

IN THE MATTER OF	*	BEFORE THE STATE BOARD
KENNETH SACHS, Ph.D.	*	OF EXAMINERS OF
Respondent	*	PSYCHOLOGISTS
License No. 00457	*	Case Number: 2016-026 & 028

* * * * *

CONSENT ORDER

The Maryland State Board of Examiners of Psychologists (the "Board") charged **Kenneth Sachs, Ph.D.** (the "Respondent"), License Number: 1457, with violating certain provisions of the Maryland Psychologists Act (the "Act"), Md. Health Occ. Code Ann. II ("H.O.") § 18-101, *et seq.* (2014 Repl. Vol. & 2017 Supp.) and related regulations.

A Case Resolution Conference (CRC) was held on January 12, 2018, and the Respondent was represented by William Saltysiak, Esquire. As a result of the negotiations at the CRC, the parties reached the following Consent Order.

STATUTORY AND REGULATORY VIOLATIONS

The Board charged the Respondent with violating the following provisions of H.O. § 18-313:

§ 18-313. Denials, reprimands, suspensions, and revocations—Grounds.

Subject to the hearing provisions of § 18-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of any licensee if the applicant or licensee:

- (7) Violates the code of ethics adopted by the Board under § 18-311 of this subtitle;

- (12) Violates any provision of this title or any regulation adopted by the Board;
- (17) Commits an act of unprofessional conduct in the practice of psychology; and
- (20) Does an act that is inconsistent with generally accepted professional standards in the practice of psychology.

The Board also charges the Respondent with violating one or more of the following provisions of the Code of Ethics and Professional Conduct, as set forth in Code Md. Regs. ("COMAR") tit. 10, § 36.05.

COMAR 10.36.05 Code of Ethics and Professional Conduct

.04 Competence.

A. Professional Competence. A psychologist shall:

- (1) Limit practice to the areas of competence by which proficiency has been gained through education, training, and experience;
- (4) Use interventions and assessment techniques only when the psychologist or psychology associate knows that the circumstances are appropriate applications of those interventions and techniques, supported by reliability, validation, standardization, and outcome studies;
- (5) Maintain competence by meeting the requirements of continuing education as set forth in COMAR 10.36.02;
- (6) Engage in ongoing consultation with other psychologists, psychology associates, or relevant professionals and seek appropriate education, training, and experience, when developing competence in a new service or technique; and
- (7) Document and maintain appropriate records of professional and scientific work.

.07 Client Welfare.

B. Exploitation. A psychologist may not:

- (1) Exploit or harm clients, colleagues, students, research participants, or others;
- (2) Take actions that violate or diminish the legal and civil rights of clients or of others who may be affected by the action;
- (3) Exploit the trust and dependency of clients, students, and subordinates;
- (4) Allow personal, social, religious, organizational, financial, or political situations and pressures to lead to a misuse of their influence[.]

FINDINGS OF FACT

BACKGROUND

The Board makes the following Findings of Fact:

1. At all times the relevant to the charges, the Respondent was and is licensed to practice psychology in the State of Maryland. The Respondent was originally issued a license to practice psychology in the State of Maryland on November June 14, 1969, and is currently licensed.

2. At all times relevant to the charges, the Respondent was a contractor hired by several Maryland police agencies to provide pre-employment psychological evaluations for applicants who applied to become police officers. The Respondent hired independent contractors to assist in evaluating police applicants and providing fitness for duty evaluations for police officers.

First Complaint

3. The Board initiated an investigation after receiving a Complaint on June 3, 2016, from a psychologist (Complainant) who alleged that the Respondent: (1) lacked the education, training and competence to conduct pre-employment evaluations of police and public safety officers; (2) failed to use reliable and valid pre-employment

assessment examinations, techniques, and instruments for evaluating police applicants; and (3) used invalid and unreliable testing protocols for evaluating police applicants.

4. In furtherance of its investigation Board staff interviewed the Respondent on October 5, 2016.

5. During the interview Board staff asked the Respondent if he had attended any continuing education classes relevant to screening police applicants in the past five years.

6. The Respondent was unable to report any relevant continuing education classes. He stated he attended “face-to face” trainings in the past, and that he received a monthly police bulletin and read books online.

7. In response to a question from Board staff regarding the tests used in applicant evaluations, the Respondent reported that he uses the Inwald Personality Inventory (IPI).¹

8. He stated that he previously used the Minnesota Multiphasic Personality Inventory (MMPI)² to evaluate applicants but stopped using those tests in 2014. The Respondent stated that the MMPI was “too large.”

9. He reported that instead of the MMPI he uses a sentence completion test and a “draw-a-person” test.

¹ The IPI is a 310-question true-false inventory designed to identify a variety of personality and behavioral characteristics. It is often used to screen candidates for high risk positions such as police officers.

² The MMPI is a standardized psychometric test of adult personality and psychopathology. Psychologist and other mental health professionals use various versions of the MMPI for various purposes, including treatment and diagnosis of mental health issues and pre-screening of job candidates.

10. The Respondent also reported that he uses the Alcohol Use Disorders Identification Test (AUDIT)³ to pre-screen applicants to assess early indications of alcoholism.

11. The Respondent, however, did not provide any data or documentation, other than his personal experience, to substantiate that a “sentence completion” or “draw-a-person” test had any relevance or reliability to evaluating police applicants.

Second Complaint

12. The Respondent was hired under a contract with Baltimore City to provide pre-employment screening psychological evaluations for police applicants.

13. The Board generated a Complaint under its own authority and initiated an investigation after receiving a copy of a report from the Office of Inspector General for Baltimore City, which found after an investigation that the Respondent had failed to comply with his contract with Baltimore City.

14. According to the report, the employment contract between the Respondent and the City required the Respondent to conduct one-hour assessment interviews with police applicants as a part of the mental health examination.

15. The Inspector General’s Office conducted interviews with police officers and trainees and discovered that the Respondent was only conducting thirty-minute interviews with the applicants. The report concluded that the Respondent breached the contract since he was paid for sixty-minute interviews that were not conducted.

³ The AUDIT is a ten-question test developed by the World Health Organization (WHO) to determine whether a person may be at risk for alcohol abuse problems.

16. The Board received a report from a psychologist, hereinafter, Witness A,⁴ who stated that the Respondent sent her an e-mail indicating that he was looking for contractors to conduct pre-employment mental health screening evaluations that would require only 15-20 minute interviews with the applicants.

17. In a written response to the allegations the Respondent suggested that his e-mail to Witness A was misinterpreted.

18. The Respondent's employment contract with Baltimore City was terminated.

Expert Report

19. The Board referred the case to a board-certified psychologist (the "Expert") for an expert review of several issues related to the Respondent's practice, including (1) whether the Respondent's training, education, and continuing education were adequate to meet the standards for prescreening police applicants; (2) whether the Respondent used reliable and valid pre-employment assessment examinations, techniques, and instruments for evaluating police applicants; and (3) whether the Respondent engaged in unprofessional conduct in the practice of psychology.

20. The Expert's report noted that the Respondent conducted very limited interviews with the applicants and used questionable testing protocols.

21. The Respondent replaced the MMPI an established testing tool with the "draw-a-person" and "sentence completion" test. The Expert concluded that these tests were not reliable or appropriate for evaluating police applicants. The Expert opined, "the

⁴ To ensure confidentiality, the names of individuals, hospitals and health care facilities are not disclosed in these charges. The Respondent may obtain the identity of the referenced individuals and entities by contacting the assigned administrative prosecutor.

use of these projective techniques do not have adequate reliability or validity and there is no peer reviewed literature to support their efficacy”

22. The Expert also noted that the Respondent’s use of the AUDIT, a ten-question alcohol screening test, was a poor choice to evaluate job applicants since applicants can easily manipulate the answers to portray themselves in a positive light.

23. The Respondent reported that he used another screening test for applicants called the DASS (Depression, Anxiety Stress Scale)⁵; this test reportedly measures depression, anxiety and stress. The Expert opined that DASS was a poor choice for screening job applicants, because “it has no validity scales and is not designed for use nor adapted... for preemployment screening.”

24. The Expert report also noted that the Respondent did not avail himself of any educational or training opportunities that would enhance his knowledge base or assist with applicant screening. The report stated that: “no documentation was provided by [the Respondent] of any CEUs completed in police psychology, forensic psychology, pre-employment screening or fitness for duty evaluations.”

25. The Expert concluded that the Respondent used screening tests that were not appropriate or reliable for pre-screening applicants and failed to engage in meaningful continuing education training. The Expert also noted that the Respondent conducted extremely limited interviews with the applicants, even though generally evaluators conduct more in-depth interviews with applicants during the pre-screening process.

⁵ The DASS is made up of 42 self-report items to be completed over five to ten minutes, each reflecting a negative emotional symptom. Each of these is rated on a four-point Likert scale of frequency or severity of the participants’ experience over the past week.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact the Board finds that the Respondent's violated the following:

(1) H.O. § 18-313 (7), violates the code of ethics adopted by the Board under §18-311 of this subtitle;

(2) H.O. § 18-313 (12), violates any provision of this title or any regulation adopted by the Board;

(3) H.O. § 18-313 (17), commits an act of unprofessional conduct in the practice of psychology;

(4) H.O. § 18-313 (20), Does an act that is inconsistent with generally accepted professional standards in the practice of psychology;

(5) COMAR 10.36.05.04A (1), (4), (5), (6), and (7); and

(6) COMAR 10.36.05.07B (1-4).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this **2nd day of February, 2018**, by a majority of the quorum of the Board considering this case hereby:

ORDERED that effective the date of this Consent Order:

1. The Respondent shall be placed on Probation for two (2) years with credit for one year served subject to the following terms and conditions;

(a) The Respondent shall complete a Board approved 6 hour continuing education course in assessment/evaluation of psychotherapy patients within

6 months of the effective date of this Consent Order, and the course may be online;

(b) The course required under this Consent Order shall not count towards the courses required to maintain a license to practice psychology in the State of Maryland; and;

(c) The Respondent permanently agrees not to perform, consult on, or supervise any pre-employment screening or fitness for duty evaluation for police or public safety candidates.

BE IT FURTHER ORDERED that the Respondent's failure to comply with any of the conditions of this Consent Order in a timely manner as set out above shall be considered a violation of this Consent Order, and it is further;

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing if there is a genuine dispute as to the underlying material facts, or an opportunity for a show cause hearing before the Board otherwise, may impose any other disciplinary sanctions that the Board may have imposed in this case, including additional probationary terms and conditions, reprimand, suspension, revocation and monetary penalty; and it is further

ORDERED that the Respondent shall comply with the Maryland Psychologists Act and all applicable laws, statutes and regulations; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling the terms and conditions of the Consent Order; and it is further

ORDERED that this Consent Order is a **PUBLIC DOCUMENT** pursuant to Md. General Provisions §§ 4-104 *et seq.* (2014).

February 2, 2018

Date

Psychologists

Cyndie M. Buckson, Psy.D.
Chair, MD Board of Examiners of

CONSENT

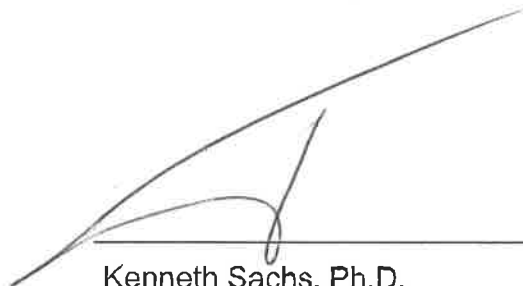
I, Kenneth Sachs, Ph.D., License No. 1457, by affixing my signature hereto, acknowledge that:

1. I am represented by counsel, and I have knowingly and voluntarily agreed to enter into this Consent Order. By this Consent and for the purpose of resolving the issues raised by the Board, I agree and accept to be bound by the foregoing Consent Order and its conditions.
2. I am aware that I am entitled to a formal evidentiary hearing, pursuant to Md. Health Occ. II, Code Ann. § 18-315 (2014 Repl. Vol.) and Md. State Gov't II, Code Ann. §§ 10-201 *et seq.* (2014 Repl. Vol.).
3. I acknowledge the validity and enforceability of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections as provided by law. I am waiving those procedural and substantive protections.
4. I voluntarily enter into and agree to abide by the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to

contest the Findings of Fact and Conclusions of Law, and I waive my right to a full evidentiary hearing, as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.

- 5. I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may be subject to disciplinary actions, which may include revocation of my license to practice as a psychologist.
- 6. I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order.

Date



Kenneth Sachs, Ph.D.
Respondent

STATE OF Md
COUNTY OF Baltimore

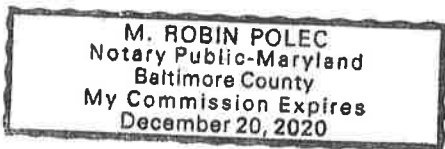
NOTARY

I HEREBY CERTIFY that on this 15th day of May, 2018, before me, a Notary Public of the State and County aforesaid, personally appeared Kenneth Sachs, Ph.D., License Number:1457, and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal:



M. Robin Polec



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May 17, 2018
Date

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