

BEFORE THE INDIANA STATE
PSYCHOLOGY BOARD
CAUSE NUMBER: 2003 ISPB 0003

STATE OF INDIANA,)
)
Petitioner,)
)
v.)
)
JEROME AUGUST CERNY, Ph.D.,)
License No.: 20010310A,)
)
Respondent.)

FILED

JUL 08 2003

HEALTH PROFESSIONS
BUREAU

COMPLAINT

The State of Indiana, by counsel, Deputy Attorney General, Albert Barclay Wong, and Sara R. Matticks, Deputy Attorney General on behalf of the Office of the Attorney General ("Petitioner"), and pursuant to Indiana Code § 25-1-7-7 et seq., Ind. Code § 25-1-5-3, Ind. Code § 25-33-1-3 et. seq., the Administrative Orders and Procedures Act, and Ind. Code § 4-21.5-3 et seq. files its Complaint against the Psychologist license of Jerome A. Cerny, Ph.D., ("Respondent"), and in support alleges and states:

COUNT I

1. The Respondent's address on file with the Board is 9776 Old Orchard Court, Terre Haute, Indiana 47805, and he is a duly licensed Psychologist in the State of Indiana having been issued license number 20010310A.
2. The Respondent has been a Professor at Indiana State University ("ISU") since 1976 and was so employed at all time relevant herein.
3. The Respondent clinically supervised and taught S.H., a doctoral student at ISU from 1994 through 1999.

4. In September of 1994, the Respondent entered the office of S.H. without knocking and began massaging his shoulders with both hands.

5. In the fall of 1995, the Respondent pinched the buttocks of S.H., while S.H. was in the psychology department mailroom.

6. During the same semester the Respondent again pinched S.H., on the buttocks while he stood in the doorway of his office.

7. The Respondent also touched and tickled S.H.'s stomach and placed his arm around S.H. as they walked during S.H.'s time as a graduate student.

8. The Respondent also made several inappropriate comments to S.H., during S.H.'s academic career including requesting S.H. to describe his first masturbation experience and inquiring about S.H.'s "wet dreams."

9. During the spring of 1996, when asked by S.H. about what could S.H. use as a potential positive reinforcer for a student S.H. was implementing a contingency management program in order to complete an assignment in one of the Respondent's classes, Respondent replied, "You'll have to find that out from her. Maybe she'll say that giving you a blow job would be reinforcing."

10. While the Respondent was the clinical supervisor of S.H. in the summer of 1996, he inquired if S.H. was circumcised.

11. While the Respondent was the clinical supervisor of S.H. in the fall of 1996, when asked by S.H. about group supervision; Respondent replied, "We'll be having a circle jerk."

12. While the Respondent was the clinical supervisor of S.H. in the summer of 1996, he inquired as to how far up and how far down the hair on S.H.'s leg extended.

13. In June of 1996, the Respondent also requested that S.H. serve as one of the research participants in Respondent's ejaculatory latency research project and gave S.H. a tour of the research lab.

14. The above conduct constitutes a violation of Ind. Code § 25-1-9-4a(5) in that the Respondent has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public.

15. The above conduct also constitutes a violation of Ind. Code § 25-1-9-4a(3) in that the Respondent has knowingly violated a state statute or rule, or federal statute or regulation, regulating the profession in question, to wit: 868 IAC 1.1-11-2(h) in that a psychologist shall not unjustly exploit persons over whom the psychologist has supervisory, evaluative, or other authority such as students or supervisees and 868 IAC 1.1-11-4.1(j) in that a psychologist shall not engage in lewd or immoral conduct.

16. The above conduct also constitutes a violation of Ind. Code § 25-1-9-4a(4)(B) in that the Respondent has continued to practice although the practitioner has become unfit to practice due to failure to keep abreast of current professional theory or practice.

17. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which could include censure, a letter of reprimand, a fine up to the amount of \$1000.00, probation, suspension, or a revocation of license as detailed at Ind. Code § 25-1-9-9 and 25-33-1-3.

COUNT II

18. Averments 1 through 17 are repeated and incorporated by reference herein.

19. The Respondent conducted experiments on M.M., an undergraduate student at ISU from 1992 through 1997, in the fall of 1996, for Respondent's ejaculatory latency research.

20. Respondent both verbally and in a written consent form informed M.M. that his genitals would only be viewed once during the experimental procedure.

21. During the procedure the Respondent both viewed and touched M.M.'s penis at least eight times during a two-day period without notice and for vague and ambiguous reasons.

22. During the procedure the Respondent also made several inappropriate comments to M.M. regarding ejaculate.

23. Two days after the procedures occurred the Respondent tickled the sides of M.M.'s abdominal area, while M.M. was at a water fountain in the Psychology Department.

24. The above conduct constitutes a violation of Ind. Code § 25-1-9-4a(5) in that the Respondent has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public.

25. The above conduct also constitutes a violation of Ind. Code § 25-1-9-4a(3) in that the Respondent has knowingly violated a state statute or rule, or federal statute or regulation, regulating the profession in question, to wit: 868 IAC 1.1-11-2(h) in that a psychologist shall not unjustly exploit persons over whom the psychologist has supervisory, evaluative, or other authority such as students or research participants; 868 IAC 1.1-11-4.1(j) in that a psychologist shall not engage in lewd or immoral conduct and 868 IAC 1.1-11-4.1(l) in that a psychologist shall exercise reasonable care and diligence

in the conduct of research and shall utilize generally accepted scientific principles and current professional theory and practice.

26. The above conduct also constitutes a violation of Ind. Code § 25-1-9-4a(4)(B) in that the Respondent has continued to practice although the practitioner has become unfit to practice due to failure to keep abreast of current professional theory or practice.

27. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which could include censure, a letter of reprimand, a fine up to the amount of \$1000.00, probation, suspension, or a revocation of license as detailed at Ind. Code § 25-1-9-9 and 25-33-1-3.

COUNT III

28. Averments 1 through 27 are repeated and incorporated by reference herein.

29. The Respondent clinically supervised J.M., a doctoral student at ISU from August 1995 through December 1996.

30. While J.M. was treating a client for pedophilia, the Respondent frequently attempted to have J.M. discuss his personal masturbation habits and sexual behaviors, which J.M. was very reluctant to do. Respondent frequently expressed frustration over J.M.'s reluctance to divulge this information and commented that J.M.'s reluctance to self-disclose was getting in the way of J.M.'s "professional growth" and "clinical effectiveness."

31. The Respondent told J.M. stories about Respondent's own sexual history during clinical supervision sessions, which were completely irrelevant to the therapy of J.M.'s client and J.M.'s professional development.

32. The Respondent suggested that J.M. have his client perform masturbation therapy at the clinic at ISU and insisted that J.M. remain in the room with his client while the masturbation occurred. Respondent commented that, "you never know, he may get off on having you watch."

33. Respondent also told J.M. with regards to his client that, "you guys can have a circle jerk" and "maybe you need to model for him."

34. J.M. expressed concerns to the Respondent about having his client masturbate in the clinic therapy room due to public health concerns issues as well as client's right to privacy. The Respondent gave J.M. keys to his lab and instructed him to begin conducting the sessions in the lab.

35. One week before the faculty at ISU was to meet to discuss student evaluations in the fall of 1996, the Respondent suggested as a supervisor of J.M. that J.M. should go through an assessment procedure himself.

36. During this assessment procedure the Respondent visually observed J.M.'s genitals and physically entered the room after J.M. had disrobed and the procedure had begun.

37. The Respondent failed to respond in a responsible manner to J.M.'s expressions of discomfort with the procedure, both at the first suggestion and several days later at the initiation of the procedure.

38. The above conduct constitutes a violation of Ind. Code § 25-1-9-4a(5) in that the Respondent has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public.

39. The above conduct also constitutes a violation of Ind. Code § 25-1-9-4a(3) in that the Respondent has knowingly violated a state statute or rule, or federal statute or regulation, regulating the profession in question, to wit: 868 IAC 1.1-11-2(h) in that a psychologist shall not unjustly exploit persons over whom the psychologist has supervisory, evaluative, or other authority such as students or supervisees and 868 IAC 1.1-11-4.1(j) in that a psychologist shall not engage in lewd or immoral conduct.

40. The above conduct also constitutes a violation of Ind. Code § 25-1-9-4a(4)(B) in that the Respondent has continued to practice although the practitioner has become unfit to practice due to failure to keep abreast of current professional theory or practice.

41. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which could include censure, a letter of reprimand, a fine up to the amount of \$1000.00, probation, suspension, or a revocation of license as detailed at Ind. Code § 25-1-9-9 and 25-33-1-3.

COUNT IV

42. Averments 1 through 41 are repeated and incorporated by reference herein.

43. The Respondent taught and academically advised C.J., a student at ISU in the fall of 1999 and the spring of 2002.

44. The Respondent questions C.J. about his personal sexual activities and his ejaculation habits during their first meeting as academic advisor student. The Respondent queried C.J. about participating in his research experiments.

45. C.J. again meet with the Respondent in the spring of 2002, the Respondent again queried him about participating in his research experiments. C.J. did not commit to participation. As C.J. was leaving the meeting the Respondent patted him on the buttocks.

46. During the spring of 2002, the Respondent encountered C.J. at his place of employment, Menards and placed his hand on C.J.'s shoulder and again patted his buttocks.

47. Near the end of the spring semester at ISU, C.J. went to see the Respondent in order to schedule his classes for the following semester and informed the Respondent about a problem he was having with another professor.

48. The Respondent again queried C.J. about his sexual activities, specifically his masturbation habits. Respondent also asked C.J. to keep him informed regarding his disciplinary problem.

49. A few days later C.J. informed the Respondent that he had to appear in front of the Vice President of Student Affairs. The Respondent told C.J. he would accompany him in order to make sure all his rights were protected and he didn't get into too much trouble. He then asked C.J. to join him in his laboratory.

50. In the laboratory, the Respondent asked C.J. to help him design a more ergonomic chair for participants in his research experiment. C.J. agreed and the

Respondent then instructed him to take his pants off and sit on a piece of paper that was on a chair.

51. The Respondent then outlined C.J.'s legs, buttocks, and testicles. The Respondent then told C.J. he should participate in his research experiment.

52. The Respondent then accompanied C.J. to a hearing before the Vice President of Student Affairs. Afterwards, the Respondent arranged a date to perform the procedure on C.J.

53. On June 7, 2002, C.J. went to the Respondent's laboratory and participated in the research procedure. After C.J.'s ejaculated the Respondent entered the room and began to wipe ejaculate off C.J.'s penis and instructed C.J. to perform the experiment a second time.

54. The Respondent then instructed C.J. to masturbate and stayed in the room while C.J. began the procedure a second time. After a time the Respondent left the room, but began watching C.J. masturbate through the blinds of a window.

55. At the conclusion of the second procedure, the Respondent again entered the room and removed the rubber band from C.J.'s penis. The Respondent then commented on the size of C.J.'s penis saying, "You are pretty big."

56. The Respondent then attempted to contact C.J. on several occasions and have him join his research team.

57. The above conduct constitutes a violation of Ind. Code § 25-1-9-4a(5) in that the Respondent has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public.

58. The above conduct also constitutes a violation of Ind. Code § 25-1-9-4a(3) in that the Respondent has knowingly violated a state statute or rule, or federal statute or regulation, regulating the profession in question, to wit: 868 IAC 1.1-11-2(h) in that a psychologist shall not unjustly exploit persons over whom the psychologist has supervisory, evaluative, or other authority such as students or research participants and 868 IAC 1.1-11-4.1(j) in that a psychologist shall not engage in lewd or immoral conduct and 868 IAC 1.1-11-4.1(l) in that a psychologist shall exercise reasonable care and diligence in the conduct of research and shall utilize generally accepted scientific principles and current professional theory and practice.

59. The above conduct also constitutes a violation of Ind. Code § 25-1-9-4a(4)(B) in that the Respondent has continued to practice although the practitioner has become unfit to practice due to failure to keep abreast of current professional theory or practice.

60. Respondent's failure to comply with the above referenced standards is cause for disciplinary sanctions which could include censure, a letter of reprimand, a fine up to the amount of \$1000.00, probation, suspension, or a revocation of license as detailed at Ind. Code § 25-1-9-9 and 25-33-1-3.

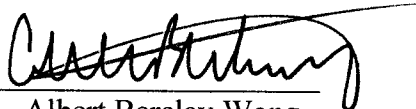
61. On May 16, 2003, the Indiana State Psychology Board summarily suspended the Respondent's license for ninety (90) days because the Respondent presented a clear and immediate danger to the public if allowed to practice psychology in the State of Indiana.

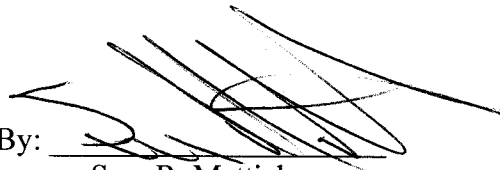
WHEREFORE, Petitioner requests an order against the Respondent that:

1. REVOKES the Respondent's license;

2. Directs Respondent to immediately pay all costs incurred in the prosecution of this case; and;
3. Provides any further relief as the Board deems just and proper.

Respectfully submitted,

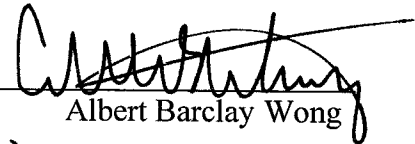
By: 
Albert Barclay Wong
Deputy Attorney General
Attorney No: 23394-49

By: 
Sara R. Matticks
Deputy Attorney General
Attorney No: 16964-49

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "Complaint" has been served via first class U.S. mail; postage prepaid this 8th day of July 2003, to the following counsel of record:

John F. Ittenbach
Richard T. Trettin
SHEEKS ITTENBACH JOHNSON TRETTIN & KOELLER
6350 North Shadeland, Suite 4
Indianapolis, Indiana 46220



Albert Barclay Wong



Sara R. Matticks

Albert Barclay Wong
Office of the Attorney General
Division of Consumer Protection
302 W. Washington Street, 5th Floor
Indianapolis, IN. 46204