychologist can commit. Respondent as a licensed psychologist has a legal duty to protect client confidentiality. The duty cannot be waived or transferred merely because a psychologist retains an attorney to resolve

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<sup>6</sup> ALJ Cohen found, and we concur, that Dr. Helfmann failed to use "due diligence in being sure that confidential information was not released and his patients were protected." She then proceeded to point out a litany of steps that Dr. Helfmann could have taken, but did not, to seek to preserve the confidentiality of information on the "true bills," to include seeking to explain to his attorney that the information must be considered to be confidential and that he was duty bound to protect that confidentiality; having discussions with the collection attorney as to the confidential nature of the information on the true bill; or asking to receive copies of any complaints filed in collection matters against his former patients. (ID, p.56)

Our conclusions on penalty might well have been in line with ALJ Cohen's had Dr. Helfmann in fact taken any of the suggested actions to preserve the confidentiality of the information he disclosed to his attorneys. His failure to take those actions, however, militates against adopting the ALJ's recommendations that he should not receive any disciplinary sanction.

collection matters. Confidentiality is the cornerstone for building trust between a client and his psychologist, and Dr. Helfmann's failure to have maintained that confidentiality constituted a fundamental abrogation of his professional responsibilities.

Additionally, Dr. Helfmann's failure to maintain and prepare accurate client records is not a mere technical violation. Professional records need to accurately capture the essence of the psychotherapeutic relationship as well as document the diagnosis and the progress that the client is making throughout the therapeutic process. Dr. Helfmann's failure to maintain records, while perhaps not as flagrant as his failure to ensure that his patient's confidential information remained confidential, only buttresses our conclusion that the imposition of a period of suspension is necessary to redress Dr. Helfmann's misconduct and, ultimately, to discharge our paramount obligation to protect the public health, safety and welfare.

WHEREFORE IT IS on this 15<sup>th</sup> day of August, 2018,

As orally set forth on the record on June 25, 2018,

ORDERED:

1. Respondent's license to practice psychology in the State of New Jersey shall be suspended for a period of two years, the first year of which shall be served as a period of active suspension, and the second year of which shall be stayed to be served as a period of "probation," provided that Respondent

complies with all requirements of this Order. The active suspension of Respondent's license shall commence on September 24, 2018, ninety days from the date that the Boards' decision was announced on the record. During the period of active suspension, respondent shall derive no financial remuneration directly or indirectly from the practice of psychology. The attached "Directives Regarding Future Activities of a Board Licensee Who Has Been Suspended/Revoked" are fully incorporated into this Order.

2. During the period of active suspension, Respondent shall be required to take and successfully complete an ethics course acceptable to the Board. Respondent may satisfy the ethics course requirement by completing the "ProBe Ethics Course," or a substantially equivalent course that shall be pre-approved by the Board. Written documentation is to be submitted from the course sponsor to the Board confirming Respondent's full attendance and his successful completion of the course. Successful completion of an ethics course is an explicit precondition to any reinstatement of Respondent's license to practice psychology, whether during the period of stayed suspension or thereafter.


3. Upon completion of the one year of active suspension, respondent shall be granted leave to petition the Board to resume practice during the period of probation. Respondent shall then be required to appear before a Committee of the Board and demonstrate that he has fully complied with the terms and

conditions of this Order, to include the successful completion of a Board approved ethics course. Respondent shall also submit, prior to such appearance, the name and current curriculum vitae of a proposed supervisor, who shall be a New Jersey licensed psychologist in good standing, with no financial connection to Respondent. Upon reinstatement, Respondent shall be required to practice, for the full one year period of "probation," under supervision as directed by the Board. The supervisor shall report in writing to the Board on a quarterly basis regarding the respondent's progress. The supervisor's report shall provide an evaluation of the respondent's professional practice and patient treatment. The supervisor shall focus his supervision on issues related to respondent's maintenance and preparation of client records and issues of confidentiality. The supervisor shall agree to immediately notify the Board of any actions by Respondent which fail to meet acceptable standards of professional practice.

4. Respondent is assessed a civil penalty in the amount of \$10,000. Payment shall be made by certified check, bank check or money order, payable to the State of New Jersey and forwarded to the attention of Susan Rischawy, Acting Executive Director, Board of Psychological Examiners, P.O. Box 45017, Newark, New Jersey, 07101. Respondent shall additionally be required to pay all assessed costs, the precise amount of which shall be fixed in a supplemental Order. Respondent shall pay the aggregate penalties

and costs assessed herein in full no later than thirty days from the date this Order becomes effective (September 24, 2018).

New Jersey State Board  
of Psychological Examiners

By:   
Alan Groveman, Ph.D.  
Board Chair

**BOARD OF PSYCHOLOGICAL EXAMINERS: DIRECTIVE REGARDING  
FUTURE ACTIVITIES OF BOARD LICENSEE WHOSE LICENSE  
HAS BEEN SUSPENDED/REVOKED OR SURRENDERED, AND  
REGARDING USE OF THE PROFESSIONAL PREMISES**

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

**1. Document Return and Agency Notification.**

The disciplined practitioner shall promptly deliver to the Board office at 124 Halsey Street, 6th floor, Newark, NJ 07102 the original license and current biennial registration. (With respect to suspensions of a finite term, at the conclusion of the term the practitioner may contact the Board office for the return of the documents previously surrendered to the Board.)

**2. Practice Cessation.**

The disciplined practitioner shall cease and desist from engaging in the practice of psychology in this State. This prohibition bars a practitioner not only from rendering professional services, but also from providing an opinion as to professional practice or its application, or from representing him/herself as being eligible to practice as a psychologist or in any way assuming to be a practicing professional such as a counselor, psychotherapist, psychoanalyst, therapist or other mental health care worker. (Although the disciplined practitioner need not affirmatively advise patients or others of the revocation, suspension or surrender, the practitioner must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined practitioner may contract for, accept payment from another licensee for, or rent at fair market value, office premises and/or equipment. In no case may the disciplined practitioner authorize, allow or condone the use of his/her provider number by the practice or by any other licensee or health care provider. (In situations where the practitioner has been suspended for less than one year, the practitioner may accept payment from another professional who is using his/her office during the period that the practitioner is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A practitioner whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The practitioner must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the practitioner's name is utilized in a group practice, it shall be deleted.

**3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations.**

A disciplined practitioner shall not charge, receive or share in any fee for professional services rendered by him/her or others while barred from engaging in the professional practice. The

practitioner may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A disciplined practitioner who is a shareholder in a professional service corporation or limited liability corporation or partnership organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act (N.J.S.A. 14A:17-11) or as an eligible shareholder in a limited liability entity. A disqualified practitioner shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c) and from financial interest in the limited liability entity. Such divestiture shall occur within ninety (90) days following the disqualification to own shares in the corporation. Upon divestiture, the disciplined practitioner shall forward to the Board a copy of the documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the disciplined practitioner is the sole shareholder in a professional service corporation or limited liability entity, the corporation must be dissolved within ninety (90) days of the practitioner's disqualification.

#### 4. Patient Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the disciplined practitioner shall ensure that, during the three (3) month period following the effective date of the disciplinary Order, a message shall be delivered to persons telephoning the former office premises advising where records may be obtained. The message should inform patients of the names and telephone numbers of the disciplined practitioner (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the professional practice was conducted. At the end of the three month period, the disciplined practitioner shall file with the Board the name and telephone number of the contact person who will have access to records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her treatment record or asks that the record be forwarded to another licensed health care provider, the disciplined practitioner shall promptly provide the record without charge to the patient.



**NOTICE OF REPORTING PRACTICES OF BOARD**  
**REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Psychological Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record thereof, including the transcript and documents marked in evidence (if not sealed or otherwise subject to a protective order), are available for public inspection upon request.

Pursuant to Public Law 101-191, the Health Insurance Portability and Accountability Act, the Board is obligated to report to the Healthcare Integrity and Protection Data Bank any adverse action relating to a psychologist:

- (1) Which revokes or suspends (or otherwise restricts) a license; or
- (2) Which censures, reprimands or places on probation, or restricts the right to apply or renew a license; or
- (3) Under which a license is surrendered.

In accordance with an agreement with the Association of State and Provincial Psychology Boards, a report of all disciplinary orders is provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order may appear on the public agenda for the monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.