

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF OREGON  
for the  
OREGON BOARD OF PSYCHOLOGY**

IN THE MATTER OF: ) **PROPOSED ORDER**  
 )  
**CRAIG CHILDRESS** ) OAH Case No. 2020-ABC-04190  
 ) Agency Case No. 2020-001  
 )

**HISTORY OF THE CASE**

On July 22, 2020, the Oregon Board of Psychology (Board) issued a Notice of Intent to Impose Civil Penalty to Craig Childress, Psy. D. (Respondent or Dr. Childress). The Notice alleged that Dr. Childress engaged in the unlicensed practice of psychology and represented himself as a psychologist in Oregon in violation of ORS 675.020(1) and proposed to impose a civil penalty against Dr. Childress in the amount of \$7,500 pursuant to ORS 675.070(3)(b). Dr. Childress timely requested a hearing on the Notice, denying the Board’s allegations.

On November 19, 2020, the Board referred the hearing request to the Office of Administrative Hearings (OAH). The OAH assigned the matter to Senior Administrative Law Judge (ALJ) Alison Greene Webster.

On January 12, 2021, ALJ Webster convened a prehearing conference by telephone. Senior Assistant Attorney General (AAG) Warren Foote represented the Board. Attorney Janet Schroer represented Dr. Childress, who also participated on the call. During the conference, Ms. Schroer advised that she would be filing a motion for summary determination on Respondent’s behalf later in the day. Accordingly, a briefing schedule for the motion was established. In addition, the parties established a date, time and location for the hearing in the event the motion was not determinative of all issues.

Respondent filed a Motion for Summary Determination with supporting documentation as scheduled on January 12, 2021. The Board filed its Reply in Opposition to Respondent’s Motion for Summary Determination with supporting documentation and Respondent filed a Reply with supporting documents. On February 5, 2021, the ALJ issued a Ruling on Motion for Summary Determination finding that there were disputed questions of material fact that precluded a ruling in Respondent’s favor as a matter of law.

On March 22, 2021, prior to the start of the hearing, the Board filed an Amended Notice of Intent to Impose Civil Penalty (Amended Notice). Dr. Childress, through counsel, waived a continuance to respond to the Amended Notice, and the hearing went forward as scheduled.

ALJ Webster convened the hearing on March 22, 2021 by Webex video conference. AAG Foote represented the Board. Agency representatives Allison McGonagle and Daniel Vile

were also present. Attorney Schroer represented Dr. Childress. The following witnesses testified at the hearing: Dr. Childress and the Board's expert, Fran Ferder, Ph.D.

The record closed on March 22, 2021 at the conclusion of the hearing. On March 26, 2021, Dr. Childress, through counsel, filed a Memorandum in Opposition to the Board's Amended Notice of Intent to Impose Civil Penalty (Memorandum). The ALJ reopened the record for receipt of the Memorandum.

### **ISSUES**

1. Whether Dr. Childress engaged in the practice of psychology in Oregon as defined in ORS 675.010(4).
2. Whether Dr. Childress is exempt from the Oregon licensure requirement pursuant to ORS 675.090(1)(a).
3. Whether Dr. Childress violated ORS 675.020(1) by practicing psychology in Oregon and/or by representing himself as a psychologist in Oregon without a license issued under ORS 675.010 to 675.150.
4. If so, whether Dr. Childress is subject to a civil penalty of \$7,500 pursuant to ORS 675.070.

### **EVIDENTIARY RULING**

Board Exhibits A1, A2 and A8 were admitted without objection. Board Exhibit A3 was admitted over Respondent's hearsay and relevancy objections. Board Exhibits A4, A5 and A6 were admitted over Respondent's relevancy objection. The Board withdrew proffered Exhibit A7.

### **FINDINGS OF FACT**

1. At all times pertinent to this matter, Dr. Childress was licensed to practice psychology in the State of California. Dr. Childress is not licensed to practice psychology, or any other mental health profession, in the State of Oregon. (Test. of Childress.)
2. Dr. Childress has a bachelor's degree (B.A.) in Psychology, a master's degree (M.A.) in Clinical/Community Psychology and a doctorate degree (Psy.D.) in Clinical Psychology. His clinical practice focuses on child and family therapy, parent-child and marital conflict, early childhood mental health, child behavioral problems, and attachment pathology and complex trauma. He has published books and articles and presented at seminars and trainings on the subject of Attachment-Based Parental Alienation. His professional publications include the following books: *An Attachment-Based Model of Parental Alienation: Foundations* (2015), *The Narcissistic Parent: A Guidebook for Legal Professionals Working with Families in High-Conflict Divorce* (2016); *Assessment of Attachment-Related Pathology Surrounding Divorce* (2017); and *The Petition to the American Psychological Association* (2018). (Ex. A2 at 8-14.)

3. At all times pertinent to this action, Dr. Childress was affiliated with the Conscious Co-Parenting Institute (CCPI), a California-based company that offers strategies and solutions for co-parenting for parents involved in a high-conflict divorce or separation. (Test. of Childress.) According to its website, CCPI provides strategies “that empower divorcing or separating parents with the skills and tools they need to create a co-parenting/parallel parenting plan where every member of the family is supported to reach their highest potential.” (Ex. A2 at 42.) CCPI offers its clients litigation support, training workshops, and a coaching package that includes a “cutting edge parenting program for targeted parents of ‘Attachment-Based Parental Alienation’ (ABPA).” (Ex. A8 at 2; Test. of Childress.)

4. Dorcy Pruter is the Founder and CEO of CCPI. Ms. Pruter has a Coaching certification and a certification in Mediation and High-Conflict Resolution. Ms. Pruter does not have a graduate degree, certifications, or licensure as a mental health professional. (Test. of Childress.)

5. On more than one occasion, Dr. Childress and Ms. Pruter have done presentations together on the subject of Attachment-Based Parental Alienation. In February 2019, they spoke together on the topic in a meeting before the Dutch Ministry of Justice and at an Erasmus University Medical Center conference in Rotterdam, Netherlands. They also jointly presented a paper, *Empathy, the Family, and the Core of Social Justice*, to the American Psychological Association in August 2019. (Test. of Childress; Ex. A2 at 8.)

6. To provide strategies and solutions for co-parenting in high conflict custody situations, CCPI uses the Custody Resolution Method (CRM), a software program developed by Ms. Pruter. CCPI clients respond to questions and submit records and documents (“archival data”) to the CRM program. The CRM program uses a “data tagging” procedure to “compile frequency counts for categories of interest from the large documented data sets.” (Ex. A2 at 16.) CCPI staff reads the archival data and tags pre-determined categories of data within the data set. Once CCPI obtains a frequency count for the various categories based on the archival data submitted by the client, CCPI sends the client’s data profile (the data tags and frequency counts) to Dr. Childress for an expert opinion. (Test. of Childress; Ex. 1 at 10-15; Ex. A2 at 4, 16, 44-49.)

7. Dr. Childress produces a CRM “Consultation Report,” a written opinion and assessment of the pathology in the family based upon the data profile provided to Dr. Childress via the CRM program. Dr. Childress also has access to the archival data underlying the client’s data profile. He does not independently verify the data tags, although he will review the reports and assessments of other mental health professionals if they are submitted as part of the client’s data profile. In his report, Dr. Childress indicates potential areas of concern based on the frequency counts and recommends areas needing additional direct assessment from a mental health professional. (Test. of Childress; Ex. A1 at 12-17; Ex. A2 at 4, 16, 44-49.)

8. Dr. Childress works with CCPI as an independent contractor. CCPI pays him a flat rate of \$500 per consultation report. He is paid additional amounts if he is called to court to testify as an expert witness on behalf of the CCPI client. (Test. of Childress.)

9. Dr. Childress provides the CRM consultation report to CCPI. In producing the report, he does not confer with Ms. Pruter, CCPI employees, or any other mental health professionals. CCPI does not employ any in-house licensed mental health professionals. CCPI forwards Dr. Childress's report on to its client without change or commentary. Dr. Childress is aware that CCPI forwards his consultation report on to its client without any changes or commentary. (Test. of Childress.)

10. In Dr. Childress's opinion, the purpose of his CRM consultation report is to explain the need for an assessment of the child/children or family unit, the type of assessment that is needed, and the issues to be assessed. His report is designed to give the data about the child and the pathology of the family "a voice" to be used in court (custody proceedings) or settlement negotiations. (Test. of Childress.) Dr. Childress prepares the consultation report as a guide to the court and/or the mental health providers involved with the family. He considers the "end users" of his consultation reports to be the court and/or the next therapist to evaluate and treat the child/children or family unit. Dr. Childress does not submit his consultation report to the court or other therapists, he leaves it up to CCPI's client to use the report as the client sees fit. (*Id.*)

11. In 2019, an Oregon resident (hereafter Father) involved in a high conflict custody dispute in Oregon with his child's mother hired CCPI and submitted information about himself, family members, and the family dynamics to CCPI's CRM program. CCPI compiled a data profile from Father's CRM responses and document submissions. CCPI provided the data profile to Dr. Childress, and requested his professional opinion on the information. (Test. of Childress; Ex. A2 at 4.)

12. In rendering his professional opinion and producing the consultation report, Dr. Childress did not meet with or interview Father or any family members. He did not confer with Ms. Pruter or any other CCPI staff member about the contents of his consultation report. (Test. of Childress; Ex. A2 at 4.)

13. On August 20, 2019, Dr. Childress produced, on his professional letterhead, a detailed, 22-page document entitled, "Consultation Report: Custody Resolution Method ([last name] Family)" (Report) with his evaluation of the Father's CRM data profile. (Ex. A2 at 18-39.) In the Report, Dr. Childress discussed the Father's mental health issues (including a history of bipolar disorder), the mother's manipulative behavior (using the child as a weapon of spousal revenge) and how these conditions impacted, or could impact, the child. Dr. Childress provided his diagnostic impressions, conclusions, and recommendations for assessment and treatment. *Id.* He signed the Report above his name, setting out his title and California license number: "Craig Childress, Psy. D., Clinical Psychologist, PSY 18857." (*Id.* at 30.)

14. The Report opens with the following descriptions and disclaimers:

Dr. Childress was provided with a compiled data profile from the Custody Resolution Method (CRM), summarized in a *Diagnostic Checklist for Pathogenic Parenting* (Childress, 2015) and *Parenting Practices Rating Scales* for each parent. Dr. Childress was asked to provide his opinion on the data set submitted

to him as summarized in the *Diagnostic Checklist for Pathogenic Parenting*.

Dr. Childress was provided with access to the raw data on which each tag of category was identified. Dr. Childress did not confirm the accuracy of each data tag, and instead relied on the summary of tagged data profiles provided by the Custody Resolution Method. Dr. Childress reviewed the scope of the material to develop a professional understanding for the family context surrounding the compiled data profile provided by CRM.

The opinion contained in this report is based on the accuracy of the compiled data profile provided to Dr. Childress as summarized in the *Diagnostic Checklist for Pathogenic Parenting*. If substantial alterations to the data profile provided for opinion occur, then the opinions of this report would change. Dr. Childress has not interviewed the involved family members, has not independently confirmed the accuracy of each individual CRM data tags used in the compiled profile. The opinions of Dr. Childress rely on the accuracy of the data profiles reviewed.

(Ex. A2 at 18; emphasis in original.)

15. The Report then discusses the *Diagnostic Checklist for Pathogenic Parenting* and the three diagnostic symptoms identifying the use of the child as a weapon of spousal revenge: Diagnostic Indicator 1: Attachment Suppression; Diagnostic Indicator 2a: Personality Disorder Traits; and Diagnostic Indicator 3: Persecutory Delusion. (Ex. A2 at 21-27.) The Report states:

The *Diagnostic Checklist for Pathogenic Parenting* documents child and family symptoms associated with a specific form of complex family conflict in which one parent creates severe pathology in the child in order to use the child as a spousal weapon of revenge and retaliation against the other spouse-and-parent for the failed marriage and divorce. Creating pathology in a child through distorted parenting is called “pathogenic parenting” (patho=pathology; genic=genesis, creation). Pathogenic parenting is the creation of significant psychopathy in the child through aberrant and distorted parenting practices.

Of concern in this family is that the mother is manipulatively incorporating the child, [], into a cross-generational coalition against the father, thereby inflicting emotional hurt and suffering on the (ex-spouse) father for the failed marriage and divorce, using the child as a weapon.

(Ex. A2 at 21-22.)

16. In the discussion of Diagnostic Indicator 1, Attachment Suppression, the Report addresses the Father’s diagnosis of bipolar disorder and its potential impact on the child and the parent-child relationship if the Father’s bipolar disorder is not stabilized with medication. The Report discusses the CRM criteria for this diagnostic indicator and notes: “The CRM data profile identifies 30 separate data tags \* \* \* substantially above the cutoff criteria for this symptom being likely present.” (Ex. A2 at 22-23.) In interpreting the data, Dr. Childress noted, [t]his

symptom alone would represent strong clinical evidence of outside negative influence impacting the child’s bonded relationship to his father, and would be fully consistent with a cross-generational coalition of the child with the mother against the father \* \* \*.” (*Id.* at 23.)

17. As to Diagnostic Indicator 2, Personality Disorder Traits, the Report states:

The CRM data profile identified 9 tags of symptom 2a, narcissistic personality traits displayed by the child. The child likely evidences specific narcissistic personality traits directed toward his father – [child] apparently judges his father’s adequacy as both a parent and a person. [Child] likely says and does cruel things to his father, [child] likely feels entitled that his father should please him to the child’s satisfaction, or else [child] will do or say things to punish his father. [Child] likely treats his father with open contempt and disdain, and he likely sees his father as an entirely bad person, and is rigid in his rejection of his father.

(Ex. A2 at 24-25.)

18. As to Diagnostic Indicator 3, Persecutory Delusion, the Report states:

The CRM profile identified 8 tags of a persecutory delusional symptom displayed by the data. This would suggest that the child may have a persecutory delusion toward his father. The CRM data would suggest that this symptom is likely present. \* \* \* Of particular note is an email from the father to his son (CRM tag #72) in which the father describes the variety and range of false beliefs by [child], along with the partial clinical notes from the therapist (CRM tag #126) which describe a variety of unfounded fears and allegations (false beliefs) reportedly held and promulgated by the mother about the father.

(Ex. A2 at 26.)

19. Under the heading “Diagnostic Confirmation & Child Abuse,” the Report states, in pertinent part:

This symptom profile, if validated by direct clinical assessment with the involved family members, would warrant a DSM-5 diagnosis of V995.51 Child Psychological Abuse (pathogenic parenting; allied parent). That a DSM-5 diagnosis of child abuse becomes active from the CRM data profile warrants immediate attention through focused clinical assessment. These symptoms of pathological parenting identified as being *likely present* from tagging the archival data, should receive immediate direct clinical assessment to confirm or disconfirm their presence.

\* \* \* \* \*

Pathogenic parenting that is creating a significant developmental pathology in the child (attachment bond suppression toward a normal-range parent), significant

personality pathology in a child (five personality disorder traits), and a persecutory delusion in the child toward the other parent; creating that degree of psychopathology in the child rise to the level of child psychological abuse and warrants a child protection response.

This diagnosis, however, cannot be made based on indicators of concern in archival data. A pressing child protection concern exists to have this symptom constellation in the child directly assessed as soon as possible. A potential DSM-5 diagnosis of child psychological abuse elevates assessment priority substantially.

(Ex. A2 at 27; emphasis in original.)

20. Under the heading “Additional Diagnostic Confirmation” the Report notes, in pertinent part:

The CRM data profile reported 9 [Associated Clinical Signs (ACS)] symptoms offering *Extremely Strong Support* for the identification of pathogenic parenting by the primary three Diagnostic Indicators. The ACS symptoms also includes ACS-3 the Exclusion Demand. When ACS-3 the Exclusion Demand appears in the child’s symptom display, it is almost 100% diagnostic of the multi-generational trauma pathology and would substantially confirm pathogenic parenting by an allied parent. The presence of 9 ACS symptoms, including the ACS-3 Exclusion Demand, represents *Extremely Strong Support* for the pathology identification made by the three primary Diagnostic Indicators.

(Ex. A2 at 28; emphasis in original.)

21. In the Recommendations section, the Report has sub-headings addressing Assessment, Diagnosis, Treatment, Treatment Plan, Trauma Informed Family Therapy, and Attachment Bonds. (Ex. A2 at 29-30.) The Report states, in part:

**Diagnosis:** If these symptom[s] are confirmed by a professional mental health assessment, then the DSM-5 diagnosis for the child would be:

Child: 309.4 Adjustment Disorder  
V61.20 Parent-Child Relational Problem  
V61.29 Child Affected by Parental Relationship Distress  
V995.51 Child Psychological Abuse, Confirmed (pathogenic parenting)

**Treatment:** If the symptoms identified through the CRM data tagging are not confirmed in clinical interview, then the clinical assessment findings will describe treatment. If the symptoms identified by CRM are confirmed by clinical assessment, then the DSM-5 diagnosis is Child Psychological Abuse.

Assessment leads to diagnosis, diagnosis guides treatment.

In all cases of a DSM-5 diagnosis of child abuse, the professional standard of practice and duty to protect requires the child's protective separation from the abusive parent. \* \* \*

(*Id.* at 29.)

22. As per the established practice, Dr. Childress submitted the Report to CCPI. CCPI then passed the Report on to the Father without changes or commentary. The Father used the Report and other materials from CCPI in his custody dispute in Oregon.<sup>1</sup> The Father did not call Dr. Childress to testify as an expert witness in court regarding the Report. (Test. of Childress.)

23. In psychology, "consultation" is recognized as a distinct professional practice. The primary role of consulting psychologists is to advise other on how to do their jobs—not to do their jobs for them. (Ex. A6 at 1.) Generally speaking, consultation is a "planned, collaborative interaction arranged between professionals to address the needs of the client. Consultation aims to help the consultee work more effectively \* \* \* and to maintain, develop, and enhance the consultee's professional competence as well as mitigate the risks of clinical errors." (Ex. A4 at 2.) Consultation involves a process of advisement, the offering of an expert opinion and making professional recommendations, but falls short of issuing a direction that must be followed. *Id.*

24. Psychological consultation involves a "consultant," the professional psychologist with expertise in a particular area or areas, and a "consultee," a client, colleague, or system, who has "a particular work issue, question, or problem regarding assessment, treatment, intervention, management, organizational process, policy, or implementation of professional services." (Ex. A4 at 2; test. of Ferder.)

25. Fran Ferder, Ph.D., is a licensed clinical psychologist in Oregon and a former Board Chair. She has extensive (approximately 30 years) experience as a psychological consultant. In her opinion, the provision of psychological consulting services to an organization or institution requires interaction with the organization or institution regarding some essential aspect of the organization or institution itself, matters that are pertinent to the internal functioning of the organization or institution. In general, organizations and institutions use psychological consultants to develop employment policies and guidelines, create assessment protocols for hiring and evaluating personnel, provide training to staff, develop and provide leadership tools and programs, and resolve staff issues, communication concerns, and other matters of conflict. (Test. of Ferder; Ex. A3.)

26. In Dr. Ferder's opinion, Dr. Childress was not functioning as a psychological consultant or providing consulting services to CCPI because he was not contracted to address concerns pertinent to the internal functioning of CCPI as an organization or business. Dr. Ferder found no identified organizational client with whom Dr. Childress actually interacted. To Dr. Ferder, it was significant that, in producing the Report at issue, Dr. Childress did not confer with CCPI personnel about Father's case, there were no mental health professionals at CCPI with

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<sup>1</sup> Father also used the Report, in particular Dr. Childress's provisional diagnosis of child psychological abuse, to make a complaint to the Board about the child's therapist. (Ex. A1 at 6-7.)

whom he could have conferred, and CCPI did not utilize the recommendations in the Report to resolve conflict or make changes within the institution itself. (Test. of Ferder; Ex. A3.)

### CONCLUSIONS OF LAW

1. Dr. Childress engaged in the practice of psychology in Oregon as defined in ORS 675.010(4).
2. Dr. Childress is not exempt from the Oregon licensure requirement pursuant to ORS 675.090(1)(a).
3. Dr. Childress violated ORS 675.020(1) by practicing psychology in Oregon and by representing himself as a psychologist in Oregon without a license issued under ORS 675.010 to 675.150.
4. Dr. Childress is subject to a civil penalty of \$7,500 pursuant to ORS 675.070.

### OPINION

The Board is the entity authorized to license, regulate, investigate, and discipline psychologists in the State of Oregon. ORS 675.110. The Board is also authorized, pursuant to ORS 675.070, to sanction individuals who practice psychology or represent themselves as a psychologist in Oregon without a license issued by the Board.

In this case, the Board proposes to impose a civil penalty against Dr. Childress for practicing psychology and representing himself as a psychologist in Oregon without a license pursuant to ORS 675.020 and ORS 675.070. The Board has the burden to prove the allegations in its notice by a preponderance of the evidence. ORS 183.450(2) (“The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position”); *Dixon v. Board of Nursing*, 291 Or App 207, 213 (2018) (the standard of proof that generally applies in agency proceedings, including license-related proceedings, is the preponderance of the evidence standard). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

#### *Applicable Law*

ORS 675.020, pertaining to the unlicensed practice of psychology, provides, in pertinent part as follows:

(1) To safeguard the people of the State of Oregon from the dangers of unqualified and improper practice of psychology, no person shall, unless exempted from the provisions of ORS 675.010 to 675.150 by ORS 675.090:

(a) Practice psychology in this state without first being licensed under ORS 675.010 to 675.150; or

(b) Represent oneself to be a psychologist without first being licensed under ORS 675.010 to 675.150.

(2) As used in subsection (1)(b) of this section, “represent oneself to be a psychologist” means to use any title or description of services incorporating the words “psychology,” “psychological,” “psychotherapy” or “psychologist,” or to offer or render to individuals or to groups of individuals services included in the practice of psychology.

The “practice of psychology” is defined in ORS 675.010(4) as follows:

“Practice of psychology” means rendering or offering to render supervision, consultation, evaluation or therapy services to individuals, groups or organizations for the purpose of diagnosing or treating behavioral, emotional or mental disorders. “Practice of psychology” also includes delegating the administration and scoring of tests to technicians qualified by and under the direct supervision of a licensed psychologist.

The “practice of psychology” is further defined in OAR 858-010-0001(1) as follows:

(1) The practice of psychology is defined to include:

(a) “Evaluation” means assessing or diagnosing mental disorders or mental functioning, including administering, scoring, and interpreting tests of mental abilities or personality;

(b) “Therapy” means, but is not limited to, treating mental disorders as defined by the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association;

(c) “Consultation” means conferring or giving expert advice on the diagnosis or treatment of mental disorders;

(d) “Supervision” means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual consultation, guidance and instruction with respect to the skills and competencies of the person supervised.

ORS 675.090 sets out the exemptions from the Oregon licensure requirement. As pertinent here, ORS 675.090 provides:

(1) ORS 675.010 to 675.150 do not apply to:

(a) *A person who teaches psychology, conducts psychological research or provides consulting services to an organization or institution, provided that the person does not supervise direct psychological services and does not treat any*

behavioral, emotional or mental disorder of an individual.

\* \* \* \* \*

(3) A person performing the functions described in subsection (1)(a) and (b) of this section may use the title “psychologist” only if the person holds a doctoral degree in psychology from an approved doctoral program in psychology.

(Emphasis added.)

#### **A. Adequacy of the Amended Notice**

As noted previously, the Board filed its Amended Notice just prior to the start of the hearing. The Amended Notice did not add violations, but added detail to the allegation that Dr. Childress engaged in the unlicensed practice of psychology in Oregon in violation of ORS 675.020(1)(a) by producing a “Consultation Report” for CCPI regarding residents of Oregon.

At the outset of the hearing, Dr. Childress, through counsel, objected to the Amended Notice on due process grounds. The ALJ overruled the objection and allowed the Amended Notice pursuant to OAR 137-003-0530(4)(a)(A).<sup>2</sup> The ALJ offered, and Dr. Childress declined, a continuance pursuant to OAR 137-003-0530(4)(b). He opted to go forward with the hearing as scheduled.

Following the hearing, Dr. Childress, through counsel, filed the Memorandum seeking dismissal of the Amended Notice as a matter of law. Specifically, he asserted that the Amended Notice violated ORS 183.415(3)<sup>3</sup> and did not provide him adequate notice of the manner in

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<sup>2</sup> OAR 137-003-0530(4) provides, in pertinent part:

(4) Notwithstanding any other provision of these rules, after the notice required by ORS 183.415 is issued:

(a) An agency may issue an amended notice:

(A) Before the hearing; or,

(B) During the hearing, but before the evidentiary record closes, if the administrative law judge determines that permitting the amendment will not unduly delay the proceeding or unfairly prejudice the parties.

(b) If an agency issues an amended notice, any party may obtain, upon request, a continuance determined to be reasonably necessary to respond to any new material contained in the amended notice. \* \* \* .

<sup>3</sup> As pertinent here, ORS 183.415(3) provides, in pertinent part:

(3) Notice under this section must include:

which he allegedly practiced psychology in Oregon. For the reasons that follow, Dr. Childress's sufficiency challenge to the Amended Complaint is denied.

In paragraph 2.1, the Amended Complaint alleges that "Respondent provided professional services as a consultant for" CCPI. Amended Complaint at 2. It alleges that Responded was provided and relied upon a data profile and that he prepared a "Consultation Report" regarding Oregon residents, A, B, and C, without ever meeting with A, B, or C. *Id.* The Amended Complaint further alleges that that "Respondent did not consult with another mental health professional in preparing this report." *Id.* It continues:

Although [Respondent] used the caption of "Consultation Report" his report was not a consultation but a psychological report containing a psychological diagnosis with a number of observations and conclusions indicative of the practice of psychology as defined by ORS 675.010(4), to include rendering or offering to render "supervision, consultation, evaluation or therapy services to individuals, groups, or organizations for the purpose of diagnosing or treating behavioral, emotional or mental disorders" to include the following:

[excerpts from Respondent's Report]

Respondent's report contains some disclaimers, such as \* \* \*. This disclaimer \* \* \* does not absolve Respondent from responsibility for the content of his report that contains diagnoses pertaining to Oregon patients.

2.2 Respondent's above described conduct violated ORS 675.020(1)(a), in that he engaged in the unlicensed practice of psychology, as defined by ORS 675.010(4) by rendering or offering consultation, evaluation, or therapy services to individuals (Patients A, B and C) or groups for the purpose of diagnosing or treating behavioral, emotional or mental disorders.

2.3 Respondent's above described conduct also violated ORS 675.020(1)(b) as defined by ORS 675.020(2), in that the report dated August 20, 2019, Respondent identified himself as a psychologist for a report pertaining to Oregon patients, as follows: \* \* \*.

*Id.* at 2-3.

Citing *Murphy v. Oregon Medical Board*, 270 Or App 621 (2015), and *Sachdev v.*

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- (a) A statement of the party's right to hearing, with a description of the procedure and time to request a hearing, or a statement of the time and place of the hearing;
  - (b) A statement of the authority and jurisdiction under which the hearing is to be held;
  - (c) A reference to the particular sections of the statutes and rules involved;
  - (d) A short and plain statement of the matters asserted or charged; \* \* \*.

*Oregon Medical Board*, 292 Or App 778 (2018), Dr. Childress contends that the Amended Complaint is insufficient because the Board did not allege the specific manner in which “Respondent allegedly practiced psychology in Oregon if he was not performing consultation to CCPI.” Memorandum at 4. However, contrary to Dr. Childress’s contention, nothing in ORS 183.415 or the *Murphy* or *Sachdev* decisions require the Board to address, in its notice of agency action, the exemptions in ORS 675.090 and the theory of Dr. Childress’s affirmative defense.

In *Murphy*, the Oregon Medical Board (OMB) sought to revoke a physician’s medical license alleging that he engaged in unprofessional and dishonorable conduct in violation of ORS 677.188(4)(a). The OMB’s notice included “a short factual statement” for the basis of the violation, *i.e.*, that the physician consumed alcohol while on call in violation of a hospital’s drug free work place policy. *Id.* at 629. At hearing, the OMB proceeded on the basis alleged in the notice as well as the theory that drinking alcohol while on call violated an underlying ethical obligation. On appeal, the court found the Board did not comply with the requirements of ORS 183.415(3) because the notice did not specifically allege that the physician’s conduct also violated the ethical standards of the medical community. *Id.* at 630-631. The court explained that “having provided that explicit explanation of the basis on which it was choosing to proceed, the board could not then change course at the contested case hearing \* \* \* without first providing [the physician] adequate notice so that he could have the opportunity to prepare a defense.” *Id.* at 631.

*Sachdev* involved similar issues. There, the court reiterated that ORS 183.415(3)(c) requires an agency’s notice to “indicate which statutory ground the board will - not might – press at the contested case proceeding.” 292 Or App at 788. The court then found that, as to certain alleged violations, the recitation of facts “were insufficient to provide notice that the board would determine that [the doctor] violated one of the defined bases for unprofessional or dishonorable conduct.” *Id.* at 797-798.

Here, unlike *Murphy* and *Sachdev*, the Amended Complaint includes sufficient facts to provide notice to Dr. Childress of the Board’s contention that he engaged in the unlicensed practice of psychology in Oregon in violation of ORS 675.020. Indeed, the Amended Complaint alleges in paragraph 2.1 that Dr. Childress produced a “psychological report containing a psychological diagnosis with a number of observations and conclusions indicative of the practice of psychology as defined by ORS 675.010(4).” Amended Complaint at 2. The same paragraph then sets out, with bullet points, the instances in which the psychological report discussed and/or offered diagnoses of behavioral, emotional, or mental disorders of Oregon residents. *Id.*

*Murphy* and *Sachdev* might be relevant to the analysis if, for example, the Board contended at hearing that Dr. Childress practiced psychology in Oregon in a manner other than by producing a psychological report containing psychological diagnoses pertaining to Oregon residents. That is not, however, the case. The Board did not change course at the hearing. Furthermore both the original notice and the Amended Notice contain sufficient factual allegations to put Dr. Childress on notice of the manner in which his conduct violated ORS 675.020.

Dr. Childress raised the application of ORS 675.090(1)(a) as an affirmative defense to the

alleged violation of ORS 675.020(1)(a) but the raising of that affirmative defense does not require the Board to allege, in the original notice or the Amended Notice, facts to support its position that Dr. Childress was not providing consulting services to an organization or institution within the meaning of ORS 675.090(1)(a). In short, the Board has no obligation under ORS 183.415(3) to reference ORS 675.090(1)(a) in its notice of action and/or to anticipate Dr. Childress's potential affirmative defenses. The Amended Notice comports with due process and the requirements of ORS 183.415(3).

For the foregoing reasons, Dr. Childress's request to dismiss the Amended Notice is DENIED.

## **B. The Practice of Psychology in Oregon**

In Oregon, the "practice of psychology" means "rendering or offering to render supervision, consultation, evaluation or therapy services to individuals, groups or organizations for the purpose of diagnosing or treating behavioral, emotional or mental disorders." ORS 675.010(4). "Evaluation" means "assessing or diagnosing mental disorders or mental functioning," OAR 858-010-0001(1)(a), and "Consultation" means "conferring or giving expert advice on the diagnosis or treatment of mental disorders." OAR 858-010-0001(1)(c).

As discussed above, the Board alleges that Dr. Childress produced a "psychological report containing a psychological diagnosis with a number of observations and conclusions indicative of the practice of psychology as defined by ORS 675.010(4)." Amended Complaint at 2. The Board further alleges that Dr. Childress's conduct "violated ORS 675.020(1)(a), in that he engaged in the unlicensed practice of psychology as defined by ORS 675.010(4) by rendering or offering consultation, evaluation or therapy services to individuals \* \* \* for the purpose of diagnosing or treating behavioral, emotional or mental disorders." *Id.* at 3.

Applying the plain meaning of the words in ORS 675.010(4)(a) and OAR 858-010-0001(1)(a) in context, Dr. Childress rendered "evaluation" services to individuals "for the purpose of diagnosing or treating behavioral, emotional, or mental disorders." Even though he did not interview the Father, child, or any other family members, Dr. Childress reviewed data provided by the Father (via the CRM and compiled by CCPI). He applied his education, professional experience, and expertise in the area of early child mental health and parental alienation to produce the Report, which included a specific diagnosis for the child. The Report provided Dr. Childress's assessment of the child and the family pathology ("pathogenic parenting by an allied parent, using the child as a weapon of spousal revenge for the failed marriage and divorce") and his diagnosis for the child (309.4 Adjustment Disorder, V61.20 Parent-Child Relational Problem, V61.29 Child Affected by Parental Relationship Distress, V995.51 Child Psychological Abuse, Confirmed (pathogenic parenting)). Exhibit A2 at 26, 29. Notwithstanding the various disclaimers in the Report (*e.g.*, "archival data cannot make a diagnosis, only clinical interviews informed by data can make a diagnosis," Exhibit A2 at 27), Dr. Childress rendered an evaluation of mental disorders or mental functioning to CCPI's client, and any other users of the Report, for the purpose of the child's diagnosis or treatment.

Based on the Board's broad definition of "consultation" in OAR 858-010-0001(1)(c), Dr.

Childress also engaged in the practice of psychology in Oregon by “giving expert advice on the diagnosis or treatment of mental disorders.” Indeed, as noted above, in producing the Report, Dr. Childress employed his expertise in the diagnostic indicators of attachment based parental alienation to evaluate the data (*i.e.*, information about the family and the child’s symptom display) and conclude based on the data, that the child was likely subjected to abuse in the form of pathogenic parenting practices by his unstable, manipulative, and emotionally fragile mother.

Under either approach, Dr. Childress engaged in the practice of psychology in Oregon as defined in 675.010(4)(a) by producing the August 20, 2019 Report containing an evaluation of an Oregon resident’s data profile, mental health diagnoses for an Oregon child, and recommendations for further assessment and treatment.

### **C. ORS 675.090(1)(a) Exemption**

Dr. Childress maintains that his conduct (producing the Report containing assessments and diagnoses for an Oregon resident) is exempted from the licensing requirement of ORS 675.020 pursuant to ORS 675.090(1)(a). As set out above, ORS 675.090(1)(a) exempts from the licensing requirement a person who “teaches psychology, conducts psychological research or *provides consulting services to an organization or institution*, provided that the person does not supervise direct psychological services and does not treat any behavioral, emotional or mental disorder of an individual.”

Dr. Childress maintains that he provides consulting services to an institution (CCPI) and is therefore exempt from the licensing requirement. The Board, on the other hand, asserts that this exemption does not apply because Dr. Childress did not, in producing the Report, provide consulting services to CCPI. Instead, he provided evaluative services and expert advice to CCPI’s client, the Father, who is not an organization or institution. For the reasons that follow, I agree with the Board. The exemption of ORS 675.090(1)(a) does not apply to Dr. Childress’s conduct in producing the Report.

Despite Dr. Childress’s contention that he provided consulting services to CCPI, the evidence establishes that it was the Father, and not CCPI, who was the recipient and beneficiary of the Report. The Father used the Report in his high-conflict custody dispute with the child’s mother as evidence that the mother was creating pathology in the child by engaging in behaviors causing the alienation of the child from his father. Dr. Childress delivered the Report to CCPI, and CCPI, as Dr. Childress was aware, provided it to the Father without change or commentary. CCPI was only a conduit for the Report. CCPI did not use Dr. Childress’s expertise or the contents of the Report for any purpose pertinent to CCPI’s functioning as an organization, such as training staff, providing leadership tools, or resolving internal conflict. CCPI did not take any action based on Dr. Childress’ professional opinion and his recommendations in the Report.

As discussed above, in the broad sense it is fair to categorize Dr. Childress’s conduct in producing the Report as “consultation” as defined by OAR 858-010-001(1) because he gave expert advice on the diagnosis or treatment of mental disorders. But, Dr. Childress did not provide this consultation *to an organization or institution*. The Father, an individual, and not CCPI as an organization, was the recipient of Dr. Childress’ Report and its expert advice. CCPI

was not the “consultee” in this situation. Dr. Childress’s advice did not address a concern or problem occurring within the organization. Dr. Childress did not confer with any professionals at CCPI or any other psychologist in preparing the Report. The fact that Dr. Childress has a contract with, and gets paid by, CCPI to produce consultation reports is not determinative. In producing the Report at issue in this case, Dr. Childress was not serving as a consultant to CCPI. Instead, he provided his expert opinion on diagnoses and further treatment options for a child living in Oregon to the child’s father, an Oregon resident. Accordingly, the exemption set out in ORS 675.090(1)(a) to the licensing requirement of ORS 675.020(1) does not apply to Dr. Childress’s practice of psychology in Oregon.

**D. Violation(s)**

As set out previously, Dr. Childress is not licensed to practice psychology in Oregon. He engaged in the practice of psychology in Oregon by producing the Report for the Father, an Oregon resident. Dr. Childress’s is not exempted from the provisions of ORS 675.010 to 675.150 by ORS 675.090. Therefore, his conduct violated ORS 675.020(1)(a).

Additionally, by signing and identifying himself in the Report as a clinical psychologist (Craig Childress, Psy. D., Clinical Psychologist, 18857), Dr. Childress violated ORS 675.020(1)(b) by representing himself as a psychologist in Oregon without having a license issued under ORS 675.010 to 675.150.

**E. Sanction**

ORS 675.070 addresses sanctions and provides, in pertinent part, as follows:

(1) If any of the grounds enumerated in subsection (2) of this section exist, the Oregon Board of Psychology may impose any of the following sanctions:

\* \* \* \* \*

(g) Impose a civil penalty as described in subsection (3) of this section.

(2) The board may impose a sanction listed in subsection (1) of this section against a psychologist or psychologist associate or applicant, or, if applicable, an unlicensed person found in violation of ORS 675.010 to 675.150, when, in the judgment of the board, the person:

\* \* \* \* \*

(h) Has violated a provision of ORS 675.010 to 675.150 or 675.850 or a provision of the code of professional conduct formulated under ORS 675.110 (13);

(3) The board may impose a civil penalty under subsection (1) of this section:

(a) In an amount not to exceed \$5,000; or

(b) In an amount not to exceed \$10,000, if any of the following conditions exist:

\* \* \* \* \*

(E) The person subject to the penalty violated ORS 675.020 by practicing psychology or representing that the person is a psychologist without having a license.

Here, as discussed previously, Dr. Childress violated ORS 675.020(1)(a) and (b) by practicing psychology in Oregon and by representing in the Report that he is a psychologist without having a license in Oregon to so practice. Given these circumstances, the Board is authorized, pursuant to ORS 675.070(3)(b)(E) to impose a civil penalty of up to \$10,000.

In the Amended Notice, the Board proposed to impose a civil penalty of \$7,500 for the violations of ORS 675.020(1)(a) and (b). The proposed civil penalty of \$7,500 is within the Board's statutory authority, it is reasonable, and warranted under the circumstances. Accordingly, for the unlicensed practice of psychology in Oregon in violation of ORS 675.020(1), Dr. Childress is subject to a civil penalty of \$7,500.

### **ORDER**

*I propose the Oregon Board of Psychology issue the following order:*

Craig Childress shall pay a civil penalty of \$7,500 for the unlicensed practice of psychology in this state and representing himself as a psychologist in this state in violation of ORS 675.020.

Alison Greene Webster

Senior Administrative Law Judge  
Office of Administrative Hearings

### **EXCEPTIONS**

The proposed order is the Administrative Law Judge's recommendation to the Board. If you disagree with any part of this recommendation, you may make your written exceptions (objections) to the recommendation. In order to be considered, your written exceptions, along with your written argument in support of your exceptions, must be received at the Board office within ten (10) days after mailing of the proposed order. Oral argument on the written exceptions may be requested when written exceptions are filed with the Board. The Board may grant or deny a request for oral argument on the written exceptions. You may send your exceptions and argument to:

Charles Hill, Executive Director  
Oregon Board of Psychology  
3218 Pringle Road SE, Suite 130  
Salem, Oregon 97302-6309

**CERTIFICATE OF MAILING**

On April 5, 2021, I mailed the foregoing PROPOSED ORDER issued on this date in OAH Case No. 2020-ABC-04190.

By: Electronic Mail

Craig Childress  
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Lucy M Garcia  
Hearing Coordinator