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3/5/19

To: Dr. Jean Mercer

Re: Possible Ethics Violations

I am providing you with this letter pursuant to my professional responsibilities under Standard 1.04 of the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association.

1.04 Informal Resolution of Ethical Violations

When psychologists believe that there may have been an ethical violation by another psychologist, they attempt to resolve the issue by bringing it to the attention of that individual, if an informal resolution appears appropriate and the intervention does not violate any confidentiality rights that may be involved.

Additionally, I am also concerned that this attempt at informal resolution of these professional concerns may be inadequate to provide patient protection, which may then activate my obligations under Standard 1.05 of the APA ethics.

1.05 Reporting Ethical Violations

If an apparent ethical violation has substantially harmed or is likely to substantially harm a person or organization and is not appropriate for informal resolution under Standard 1.04, Informal Resolution of Ethical Violations, or is not resolved properly in that fashion, psychologists take further action appropriate to the situation. Such action might include referral to state or national committees on professional ethics, to state licensing boards, or to the appropriate institutional authorities.

Pursuant to my obligations to the involved client, I am currently preparing a written review of your testimony in a matter in California for the involved client. Of concern are:

1. Possible Violation of California State Law:

In California, the term “psychologist” is a legally protected term and only licensed psychologists may use the term “psychologist” in referring to their professional standing. You are not licensed in the state of California or any state, and your background and training would not qualify you for licensure. To hold yourself out in your testimony to the court as a “psychologist,” either directly or by implication to the court, or as “an expert in the field of psychology” would likely be in violation of California state law.

California Business and Professions Code BPC § 2902

(c) A person represents himself or herself to be a psychologist when the person holds himself or herself out to the public by any title or description of services incorporating the words “psychology,” “psychological,” “psychologist,” “psychology consultation,” “psychology consultant,” “psychometry,” “psychometrics” or “psychometrist,” “psychotherapy,” “psychotherapist,” “psychoanalysis,” or

“psychoanalyst,” or when the person holds himself or herself out to be trained, experienced, or an expert in the field of psychology.

California Business and Professions Code BPC § 2903

(a) No person may engage in the practice of psychology, or represent himself or herself to be a psychologist, without a license granted under this chapter, except as otherwise provided in this chapter. The practice of psychology is defined as rendering or offering to render to individuals, groups, organizations, or the public any psychological service involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships; and the methods and procedures of interviewing, counseling, psychotherapy, behavior modification, and hypnosis; and of constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivations.

Note that BPC § 2902(c) explicitly identifies “the person holds himself or herself out to be trained, experienced, *or expert in the field of psychology*” (emphasis added) as being prohibited without a license under BPC § 2903(a). Of concern is that representing yourself to the court as a “psychologist” and rendering testimony as a supposed “expert in the field of psychology” was a fraudulent misrepresentation of your qualifications to the court and was in violation of California state law.

2. Possible Violation of Standard 2.01a of the APA Ethics Code:

An additional area of prominent professional concern is the apparent violation of Standard 2.01a of the APA ethics code.

2.01 Boundaries of Competence

(a) Psychologists provide services, teach, and conduct research with populations and in areas only within the boundaries of their competence, based on their education, training, supervised experience, consultation, study, or professional experience.

You have no background education, training, nor experience in the domains of clinical psychology, nor in the assessment, diagnosis, or treatment of pathology. Rendering an opinion on issues of clinical psychology and the assessment, diagnosis, and treatment of pathology is beyond your boundary of competence based on your “education, training, supervised experience, consultation, study, or professional experience.”

Of prominent concern is that much of your testimony about the assessment, diagnosis, and treatment of pathology in clinical psychology is factually incorrect, revealing stunning ignorance regarding the practice of clinical psychology (practice beyond the boundary of competence).

3. Possible Violation of Standard 3.04 of the APA Ethics Code

To the extent that your possibly fraudulent and ignorant testimony, in violation of California laws and Standards of practice in professional psychology swayed the court to

disregard a confirmed DSM-5 diagnosis made by a licensed clinical psychologist (licensed in the state of California) your testimony likely caused significant harm to the client family in violation of Standard 3.04 of the APA ethics code.

3.04 Avoiding Harm

(a) Psychologists take reasonable steps to avoid harming their clients/patients, students, supervisees, research participants, organizational clients, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

Pursuant to Standard 1.04 of the APA ethics code, I am making you aware of my concerns regarding unprofessional conduct that violates both California state law and Standards of practice in professional psychology. Pursuant to Standard 1.05 of the APA ethics code, I will be providing the client with a report reviewing your testimony regarding its factual errors and my concerns regarding possible violations of California state law, BPC § 2902(c); BPC § 2903(a), and Standards 2.01a and 3.04 of the APA ethics code.



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