

**BEFORE THE ARIZONA STATE
BOARD OF BEHAVIORAL HEALTH EXAMINERS**

IN RE:)	BBHE-089-01
)	
JACK LAVINO, CERTIFIED)	FINDINGS OF FACT,
SUBSTANCE ABUSE COUNSELOR)	CONCLUSIONS OF LAW
NO. SA-0131)	AND ORDER
)	
Respondent.)	
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This matter came on for hearing before **NICHOLAS C. GUTTILLA**, Hearing Officer, on May 15, 1995, May 16, 1995, and June 13, 1995, the State appearing through Blair C. Driggs, Assistant Arizona Attorney General, and Christine Waddell as a representative of the Board of Behavioral Health Examiners, Respondent, Jack Lavino, appeared in person and through counsel, Gary Sheets.

The State called as witnesses Jeannie Harmon; Cindy Copp; and Terry Scritchlow, Ph.D.; and Respondent called Barbara Aglaia; Elaine Cregut; Kay McKay; Caryl Ainley, Ph.D.; Conrad Boeding; Foster Cline, MD; Barbara Rila, Ph.D.; Debbie Ballard; Nancy Whitley; and Respondent, Jack Lavino.

The State offered the following exhibits:

Exhibit 1 - National Association of Alcoholism and Drug Abuse Counselor's Ethical Standards
(Admitted);

Exhibit 2 - Child Protective Services Intake and Investigation Report dated 12/8/93 for Andrea
(Admitted);

Exhibit 3 - December 10, 1993, letter from Terry L. Scritchlow to Cindy Copp (Admitted); and

Exhibit 4 - "Dynamic Attachment Therapy Workshop Sheet" (Not Admitted).

The Respondent offered the following exhibits:

Exhibit A - "Ethical Standards for the American Counseling Association" (Admitted);

Exhibit B - Psychiatric Evaluation Sierra Tucson reflecting a dictation and typing date of March 24, 1992, (Admitted);

Exhibit C - Curriculum Vitae for Caryl Ainley, Ph.D. (Admitted);

Exhibit D - Curriculum Vitae for Foster W. Cline, M.D. (Admitted);

Exhibit E - Curriculum Vitae for Barbara A. Rila, Ph.D. (Admitted);

Exhibit F - Credentialing Committee Meeting (Revised April 20, 1995) Working Draft for Attach
(Not Admitted);

Exhibit G - Entire CPS file re Andrea (Admitted);

Exhibit H - Affidavit of Carol Rourke Linker (Admitted);

Exhibit I - Handwritten notes of Dr. Scritchlow regarding his December 8, 1993, consultation regarding Andrea (Admitted); and

Exhibit J - Curriculum Vitae for Respondent Jack Lavino (Admitted).

From the testimony and exhibits the Hearing Officer makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Jack Lavino holds Substance Abuse Counselor Certificate No. SA-0130.
2. Jack Lavino obtained a Bachelors in psychology from Brown University and a Masters from NAU in psychology.
3. Jack Lavino is a recovering alcoholic and has been one since 1972.
4. Jack Lavino became interested in holding therapy in 1991 when he treated Ben and attended the Human Passages at Evergreen, Colorado with Ben and his mother.
5. Barbara Aglaia is the mother of Ben, a boy who previously experienced rage and destructiveness and had a father who is an alcoholic. Her son Ben was seven years old then and she used Dr.

Foster Cline's rage therapy tapes and then sought treatment from Jack Lavino who aided her son through holding therapy.

6. Ben did not have a substance abuse problem, but the family did.

7. "Human Passages" is a treatment facility in Evergreen, Colorado which specializes in "unbonded children" and which provides two weeks of intensive outpatient service using Dynamic Attachment Therapy. It is also a foster child placement entity.

8. Mr. Lavino had 50 hours of holding therapy training from Conrad Boeding of the Human Passages Institute in Colorado.

9. Conrad Boeding studied attachment therapy with Foster Cline, M.D., in 1982 and is now a consulting therapist at "Human Passages" in Evergreen, Colorado. Mr. Boeding has a Masters Degree in education and is presently enrolled in a Ph.D. program at the University of Denver in clinical psychology. Mr. Boeding has 13 years experience with holding therapy.

10. Dynamic Attachment Therapy is a family systems approach to therapy and involves physical holding and sitting with the child. It is based upon the theory that because of a break in the child/parent attachment cycle, the child creates defenses and these defenses interfere with the child's ability to bond with the parent, therefore, the child can't give or receive love and the child becomes a self parent and manipulative.

11. Dynamic Attachment Therapy is a broad modality, which includes many techniques including role playing, breathing, "holding and a blanket wrap", the latter of which is about a one-third of Dynamic Attachment Therapy.

12. Dynamic Attachment Therapy is used by 50-100 therapists nationwide.

13. Human Passages uses blankets to keep the child safe while permitting the child's feelings to be expressed and to create discomfort. There is a difference between provoking with discomfort and goading. The blanket wrap eliminates the need to goad the child.

14. In Mr. Boeding's opinion, goading is not appropriate, but stimulation such as tickling, confrontation and jousting is appropriate. The purpose is to purge the child of rage.

15. Because holding therapy is a physical therapy there is more potential for abuse, therefore, an evaluation is needed to determine if it is an appropriate treatment. Evaluation includes taking a history and interviewing the child and parents.

16. Human Passages does not use the licking technique, however, therapists there experimented with it for several years and do not use it now, they don't use tickling, they do use kissing and they do use compression, i.e. laying on the child as physical confrontation while the child is wrapped in the blanket.

17. Licking is unusual to Dynamic Attachment Therapy, however, wrapping in a blanket is not unusual.

18. Dynamic Attachment Therapy is an unusual treatment for children and it could be construed as emotional abuse.

19. Dynamic Attachment Therapy in general is unusual when considered nationwide.

20. Dynamic Attachment Therapy is used to treat a psychological problem, but the therapy is not used for the diagnosis of a mental disorder.

21. Arizona Child Protective Services (CPS) was contacted by a Flagstaff Attorney, Gary Robbins, and a Flagstaff Therapist, Ms. Fishback, regarding the investigation of possible psychological abuse of minor Andrea, then age 13.

22. On December 8, 1992, Cindy Copp, Supervisor of Child Protective Services of Arizona, interviewed Andrea and her mother at the Flagstaff CPS offices.

23. Cindy Copp prepared an Intake and Investigation Report after an interview with Andrea and her mother at which Dr. Scritchlow was present and participated.

24. Temporary custody notice issued by CPS is valid for 12 hours and its purpose is to take custody of a minor child in order to give physical or psychological assistance.

25. Dr. Scritchlow has a Ph.D. in psychology and is licensed as a Psychologist in Arizona, Nevada and Utah. He has a contract with CPS and is involved with "bonding problems" caused by sub-standard parenting.

26. Dr. Scritchlow's consultation was requested by CPS in order to determine the short term needs of the minor child and to determine if she met the statutory standards of psychological abuse.

27. Although Dr. Scritchlow was aware that there were three other therapists treating Andrea he did not try to speak to or contact the other therapists because the purpose and level of his interview at CPS was to determine the temporary needs of the child which purpose he believes was satisfied by his interview of the child and her mother and also because he was consulting with Ms. Copp and not evaluating Andrea.

28. Andrea was subject to psychiatric evaluation at Sierra in Tucson in March of 1992 and at Human Passages at Evergreen, Colorado. When Dr. Scritchlow and Ms. Copp interviewed Andrea and her mother they did not have any records from Sierra of Tucson or Human Passages of Evergreen, Colorado.

29. In Dr. Scritchlow's opinion holding therapy created distress in Andrea and his job was to decide if the statutory standards for psychological abuse were present.

30. Dr. Scritchlow's interview of Andrea took approximately one-half hour to 45 minutes and Andrea's mother was independently interviewed for approximately 1-2 hours.

31. Dr. Scritchlow concluded that Andrea had psychiatric problems, was a manipulative minor trying to play one counselor against another and that she was experiencing post-traumatic disorder (PTD) which is an anxiety disorder which was caused by the holding therapy.

32. During Andrea's interview with Dr. Scritchlow and Ms. Copp, Andrea related that she was rolled in two blankets so her head protruded. Dr. Scritchlow concluded that Andrea suffered from post-traumatic stress disorder as a result of the "unusual" technique of Dynamic Attachment Therapy (holding) based

upon her description of post-traumatic stress disorder and because Andrea fulfilled the statutory definition of emotional abuse. Ms. Copp and Dr. Scritchlow both concluded that Andrea's being forced to participate in the therapy was emotional abuse.

33. In Dr. Scritchlow's opinion holding therapy is an inappropriate therapy for any adolescent and is especially inappropriate for a child having Andrea's type of pathology.

34. In Dr. Scritchlow's opinion, Andrea described symptoms of post-traumatic stress disorder and Andrea's mother gave him Andrea's previous psychiatric history which included pyromania, depression, alcohol and drug abuse.

35. Dr. Scritchlow is not an expert in Dynamic Attachment Therapy, however, having read about it he is familiar with it.

36. Dr. Scritchlow has become a believer in the Dynamic Attachment Therapy, but believes it is not appropriate to be used when treating children entering adolescence, i.e. it is okay for children 8-9, but not beyond 8 or 9 years of age.

37. Dr. Scritchlow believes that the problem with permitting a substance abuse counselor to use Dynamic Attachment Therapy is that the educational requirements for certification as a substance abuse counselor are not as stringent as the requirements for a counselor, i.e., a high school degree will suffice.

38. Andrea has a borderline personality disorder and is a chronic liar, however, her description of her symptomology was consistent with the acute post-traumatic stress disorder.

39. Jack Lavino started utilizing a therapeutic technique known as "Dynamic Attachment Therapy" in 1992.

40. In 1992 Jack Lavino treated client Andrea, then a minor age 13, utilizing "Dynamic Attachment Therapy".

41. Mr. Lavino first became involved with Andrea in October or November of 1992, when Ms. Amata, formerly Martinez, was working with Andrea and asked Mr. Lavino to participate. Ms. Amata told Mr. Lavino that Andrea had been treated at Sierra Tucson and Human Passages in Colorado.

42. Ms. Amata was Andrea's lead therapist. Ms. Amata initially sent Andrea's file to Human Passages for their determination of whether Dynamic Attachment Therapy was appropriate for Andrea. The Human Passages staff concluded that it was appropriate therapy for Andrea.

43. Andrea's Dynamic Attachment Therapy at Human Passages included her mother and siblings.

44. Andrea was treated at Human Passages and Mr. Boeding was present for two or three of the ten treatments at which she was held.

45. Andrea was sexually abused by Mrs. Ballard's father when Andrea was four and Andrea has sexually abused one of her siblings, tried to kill her mother and teacher, has run away and began running away in kindergarten, is a self-mutilator and has been in therapy for a number of years.

46. Andrea's two weeks stay at Human Passages produced a positive change in Andrea and Ms. Amata began holding therapy for Andrea when they returned from Evergreen, Colorado.

47. Andrea's mother testified that she was surprised when Andrea told Dr. Scritchlow and Ms. Copp that she did not want to participate in the holding therapy. This testimony this Hearing Officer finds to be of questionable creditability.

48. Andrea's mother was told that it was okay for her to do holding at home alone and without the supervision of a therapist, but she recalls that Jack Lavino neither said yes nor no regarding the mother performing the therapy on her own.

49. Andrea's mother testified that she agreed to stop holdings because she was under duress at the CPS offices. This statement this Hearing Officer finds to be of questionable creditability.

50. The first session with Andrea was at her parents' home in late December 1992, however, Andrea had several holding sessions before Jack Lavino became involved. These holding sessions were at Human Resources.

51. At the first blanket wrap holding of Andrea she resisted by becoming quiet. Andrea's mother was at her head, her step-father was at her feet, her two siblings were on the sofa, Ms. Amata was at her head and Mr. Lavino was in the middle. Andrea's mother talked to her about her biological father who lived in Los Angeles, California, and who never followed through with visits and promises. As a result Andrea became enraged.

52. At approximately the third holding session Mr. Lavino and Ms. Amata did a "bridge" which is a technique designed to help the child get through their feelings. It was accomplished as follows: mother got on her elbows and knees over (on top of) the child who was lying on her back wrapped in the blanket, then the step-father got on top of the Mother and the therapist got on top of the step-father imparting a perception that the child was being crushed, but in reality the Mother was holding the weight on her arms and legs. Mr. Boeding referred to this as compression. (See Fact No. 16)

53. Andrea felt fear, then rage turned to terror and then her mother soothed her.

54. Mr. Lavino did not see licking of Andrea at anytime. He did see Mother kiss Andrea on the cheek 10 or 12 times while saying that she loved her. Andrea told Dr. Scritchlow and Ms. Copp that her mother licked her face and that Andrea thought her mother got sexual pleasure from it.

55. Before the next bridging Andrea asked that her step-father not be part of the therapy.

56. Andrea has a drug and alcohol abuse history.

57. Per Mr. Lavino, Andrea volunteered to participate in the holding therapy and freely participated in 10 to 12 holding sessions.

58. Per Mr. Lavino, Andrea benefited from the holding therapies because she was closer to her mother after the holding therapy.

59. Mr. Lavino was aware that Andrea's mother performed holding therapy on her own without the presence of a counselor and Mr. Lavino never told Andrea's mother that she shouldn't do it on her own.

60. Per Mr. Lavino it is okay for a mother to hold because Andrea's mother was trained at Human Passages to do holding, but she doesn't do holding in the depth that Mr. Lavino did (whatever that means). This area of testimony is the most troubling to this Hearing Officer.

61. Per Mr. Lavino parents are trained not to use therapy as punishment.

62. Per Mr. Lavino he treated the step-father for substance abuse problem and, therefore, he could treat Andrea even though not for a substance abuse problem, because substance abuse affects the entire family.

63. Andrea was not personally being treated by Mr. Lavino for a substance abuse problem.

64. Per Mr. Lavino most people who come for counseling have a family member who is a substance abuser.

65. Jeannie Harmon reviewed the Complaint against Mr. Lavino which was filed by another professional in Flagstaff (Ms. Fishback). During an interview and three informal meetings with Mr. Lavino, Ms. Harmon found him to be very cooperative. During the interview Jack Lavino told Ms. Harmon that substance abuse was not an issue for Andrea and that he was treating her for an attachment disorder and that he had approximately 200 hours of supervised treatment experience in this treatment modality.

66. Mr. Lavino is now saying that both Andrea and her step-father were being treated for an alcohol problem.

67. Jack Lavino told Ms. Harmon that he did not diagnose Andrea, but did initially assessed her. After Andrea was sent to Human Passages Mr. Lavino treated her.

68. It was Ms. Harmon's opinion that Jack Lavino provided treatment for childhood mental disorder and, therefore, he was acting outside the scope of his certification as a substance abuse counselor, because Andrea was not a substance abuse client.

69. Ms. Harmon testified that Jack Lavino admitted treating Andrea for mental health disorders not for substance abuse disorders.

70. Substance Abuse Credentialing Committee concluded that Mr. Lavino was not authorized to treat non-substance abuse clients.

71. Caryl Ainley, Ph.D., is a Psychologist, licensed by the State of Arizona and is presently taking borderline attachment therapy training, which she started in the fall of 1994. Dr. Ainley will not rely solely on the child's statements to evaluate the child. Dr. Ainley uses holding attachment therapy for her children clientele.

72. Although Dr. Ainley's interviews include not only the words of the child but observing the demeanor, the history of the adolescent, parents, doctors and teachers, she believes she can give a tentative diagnosis in one session depending on the age of the child.

73. "Attach" is a national organization promoting attachment therapy and has approximately 300 members nationwide of which 50 to 80 members use holding therapy.

74. Foster Cline, M.D., is a psychiatrist who has written a number of books and is presently in private practice in Evergreen, Colorado as a child and family therapist.

75. Dr. Cline is familiar with holding attachment therapy which was first used with autistic children by Robert Zazlow.

76. Dr. Cline's opinion, Dr. Scritchlow did not have enough information to conclude that Andrea was subject to emotional abuse.

77. Alcohol and abuse counselors routinely work with psychological issues because there is an overlap and in Dr. Cline's opinion Dynamic Attachment Therapy is appropriate therapy for a substance abuse counselor to use.

78. Dr. Cline is a proponent of holding therapy but admits there is a split in his field and he testified that he has never had a case where a child has been harmed by Dynamic Attachment Therapy.

79. Dr. Cline believes that a person with dis-associative disorder could be treated with Dynamic Attachment Therapy and that it works because of the support given to the child in addition to the provocation.

80. Barbara Rila, Ph.D. in psychology, licensed in Texas, is a student of and practitioner in holding therapy and was trained by Dr. Foster Cline. She has a contract with Texas CPS and is a member of "Attach".

81. Ninety percent of the children Dr. Rila serves have an alcohol or substance abuse family member.

82. Dr. Rila stopped personally holding her clients in 1992, and now involves the parents in holding the child.

83. In Dr. Rila's opinion Andrea was "treatment wise" which means that she believes that Andrea had been in psychological treatment for so long she knew the buzz words and other phrases to use when being interviewed and, therefore, manipulated the interviewer.

84. Debbie Ballard is Andrea's mother. She testified that Attorney Gary Glenn referred Andrea to Ms. Amata and then Andrea went to Sierra in Tucson for 45 days of treatment.

85. Jack Lavino does not have the academic qualifications for certification as a "counselor".

86. In the last 20 years Mr. Lavino has seen over 1500 clients regarding substance abuse.

87. Jack Lavino was paid by the Andrea's step-father's insurance company.

88. Kay McKay was called as a character witness. She has been the Executive Director of the Big Brothers and Big Sisters of Northern Arizona for 27 years.

89. Ms. McKay contracted with Jack Lavino to train her staff for the last nine years, Mr. Lavino was a big brother for three years. Ms. McKay has never heard of Mr. Lavino ever being abusive with any child and she considers him to be an outstanding professional.

90. The State of Arizona certifies four types of counselors:

- a) Social Work;
- b) Counseling;
- c) Marriage and Family; and
- d) Substance Abuse.

91. Certification for professional counselors is much more stringent than certification for a substance abuse counselor.

92. If a person is certified as a substance abuse counselor and treats a client then it is presumed that the counselor is performing the treatment under the substance abuse certification.

93. The State contends that Mr. Lavino was practicing counseling under the certification of a substance abuse counselor and that he was treating Andrea for an attachment disorder and not a substance abuse problem.

94. The issues of this case are:

- a) Did Mr. Lavino operate outside the scope of his certification as a substance abuse counselor?
- b) Was the use of holding therapy by Mr. Lavino psychological abuse of Andrea?
- c) Do the Arizona Revised Statutes set forth sufficient standards so that Mr. Lavino understood the scope of and limitations upon his substance abuse counselor certification?

CONCLUSIONS OF LAW

1. A.R.S. § 32-3261 provides in pertinent part:
 - A. The following credentialing committees are established:
 1. Social work.
 2. Counseling.
 3. Marriage and family therapy.
 4. Substance abuse counseling and treatment.

2. A.R.S. § 32-3281 provides:

On receipt of a credentialing committee report of investigation findings, the board, after a hearing, may issue an order of censure, impose a civil penalty of not to exceed five hundred dollars, impose probation, refuse to issue or renew a certificate or suspend or revoke a certificate for unprofessional practice. Notwithstanding § 32-3254, civil penalties collected pursuant to this section shall be deposited in the state general fund.

3. A.R.S. § 32-3291 provides:

A person who desires to be certified by the board to engage in social work practice as a certified baccalaureate social worker shall satisfy all of the following requirements:
(Emphasis added)

1. Furnish evidence satisfactory to the social work credentialing committee that the persona has earned a baccalaureate degree in social work from a regionally accredited college or university in a program accredited by the council on social work education or a degree from a foreign school based on a program of study which the board determines is substantially equivalent.
2. Pass an examination approved by the social work credentialing committee.
3. Pay the prescribed fee.

4. A.R.S. § 32-3301 provides in pertinent part:

A. A person who desires to be certified by the board to engage in the practice of professional counseling as a certified professional counselor shall satisfy all of the following requirements:
(Emphasis added)

1. Meet the education requirements of subsection B and the work experience requirements of subsection C.

2. Pass an examination approved by the counseling credentialing committee.

3. Pay the prescribed fee.

B. An applicant for certification shall furnish evidence satisfactory to the counseling credentialing committee that the person has received either of the following:

1. A master's degree or higher degree with a major emphasis in counseling from a regionally accredited college or university in a program of study that includes a minimum of forty-eight semester credit hours or the equivalent in a curriculum approved by the counseling credentialing committee.

2. A master's degree or higher degree with a major emphasis in counseling from a program accredited by the council for the accreditation of counseling and related educational programs or the national council on rehabilitation education.

5. A.R.S. § 32-3311 provides in pertinent part:

A. A person who desires to provide marriage and family therapy, as a certified marriage and family therapist shall satisfy all of the following requirements:
(Emphasis added)

1. Furnish evidence satisfactory to the marriage and family therapy credentialing committee that the person has:

(a) Earned a master's or doctorate degree in behavioral science, including, but not limited to, marriage and family therapy, psychology, sociology, counseling and social work, granted by a regionally accredited college or university in a program accredited by the commission on accreditation for marriage and family therapy education or a degree based on a program of study which the board determines is substantially equivalent.

(b) Completed two years of full-time or the equivalent part-time post-master's degree experience in the provision of marriage and family therapy under supervision as approved by the marriage and family therapy credentialing committee including a minimum of one thousand hours of clinical experience with couples and families.

2. Pass an examination approved by the marriage and family therapy credentialing committee.

3. Pay the prescribed fee.

6. A.R.S. § 32-3321 provides:

A person who desires to provide substance abuse counseling services shall satisfy the following requirements:

(Emphasis added)

1. Furnish evidence to the substance abuse credentialing committee that he either:

(a) Has earned one of the following:

(i) A master's or doctorate degree in behavioral science, with an emphasis on counseling, from a regionally accredited college or university or a degree based on a program of study that the board determines is substantially equivalent.

(ii) A bachelor's degree in behavioral science, with an emphasis on counseling, granted by a regionally accredited college or university, or a degree based on a program of study that the board determines is substantially equivalent, and two years of experience in counseling of substance abusers that the substance abuse credentialing committee determines demonstrates knowledge and competence.

(iii) An associate of applied science degree in chemical dependency with an emphasis on counseling, granted by a regionally accredited community college, or a degree based on a program of study that the board determines is substantially equivalent, and two years of experience in the counseling of substance abusers that the substance abuse credentialing committee determines demonstrates knowledge and competence.

(iv) A high school diploma or the equivalent and has four years of experience in counseling of substance abusers that the substance abuse credentialing committee determines demonstrates knowledge and competence.

(b) Holds current certification as an addiction counselor as recognized by the substance abuse credentialing committee.

2. Pass an examination approved by the substance abuse credentialing committee. A person qualified pursuant to paragraph 1, subdivision (b) is exempt from the requirements of this paragraph.

3. Pay a fee as prescribed by the board.
(Emphasis added.)

7. As can be seen from the emphasized portions of A.R.S. § 32-3321 it is implicit in the experience requirements for certification as a substance abuse counselor that substance abuse counselors council "substance abusers".

8. The educational requirements for certification as a social worker (A.R.S. § 32-3291), as a professional counselor (A.R.S. § 32-3301), and as a marriage and family therapy counselor (A.R.S. § 32-3311) are less stringent than the educational requirements for a "substance abuse counselor" (A.R.S. § 32-3321).

9. The introduction to the Ethical Standards of Alcoholism and Drug Abuse Counselors (Exhibit "1") provides:

As professional dedicated to the treatment of alcohol and drug dependant clients and their families, they believe that they can effectively treat its individual and familial manifestations.

However, treatment of the family of a substance abuser is secondary to the treatment of the substance abuser. To conclude otherwise would be to permit a person holding a certificate as a substance abuse counselor to counsel anyone for anything as long as a member of that client's family had a drug or alcohol abuse problem. Such a conclusion would ignore the distinctions drawn by each of the Articles 5, 6, 7 & 8 of Chapter 33 of Title 32 of the Arizona Revised Statutes.

10. This Hearing Officer therefore concludes that Jack Lavino exceeded the scope of his certification as a substance abuse counselor when he treated Andrea.

11. This Hearing Officer further concludes that although Jack Lavino exceeded the scope of his certification as a substance abuse counselor when he treated Andrea he was not provided sufficient prior notice of those limitations and, therefore, such violation was neither intentional nor culpable.

12. Based upon the significant treatment history of Andrea and the extent of Dr. Scritchlow and Ms. Copp's interview this Hearing Officer is unable to conclude that holding therapy constituted psychological abuse of Andrea, however, permitting or encouraging Andrea's mother to conduct holding therapy

in an unsupervised setting is, in this Hearing Officer's opinion, conduct which violates Principle 7, Paragraph G of the Ethical Standards of Alcoholism and Drug Abuse Counseling which provides:

The alcoholism and drug abuse counselor must insure the presence of an appropriate setting for clinical work to protect the client from harm and the counselor and profession from censure.

13. Because unsupervised holding therapy by Andrea's mother was not an issue contained in the Notice of Hearing, Conclusion No. 12 should not be the basis for disciplinary action against Mr. Lavino.

14. Although Dynamic Attachment Therapy and Holding Therapy may be of benefit to the appropriate clientele, its application should be strictly monitored and supervised when being performed with children.

15. A.R.S. § 8-546.A.2 provides:

2. "Abuse" means the infliction or allowing of physical injury, impairment of bodily function or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to § 8-223 which is caused by the acts or omissions of an individual having care, custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to § 13-1404, sexual conduct with a minor pursuant to § 13-1405, sexual assault pursuant to § 13-1406, molestation of a child pursuant to § 13-1410, commercial sexual exploitation of a minor pursuant to § 13-3552, sexual exploitation of a minor pursuant to § 13-3553, incest pursuant to § 13-3608 or child prostitution pursuant to § 13-3212.

16. Based upon the record of Andrea's treatment history and the conflicting opinions of the professionals involved, this Hearing Officer is unable to conclude that Holding Therapy constituted psychological abuse as that term is defined in A.R.S. § 8-546.

SUMMARY OF CONCLUSIONS RE ISSUES

1. Mr. Lavino operated outside the scope of his certification as a substance abuse counselor;
2. The use of holding therapy by Mr. Lavino was not psychological abuse of Andrea; and

3. Although the Arizona Revised Statutes set forth standards which limit substance abuse counselors to counselling substance abusers, those standards when read in conjunction with the Ethical Standards of Alcoholism and Drug Abuse Counselors (Conclusion No. 9 above) could have reasonably lead Mr. Lavino to misunderstand the scope and limitation upon his substance abuse counselor certification.

THE BOARD ADOPTED THE ABOVE FINDINGS OF FACT AND CONCLUSIONS OF LAW AT THE AUGUST 4, 1995 MEETING.

ORDER

THEREFORE IT IS HEREBY ORDERED AS FOLLOWS:

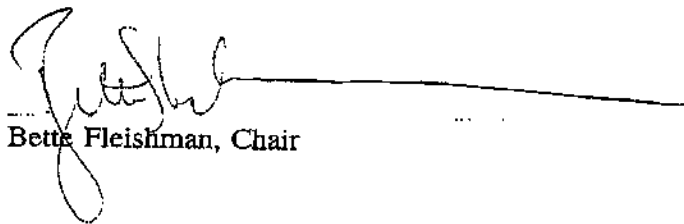
1. Transmit a Letter of Concern to Mr. Lavino addressing his practicing outside the scope of his Substance Abuse certification which included the evaluation and treatment of mental disorders in children;

2. Mr. Lavino will limit his certified substance abuse practice to the following:

The practice of Substance Abuse Counseling means the direct application to individuals who abuse substances, and related persons, of the professional counseling techniques of evaluation, intervention, education, treatment and referral as specifically adapted, based on research and clinical experience, to the specialized needs and characteristics of persons who abuse or are dependent upon substances and their significant others who may be directly or indirectly affected.

DATED this 4th day of August, 1995.

ARIZONA BOARD OF BEHAVIORAL HEALTH
EXAMINERS


Bette Fleishman, Chair