

RBM

Final Order No. DOH-07-0471-<sup>5</sup>-MQA  
FILED DATE - 3-15-07  
Department of Health  
By: Rachel Brooks  
Deputy Agency Clerk

**STATE OF FLORIDA  
BOARD OF CLINICAL SOCIAL WORK, MARRIAGE AND FAMILY THERAPY,  
AND MENTAL HEALTH COUNSELING**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**vs.**

**Case No.: 2005-66289  
2005-66637  
License No.: MH 1221**

**JOHN M. BONE, L.M.H.C.**

**Respondent.**

\_\_\_\_\_ /

**FINAL ORDER**

This matter appeared before the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, pursuant to Sections 120.569 and 120.57(4), Florida Statute, at a duly-noticed public meeting on February 9, 2007, in Jacksonville, Florida, for consideration of a Voluntary Relinquishment of License (attached hereto as Exhibit "A")

executed by the Respondent in this cause. Petitioner was represented by Cynthia Jakeman, Assistant General Counsel. Respondent was not present. Upon consideration of the Voluntary Relinquishment, the documents submitted in support thereof, the arguments of the parties and otherwise being advised in the premises,

IT IS HEREBY ORDERED AND ADJUDGED that the voluntary relinquishment is accepted as a resolution of this case.

This Final Order shall take effect upon being filed with the Clerk of the Department of Health.

DONE AND ORDERED this 15 day of March, 2007.



Susan J. Foster, Executive Director  
For the Board of Clinical Social Work,  
Marriage and Family Therapy, and Mental  
Health Counseling

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **John M. Bone**, 1177 Louisiana Ave., Ste. 115, Winter Park, FL, 32789 and c/o Harvey M. Alper, Esq., P.O. Box 162967, Altamonte Springs, FL 32716-2967; by interoffice mail to **Joy A. Tootle**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Cynthia Jakeman**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265 this 15 day of March, 2007.



**Deputy Agency Clerk**

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**v.**

**CASE NO. 2005-66289**

**CASE NO. 2005-66637**

**JOHN MICHAEL BONE, Ph.D., L.M.H.C.,**

**Respondent.**

**VOLUNTARY RELINQUISHMENT OF LICENSE**

Respondent JOHN MICHAEL BONE, Ph.D., L.M.H.C., license number MH 1221, hereby voluntarily relinquishes Respondent's license to practice MENTAL HEALTH COUNSELING in the State of Florida and states as follows:

1. Respondent's purpose in executing this Voluntary Relinquishment is to avoid further administrative action with respect to this cause. Respondent understands that acceptance by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling (hereinafter the Board) of this Voluntary Relinquishment shall be construed as disciplinary action against Respondent's license pursuant to Section 456.072(1)(f), Florida Statutes.
2. Respondent acknowledges that probable cause has been found as to a violation of Sections 491.009(1)(w)(l) and 456.072(1)(j), Florida Statutes, and that Administrative Complaints have been filed in the above referenced cases.
3. Respondent agrees to never reapply for licensure under Chapter 491, Florida Statutes.

4. Respondent agrees to voluntarily cease practicing mental health counseling on December 31, 2006. Respondent further agrees to refrain from the practice of mental health counseling after December 31, 2006, and until such time as this Voluntary Relinquishment is presented to the Board and the Board issues a written final order in this matter.

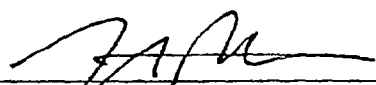
5. Upon the Board's acceptance of this Voluntary Relinquishment, Respondent agrees to waive all rights to seek judicial review of, or to otherwise challenge or contest the validity of, this Voluntary Relinquishment and of the Final Order of the Board incorporating this Voluntary Relinquishment.

6. Petitioner and Respondent hereby agree that upon the Board's acceptance of this Voluntary Relinquishment, each party shall bear its own attorney's fees and costs related to the prosecution or defense of this matter.

7. Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent in connection with the Board's consideration of this Voluntary Relinquishment. Respondent agrees that consideration of this Voluntary Relinquishment and other related materials by the Board shall not prejudice or preclude the Board, or any of its members, from further participation, consideration, or resolution of these proceedings if the terms of this Voluntary Relinquishment are not accepted by the Board.



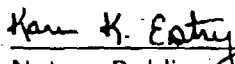
DATED this 11<sup>th</sup> day of Dec, 2006.

  
John Michael Bone, Ph.D., L.M.H.C.  
Voluntary Relinquishment of License MH 1221  
Case Numbers 2005-66289, 2005-66637

STATE OF FLORIDA  
COUNTY OF Seminole

Before me personally appeared John Michael Bone, whose identity is known to me by \_\_\_ personal knowledge or by presentation of Fla. Driver's Lic. as identification (type of identification), and who acknowledges that his or her signature appears above.

Sworn to or affirmed before me this 11 day of December, 2006.

  
Notary Public



KAREN K. ESTRAY  
MY COMMISSION # DD 378704  
EXPIRES: December 13, 2008  
Bonded Thru Budget Notary Services

My Commission Expires

ATTORNEY FOR PETITIONER:  
Lynette Norr, Ph.D., J.D.  
Assistant General Counsel  
Florida Bar Number 0010717  
DOH/Prosecution Services Unit  
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MAY 11 2006

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

Petitioner,

v.

CASE NO. 2005-66289

JOHN MICHAEL BONE, Ph.D., L.M.H.C.,

Respondent.

---

**ADMINISTRATIVE COMPLAINT**

COMES NOW the Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling (Board) against John Michael Bone, Ph.D., L.M.H.C., and alleges:

1. ~~Petitioner is the state agency charged with regulating the practice of~~ clinical social work, marriage and family therapy, and mental health counseling pursuant to section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 491, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed mental health counselor in the State of Florida, having been issued license number MH 1221 on May 27, 1983.

3. Respondent's address of record is 1177 Louisiana Avenue, Suite 115, Winter Park, Florida 32789.

4. On or about January 10, 2005, Respondent was ordered by the court in Orange County Case No. DR-04-18795 to evaluate fifteen-year-old RTS to discern whether or not RTS had been subjected to parental alienation by the father against the mother.

5. Prior to being appointed by the court as the evaluator of RTS, Respondent was contacted by the attorney representing RTS's mother for consultation regarding parental alienation by the father of RTS.

6. Prior to being appointed by the court as the evaluator of RTS, Respondent reviewed select communications between the parents of RTS, which were provided by RTS's mother.

7. Prior to being appointed by the court as the evaluator of RTS, Respondent expressed the opinion to the attorney representing RTS's mother that RTS would need to be fully evaluated in order to determine whether RTS was affected by parental alienation syndrome (PAS).

8. Respondent's opinion formed the basis of a motion to the court, filed on behalf of RTS's mother, for an evaluation of RTS to determine whether RTS suffered from PAS due to the actions of his father against his mother.

9. Respondent conducted the court ordered evaluation from on or about February 7, 2005, to on or about March 23, 2005.

10. The Report submitted to the court by the Respondent was dated May 19, 2005.

11. In a letter dated February 18, 2005, from the father, RS, to the Respondent, the father informed the Respondent that RTS had had various types of past therapy and professional help, and that RTS was currently seeing T.F., a licensed mental health counselor for individual therapy.

12. Respondent's interview notes from March 22, 2005, indicate that RTS was at that time seeing T.F., L.M.H.C., at Florida Psychiatric.

13. In a Consent for Release of Information dated March 23, 2005, RTS's father and mother both signed for release of RTS's medical records to the Respondent and indicated their consent that Respondent communicate directly with healthcare providers T.F. and M.C.

14. T.F., L.M.H.C., began treating RTS on or about January 14, 2005.

15. T.F., L.M.H.C., states in a letter dated October 5, 2005, that his records show no contact by Respondent requesting any information on RTS.

16. Respondent claims that Respondent's evaluation of RTS included approximately ten hours of direct clinical interviews in various combinations including individual meetings and joint meetings with both parties and the minor child as well as a joint meeting without the minor child.

17. Respondent claims that Respondent's evaluation of RTS included interviews of both step-parents.

18. Respondent claims that Respondent's evaluation of RTS included a review of 500 to 1000 pages of supporting documentation submitted to Respondent by the parties.



19. Respondent claims that Respondent's evaluation of RTS included a review of past testimony and depositions and pleadings.

20. Respondent claims that he attempted to interview the brothers of RTS, who declined, but sent letters to the Respondent.

21. Respondent claims that he twice attempted by phone to contact RTS's current treating therapist, T.F., L.M.H.C.

22. There is no evidence in Respondent's evaluation record for RTS that Respondent ever attempted by phone, or by any other manner, to contact RTS's current treating therapist, T.F., L.M.H.C., for an evaluation interview.

23. Respondent's May 19, 2005, court ordered evaluation of RTS did not include interviews with RTS's current therapist, T.F., or any prior treating mental health professionals.

~~24. Respondent's May 19, 2005, court ordered evaluation of RTS did not include a review of records from RTS's current therapist T.F., or any prior treating mental health professionals.~~

25. Respondent's May 19, 2005, court ordered evaluation of RTS did not include interviews with any current or prior family physician.

26. Respondent's May 19, 2005, court ordered evaluation of RTS did not include a review of records from any current or prior family physician.

27. The documents reviewed by Respondent for Respondent's evaluation of RTS indicate that the maternal grandparents were involved in the family history of disputes.

28. Respondent's March 2005 interview notes for RTS indicate that the grandparents were involved with the family history of disputes.

29. Respondent's May 19, 2005, court ordered evaluation of RTS did not include interviews with any of RTS's grandparents.

30. Respondent's May 19, 2005, court ordered evaluation of RTS did not include interviews with any relatives of the immediate families.

31. Respondent's evaluation of RTS for custody, residence, or visitation failed to include any use of testing instruments.

32. On or about August 10, 2005, therapeutic intervention for RTS was ordered by the court based on Respondent's report that RTS was severely alienated from his mother.

33. At a hearing before the court on or about August 8, 2005, Respondent recommended his colleague and associate RAE, Ph.D., to provide the court ordered therapeutic intervention and reunification therapy for RTS.

34. Respondent and RAE, Ph.D., are co-owners and co-operators of an active limited liability Florida company, Tree House Solutions LLC, which is an educational resource of services for families experiencing divorce and its aftermath.

35. The Tree House Solutions web site, [www.treehousesolutions.org](http://www.treehousesolutions.org), lists the academic credentials, clinical experience, licensures, and certifications of Respondent and his associate, RAE, Ph.D.

36. At a hearing before the court on or about August 8, 2005, Respondent stated on the record, on page 32 of the transcript, that RAE, Ph.D., "is a - I would

consider qualified to take – either role really. The therapist or the parenting coordinator if the court agrees with that.”

37. On or about August 10, 2005, the court, on the recommendation of the Respondent, appointed licensed school psychologist RAE, Ph.D., to provide the therapeutic intervention necessary to reestablish RTS’s visitation with his mother and to further deal with the psychological effects that PAS has had on RTS and the parties’ other son, BS.

38. At a hearing before the court on or about September 23, 2005, as recorded on pages 4 and 5 of the transcript of that hearing, the judge confirmed with Respondent that the doctor that Respondent had previously recommended was for “the purpose of reestablishing the relationship between the mother and the child,” and the Respondent replied, “[t]hat’s correct.”

39. Licensed school psychologist RAE, Ph.D., testified at a hearing on or about November 8, 2005, that he started therapy with RTS on September 26, 2005, then September 27, October 6, October 18, and October 26, 2005.

40. Licensed school psychologist RAE, Ph.D., testified at hearing on or about November 8, 2005, that what he did with RTS was therapy with the goal of reestablishing a relationship between RTS and his mother.

41. In a letter dated October 27, 2005, Respondent provided a complete copy of his file regarding the RTS evaluation and certified completeness of those records.

## COUNT ONE

42. Petitioner re-alleges and incorporates paragraphs one (1) through forty-two (42) as if fully set forth in this count.

43. Section 491.009(1)(w), Florida Statutes (2004) provides that violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto, constitutes grounds for disciplinary action by the Board.

44. Rule 64B4-7.006(2)(a), Florida Administrative Code, requires that when providing an evaluation of a minor for the purpose of making a recommendation regarding custody, residence, or visitation, the licensee shall be impartial, act in the best interest of the child, avoid conflicts of interest, and not have been the treating psychotherapist nor had a prior relationship with any of the parties to the evaluation.

45. Prevailing peer performance and opinion is that a dual relationship by a psychotherapist who evaluates a minor for the purpose of making a recommendation regarding custody, residence, or visitation fails to meet minimum standards of performance in professional activities.

46. Respondent violated Rule 64B4-7.006(2)(a), Florida Administrative Code, by providing an evaluation of minor RTS for the purpose of making a recommendation regarding custody, when the Respondent had a prior relationship with the mother of RTS as a consultant who provided the opinion that a full evaluation would be needed to determine whether RTS was suffering from PAS.

47. Based on the foregoing, Respondent violated Section 491.009(1)(w), Florida Statutes (2004), by violating Rule 64B4-7.006(2)(a), Florida Administrative

Code, by providing an evaluation of a minor when he had a prior relationship with one of the parties to the evaluation.

## COUNT TWO

48. Petitioner re-alleges and incorporates paragraphs one (1) through forty-two (42) as if fully set forth in this count.

49. Section 491.009(1)(w), Florida Statutes (2004) provides that violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto, constitutes grounds for disciplinary action by the Board.

50. Rule 64B4-7.006(2)(b), Florida Administrative Code, requires that when providing an evaluation of a minor for the purpose of making a recommendation regarding custody, residence, or visitation, the licensee shall use multiple avenues of data gathering, including testing and interviewing methods, and shall involve all persons central to the child in question, including, at a minimum, communication with the child, the parties seeking custody or visitation, any treating mental health professional, family physician, and relatives of the immediate families.

51. Prevailing peer performance and opinion is that in order to present a balanced and well-informed opinion regarding parental alienation, the use of both psychological testing and information gathered from collaterals is essential.

52. Respondent violated Rule 64B4-7.006(2)(b), Florida Administrative Code, by failing to interview RTS's treating mental health professionals T.F., L.M.H.C. and M.C., L.M.H.C.; the family physician; the immediate relatives of the families, including the grandparents of RTS; and other persons central to the child in question, including

teachers and the school counselor, in Respondent's evaluation of minor RTS for the purpose of making a recommendation regarding custody, residence, or visitation.

53. Based on the foregoing, Respondent violated Section 491.009(1)(w), Florida Statutes (2004), by violation Rule 64B4-7.006(2)(b), Florida Administrative Code, by failing to interview all persons central to the child in question, including, any treating mental health professionals, family physician, and relatives of the immediate families when providing an evaluation of a minor for the purpose of making a recommendation regarding custody, residence, or visitation.

### **COUNT THREE**

54. Petitioner re-alleges and incorporates paragraphs one (1) through forty-two (42) as if fully set forth in this count.

55. Section 491.009(1)(w), Florida Statutes (2004) provides that violating any ~~provision of this chapter or chapter 456, or any rules adopted pursuant thereto,~~ constitutes grounds for disciplinary action by the Board.

56. Rule 64B4-7.006(2)(b), Florida Administrative Code, requires that when providing an evaluation of a minor for the purpose of making a recommendation regarding custody, residence, or visitation, the licensee shall use multiple avenues of data gathering, including testing and interviewing methods, and shall involve all persons central to the child in question, including, at a minimum, communication with the child, the parties seeking custody or visitation, any treating mental health professional, family physician, and relatives of the immediate families.

57. Prevailing peer performance and opinion is that in order to present a balanced and well-informed opinion regarding parental alienation, the use of both psychological testing and information gathered from collaterals is essential. Psychological evaluations of the parties or at least of RTS would have been appropriate to rule out any educational, emotional, or psychological problems. This is particularly important because a custody evaluation was not done at any prior time. Assessments for RTS would have been able to discern his cognitive abilities, level of development and psychological vulnerability. Projective testing for RTS would also have been helpful in looking at how RTS handles his emotions and his sense of identity.

58. Respondent violated Rule 64B4-7.006(2)(b), Florida Administrative Code, by failing to use testing methods in Respondent's evaluation of RTS for the purpose of making a recommendation regarding custody, residence, or visitation.

~~59. Based on the foregoing, Respondent violated Section 491.009(1)(w), Florida Statutes (2004), by violating Rule 64B4-7.006(2)(b), Florida Administrative Code, by failing to use testing methods in data gathering when providing an evaluation of a minor for the purpose of making a recommendation regarding custody, residence, or visitation.~~

#### **COUNT FOUR**

60. Petitioner re-alleges and incorporates paragraphs one (1) through forty-two (42) as if fully set forth in this count.

61. Section 456.072(1)(j), Florida Statutes (2004) provides that aiding, assisting, procuring, employing, or advising any unlicensed person or entity to practice

a profession contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board, constitutes grounds for which disciplinary action may be taken by the Board.

62. Pursuant to Section 490.003(4), Florida Statutes (2004) "practice of psychology" means the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health. The ethical practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning, including evaluation of mental competency to manage one's affairs and to participate in legal proceedings; counseling, psychoanalysis, all forms of psychotherapy, sex therapy, hypnosis, biofeedback, and behavioral analysis and therapy; psychoeducational evaluation, therapy, remediation, and consultation; and use of psychological methods to diagnose and treat mental, nervous, psychological, marital, or emotional disorders, illness, or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury, or disability, including neuropsychological evaluation, diagnosis, prognosis, etiology, and treatment.

63. Pursuant to Section 490.003(5), Florida Statutes (2004), "practice of school psychology" means the rendering or offering to render to an individual, a group,



an organization, a government agency, or the public any of the following services: (a) ~~Assessment~~, which includes psychoeducational, ~~developmental~~, and vocational assessment; evaluation and interpretation of intelligence, aptitudes, interests, academic achievement, adjustment, and motivations, or any other attributes, in individuals or groups, that relate to learning, educational, or adjustment needs; (b) Counseling, which includes short-term situation-oriented professional interaction with children, parents, or other adults for amelioration or prevention of learning and adjustment problems. (c) Consultation, which includes psychoeducational, developmental, and vocational assistance or direct educational services to schools, agencies, organizations, families, or individuals related to learning problems and adjustments to those problems. (d) Development of programs, which includes designing, implementing, or evaluating educationally and psychologically sound learning environments; acting as a catalyst for ~~teacher involvement in adaptations and innovations~~; and ~~facilitating the~~ psychoeducational development of individual families or groups.

64. Respondent knew or had reason to know that his colleague and associate, RAE, Ph.D., was only licensed in the state of Florida to practice school psychology.

65. By providing reunification therapy to RTS and his mother, RAE, Ph.D., practiced therapy contrary to Chapter 490, Florida Statutes.

66. Respondent knew or had reason to know that his colleague and associate, RAE, Ph.D., was not licensed to provide the kind of reunification therapy for RTS and his mother that Respondent recommended to the court for RTS.

67. Respondent knew or had reason to know that his colleague and associate, RAE, Ph.D., would be practicing therapy contrary to Chapter 490, Florida Statutes, by accepting the charge of providing reunification therapy for RTS and his mother.

68. Respondent aided, assisted, or procured RAE, Ph.D., an individual unlicensed in the state of Florida to practice psychology under Chapter 490, Florida Statutes, and unlicensed in the state of Florida to practice any profession under Chapter 491, Florida Statutes, to undertake the court ordered responsibility of providing reunification therapy for RTS and his mother contrary to Chapter 490, Florida Statutes.

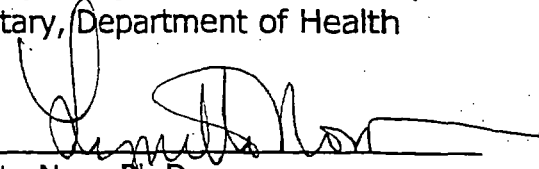
69. Based on the foregoing, Respondent violated Section 456.072(1)(j), Florida Statutes (2004), by aiding, assisting, procuring, employing, or advising RAE, Ph.D., a person not licensed to practice psychology or psychotherapy, to practice psychology or psychotherapy contrary to this chapter, the chapter regulating the profession, or the rules of the department or the board.

WHEREFORE, the Petitioner respectfully requests that the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 10<sup>th</sup> day of May, 2006.

M. Rony François, M.D., M.S.P.H., Ph.D.  
Secretary, Department of Health

By: \_\_\_\_\_

  
Lynette Norr, Ph.D.  
Assistant General Counsel  
Florida Bar Number 0010717  
Department of Health  
Prosecution Services Unit  
4052 Bald Cypress Way, Bin C-65  
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**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK *Jherisa McConn*  
DATE 5-11-06

PCP Date: January 17, 2006  
PCP-2 Members: Zachary, Shyers, Adejokun-Ojo

#### NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

#### NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

**STATE OF FLORIDA  
DEPARTMENT OF HEALTH**

**DEPARTMENT OF HEALTH,**

**Petitioner,**

**v.**

**CASE NO. 2005-66637**

**JOHN MICHAEL BONE, Ph.D., L.M.H.C.,**

**Respondent.**

---

**ADMINISTRATIVE COMPLAINT**

COMES NOW the Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling (Board) against JOHN MICHAEL BONE, Ph.D., L.M.H.C., and alleges:

1. Petitioner is the state agency charged with regulating the practice of clinical social work, marriage and family therapy, and mental health counseling pursuant to section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 491, Florida Statutes.

2. Respondent is, and has been at all times material hereto, a licensed mental health counselor in the State of Florida, having been issued license number MH 1221 on May 27, 1983.

3. Respondent's address of record is 1177 Louisiana Avenue, Suite 115, Winter Park, Florida 32789.

4. On or about December 1, 2004, Respondent was ordered by the Circuit Court in Orange County Case No. DR-04-12368 to conduct a custody evaluation for the purpose of making a recommendation to the Court on the issue of primary residential responsibility of minor children M.H. and W.H., by parents M.A., wife, and B.H., husband. By order of the court, the said custody evaluation shall include psychological evaluations of both parties and the minor children as well as substance abuse evaluations of the parties.

5. Respondent conducted the court ordered evaluation from on or about December 13, 2004, to on or about March 10, 2005. The Report submitted to the court by the Respondent was dated June 29, 2005.

6. Respondent indicates on the June 29, 2005, evaluation report that his collateral sources included the guardian ad litem and three other individuals named by the parties.

7. The report by the guardian ad litem included a number of additional collateral people who could have had helpful information and who were not interviewed by the Respondent.

8. Although qualified to administer the MMPI-2 test instrument, Respondent did not administer the MMPI-2 or other evaluative test, including any test to evaluate substance abuse, to any of the parties prior to submitting his completed June 29, 2005, evaluation to the court.

9. Subsequent to Respondent's submission of the completed June 29, 2005, evaluation to the court and the parties, and upon request by the guardian ad litem,

Respondent administered the MMPI-2 to the father, but the mother declined further evaluation following the submission of the completed report, questioning Respondent's qualifications to perform such tests.

### COUNT ONE

10. Petitioner re-alleges and incorporates paragraphs one (1) through nine (9) as if fully set forth in this count.

11. Section 491.009(1)(t), Florida Statutes (2004) provides that violating a rule relating to the regulation of the profession or a lawful order of the department or the board previously entered in a disciplinary hearing constitutes grounds for disciplinary action by the Board.

12. Florida Administrative Code, Rule Chapter 64B4, regulates the profession of mental health counseling.

13. Rule 64B4-7.006(2)(b), Florida Administrative Code, requires that when providing an evaluation of a minor for the purpose of making a recommendation regarding custody, residence, or visitation, the licensee shall use multiple avenues of data gathering, including testing and interviewing methods, and shall involve all persons central to the child in question, including, at a minimum, communication with the child, the parties seeking custody or visitation, any treating mental health professional, family physician, and relatives of the immediate families.

14. Respondent violated Rule 64B4-7.006(2)(b), Florida Administrative Code, by failing to use multiple avenues of data gathering including testing, and by failing to communicate with the family physician, the immediate relatives of the family and any

treating mental health professionals, in Respondent's June 29, 2005, court ordered evaluation of minor children M.H. and W.H. and parents M.A. and B.H.

15. Based on the foregoing, Respondent violated Section 491.009(1)(t), Florida Statutes (2004), by violation of Rule 64B4-7.006(2)(b), Florida Administrative Code, which requires the evaluator to interview all persons central to the child in question and to use multiple avenues of data gathering including testing.

### **COUNT TWO**

16. Petitioner re-alleges and incorporates paragraphs one (1) through nine (9) as if fully set forth in this count.

17. Section 491.009(1)(h), Florida Statutes (2004) provides that failing to perform any statutory or legal obligation placed upon a person licensed, registered, or certified under this chapter constitutes grounds for disciplinary action by the Board.

18. Respondent failed to perform a legal obligation placed upon him on December 1, 2004, by order of the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida, in Case Number DR04-12368, by failing to include psychological evaluations of both parties and the minor children as well as substance abuse evaluations of the parties as part of his evaluation of the family for the court.

19. Based on the foregoing, Respondent violated Section 491.009(1)(h), Florida Statutes (2004), by failing to perform a legal obligation.

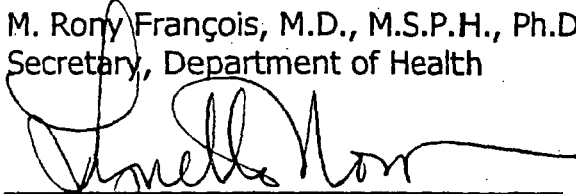
WHEREFORE, the Petitioner respectfully requests that the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling enter an order imposing one or more of the following penalties: permanent revocation or suspension of

Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 02 day of October, 2006.

M. Rony François, M.D., M.S.P.H., Ph.D.  
Secretary, Department of Health

By:

  
Lynette Norr, Ph.D., J.D.  
Assistant General Counsel  
Florida Bar Number 0010717  
Department of Health  
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**FILED**  
DEPARTMENT OF HEALTH  
DEPUTY CLERK  
CLERK Alicia Stiffen  
DATE 10-2-06

PCP Date: September 22, 2006  
PCP-1 Members: Lobnitz, Sherrard, Roberts

### NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

### NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.