

A Dirty Little Secret

Peter Solon, PhD

The Events Leading Up To The Revocation of My License

I was in the building for less than an hour when I realized, whenever I talked to the staff, the conversation immediately turned to the elderly resident who **(a)** was being abused, **(b)** was one of my testing referrals and **(c)** although the abuse had been going on for nearly a year, it had never been reported. I couldn't help but wonder, was I about to be set up?

With two decades of consultation experience behind me, I had seen this same scenario countless times before; but this was the first time in Colorado and certainly the first time I encountered an elderly resident who was being abused by his own family.

When I talked to the staff, if I even hinted, they had a legal mandate to report elder abuse, they would immediately explain, they couldn't afford to lose their jobs. Everyone who worked in the facility knew, if the abuse was ever reported, the corporate mothership would fire anyone connected with the resident. And so it goes in Colorado, where hiding elder abuse is a serious crime unless, of course, it occurs in an assisted living facility, in which case, it's business as usual.

In any event, for me, this was a *one-time* consult (which, by the way, was the reason I kept telling myself, all I had to do was get through the day and then, I could forget about the place).

But as it turned out, several days after I left, I found that I *couldn't* forget about it. In fact, I was *haunted* by it; and ashamed of myself for not helping the old man out. After a couple of weeks, my gut instinct was clear as a bell: While I knew the facility would retaliate, I also knew I had to do *something* to protect the resident's safety; and so, I filed a report with the proper authorities.

But what I didn't know, and never expected, was that this single act - the decision to report elder abuse in (what turned out to be) the wealthiest assisted living facility in Colorado— would end my three-decade career as a licensed psychologist.

Five Years Earlier

To set a proper context: The above noted incident, in February of 2015, occurred five years after I moved to the state and only three years after I became licensed to practice in Colorado, in 2013.

For most of my adult life, I worked as a licensed psychologist in California's San Francisco bay area. I had obtained my PhD in 1986 and became licensed to practice in May of 1989. My practice devoted to marginalized patients: My primary interest was psychotherapy with adults who suffered from psychosis. I also worked with troubled latency aged children and the elderly.

My California practice thrived for over a quarter century. I was on the staff of two hospitals, treated seriously ill patients, conducted neuropsychological assessments, did psychopharmacology consults for primary care physicians and on and on. In a word, I enjoyed a varied professional life and the rewards of financial success.

But after forty years in the mental health field—my first counseling job was in 1975—in 2010 I decided to leave California and moved to Boulder, Colorado. Soon thereafter, I found myself consulting at the assisted living facility described earlier, where I discovered, one of my referrals was an elderly man who was being abused by his own adult children.

Elder Abuse in Real Time

Not only was the abuse documented in the medical chart; and not only did the staff talk about it (**Appendix A**); *but I personally witnessed it.*

It was late afternoon, February 19th 2015, when I walked to the resident's room and raised my arm to knock on his door. The door opened before my hand had a chance to touch it and for the next five to ten seconds, I was privy to a horrifying sight.

Apparently, the resident's adult son was in the room. He had just opened the door with one hand while pulling on his father's oxygen hose with the other. Dad was sitting at the other side of the room, looking out the window while the son was using the hose to pull him up from his chair. Insofar as the resident was too weak to stand on his own, the son's efforts afforded him a modicum of assistance; but it also had the effect of cutting off his oxygen. In other words, Dad gasped for air as he struggled to stand.

For a split second—realizing I had just witnessed the abuse an elderly resident—I was stunned. Then, the son turned to the door, saw me and yelled, "Get the hell out of here." I walked away without saying a word.

Hours later, the administrator and I were sitting in a conference room discussing the preliminary results of my assessments when this same man suddenly opened the door (without knocking), stomped over to where I was sitting, placed his face less than three inches from mine and started raging. "You're not going to use my father as a guinea pig" among other irrational accusations.

Concerned that he might initiate a physical altercation, in case I needed to dial 911, I placed my hand on the cell phone in my pants pocket and as he raged, the administrator tried to calm him down.

"Your father's doctor wrote a script for Dr. Solon to evaluate your Dad. Dr. Solon is just trying to help us give your Dad the best possible care."

When he finished yelling at *me*, he walked over to the other side of the table and roared the same loud rage at the administrator, in precisely the same way. Her face turned blood red, a reaction

that seemed to betrayed her embarrassment, more so than fear. After several minutes, he stomped out as quickly as he arrived.

That's when the scenario became even more bizarre. As soon as the son walked out the door, the administrator picked up where we left off and discussed cases, never once mentioning the violent interaction that occurred just seconds before.

It was at this juncture that I realized, much of what I had witnessed that day was the product of wealth. These residents were among the wealthiest seniors in the state who paid for their stay at the facility with out-of-pocket funds. If decades of consulting taught me anything, it was that wealthy facilities tolerate behaviors that would be deemed unacceptable, in any other forum.

In any event, I now faced a difficult decision: Either 'look the other way' (a course of action, I've since discovered, most or nearly all my colleagues would have taken) or follow my conscience and report the abuse. If I filed a report, the facility would retaliate; whereas if I didn't, I would feel responsible if the resident incurred an injury (or worse).

I tortured myself over the decision; but in the end, I realized, the safety of my patient was paramount, which is why I filed a report with Adult Protective Services and the city police department, as required by Colorado's reporting statutes.

As expected, the facility did retaliate. They managed to finesse criminal charges, the most serious of which was 'false reporting of abuse' and while the criminal proceedings dragged on for a year and a half, in the end, justice was served. The Court determined, the facility was guilty of hiding elder abuse, a common illegal practice in this industry (elder abuse is bad for business). As a result, my case was *dismissed, sealed and expunged*. My attorney explained, it was as if the incident never occurred. (**Appendices B and C**).

Enter: Colorado's Board of Psychologist Examiners

It was at this juncture that the truly damaging attacks began. The original arrest warrants, created by Officer Charles Szatkowski—*ironically, an officer in the Colorado Springs Crimes Against Elders Unit*—were sent to the Colorado Board of Psychologist Examiners as part of a complaint that I 'falsely reported abuse.'

*This was my first complaint in 27 years of full time practice (**Appendix D**). Until this point, I enjoyed a spotless career without a single complaint to my Board.*

And yet, the Board suspended my license in December 2015. Throughout the first few months – –in fact, for the entire first year and most of the second—I told myself, this 'error' would soon clear up and my license would be reinstated. But after *three* years of trying to survive without working - when I was finally told that my license to practice would be revoked and there was nothing I can do about it - I realized, I had stumbled upon a part of our legal system commonly termed 'administrative law and I know of no other way to say this, run by self serving, powerful individuals who somehow benefit when the lives of innocent professionals are destroyed. While a minority of individuals seem to understand the myriad of ways that administrative law differs from criminal and civil law—administrative defense attorneys,

healthcare writers and doctors among them—for the most part, the culture at large tends to be oblivious.

Colorado's Public Health Department Conducts An Investigation

My report triggered an investigation by the state of Colorado's public health department aka The Colorado Department of Public Health and Environment (CDPHE). CDHPE concluded, the facility—Brookdale Briargate is its name—was guilty of hiding elder abuse. See **Appendix E** or go to this url:

<http://www.hfemsd2.dphe.state.co.us/hfd2003/dtl3.aspx?tg=0252&eid=FDJP11&ft=pcbhpp&id=2305B9&bdg=00®=ALR6>

To be clear: *Because I mustered the courage to report the abuse of an elderly resident at a Colorado Springs assistant living facility, the state of Colorado (a) sanctioned the facility and (b) demanded they modify their policies and procedures with regard to reporting abuse or else, the state would shut them down.*

And yet, *to this day*, the AAG who represents Colorado's Board of Psychology is somehow able to maintain that I'm guilty of 'falsely reporting abuse.'

It boggles the mind to try and comprehend, how our different entities, **(1)** the Colorado Springs criminal justice system (Appendices B and C), **(2)** a private investigator (Appendix A), **(3)** the staff of the facility itself (Appendix A) and **(4)** the Colorado Department of Public Health and Environment (**Appendix E**) all arrived at the conclusion, it was my report that alerted the state to ongoing elder abuse in an assisted living facility and yet, the lawyer who represents the Board, Ms. Johanna Haskins, suspended my license to practice for three years and then, she permanently revoked it, largely because I "falsely reported abuse."

How is that possible?

For about a year, every one of my outgoing emails ended with the following remark:

One department in the state of Colorado, the Colorado Department of Public Health and Environment (CDPHE), wants to award me the purple heart for alerting them to an assisted living facility that was hiding elder abuse; while another department in the same state, the Board of Psychologist Examiners, wants to revoke my license to practice for the very same act.

The Alligator Dentist

As soon as I realized, I somehow became a target of the state of Colorado, I decided to find the most skilled defense attorney money could buy. I wanted to be represented by an attorney who

could demonstrate the fact of my innocence and expedite the process of getting my license reinstated. I set out to interview as many attorneys as possible.

Oddly enough, I discovered that relatively few practice administrative law. After less than a month of interviewing one lawyer after another, my rough estimate is that I consulted with over 75% of the administrative law attorneys in the state; and just about every one of them believed **(a)** I was probably guilty of a minor transgression (for example, I failed to give one patient, one form on one occasion), **(b)** I was innocent of significant wrongdoing and **(c)** *the fact of my innocence was irrelevant*.

The attorneys explained that professional licensing boards in Colorado wield enormous power; that they tend to abuse. Moreover, in this one regard, the Board of Psychologist Examiners is the most notorious of the lot. The attorneys also mentioned, they routinely see cases like mine.

One lawyer in particular, a Mr. Jeremy Swift, had a significant impact upon my understanding of Colorado's licensing boards. After reading my case, he invited me to his office and conveyed his conclusions, many of which were identical to the findings of his colleagues.

But Mr. Swift went one step further. With a surprising vehemence, he advised me to leave Colorado, explaining that licensing boards in Colorado have a history of devastating the lives of innocent professionals. The root of their power resides in their relationship with the Office of the Attorney General.

At one point, he asked, did I ever read a poem called The Alligator Dentist. I replied, "No." He proceeded to recite the poem and when he was done, advised me to ponder its meaning at my own leisure.

'The Alligator Dentist,' written by Shel Silverstein, is about a dentist who treats alligators. One day, the dentist is summoned to treat an alligator's toothache. The dentist treats the toothache by pulling the tooth. But as it turns out, he pulls the wrong tooth. So, he pulls another tooth but again, pulls the wrong one. Over and over again, the dentist continues to pull the alligator's teeth but never seems to pull the tooth that aches.

Mr. Swift's message was clear. The dentist has a proclivity for pulling alligator teeth but he doesn't care about the alligator's pain. Similarly, the Board has a proclivity for revoking psychology licenses without regard for the issue of guilt versus innocence.

At the end of the consult with Mr. Swift, before saying goodbye, he lowered his voice until it was barely audible as he said,

There's something you should know. Our firm keeps a list of the MD and PhD doctors who were in circumstances similar to yours. It's a list of doctors who, over the years, committed suicide.

Brain Damaged, Crazy or Both

About a year after my license was suspended, the AAG informed my attorney that in lieu of a revocation hearing, they would permit me to be evaluated by a psychiatrist and neuropsychologist of the Board's choosing (at my own expense). That's when my attorneys emphatically advised me,

"The Board's is trying to prove, you're 'brain damaged, crazy or both.'

At the time, I decided, my attorneys must be 'jaded.' But I no longer have that view and in fact, agree with their perception of the Board.

The Board ordered me to provide them with a list of potential evaluators and after submitting nine names, they chose two evaluators, a psychiatrist and neuropsychologist. These assessments cost me ten thousand dollars (\$10,000).

One of the evaluators, a forensic psychiatrist by the name of Doris Gundersen, MD – the Medical Director of the Colorado Physician Health Program, President of the Federation of State Physician Health Programs and Clinical Professor in the Department of Psychiatry at the University of Colorado—interviewed me on four occasions, interviewed nearly every individual in my personal and professional life and apparently read every document associated with my case. In a word, her thirteen page evaluation was near-heroic.

Dr. Gundersen concluded, I'm without psychopathology or diagnoses (except for the stress associated with not having an income) and 'able to practice with reasonable skill and safety to patients.' (**Appendix G**)

Insofar as I had spent a portion of my career administering neuropsychological tests myself, the neuropsychologist, Dr. Steven Kalat - the second evaluator chosen by the Board - spent a fair amount of time searching for an obscure battery that I had never heard of. He thus avoided any possibility of a 'practice effect.' Dr. Kalat administered the battery over the course of several days. Dr. Kalat's conclusion: My cognition is in the average to above average range as compared with age educated peers—men in their sixties with PhD's. (**Appendix H**)

After reading their reports, for the first time in months I felt hopeful. I looked forward to getting reinstated. After all, when the Board issued their May 2016 'Stipulated Order,' they wrote,

Once the Board has an opportunity to consider the results of Respondent's psychiatric evaluation and neurocognitive evaluation, the Board will make a determination regarding the status of Respondent's license to practice psychology in the State of Colorado."

(**Appendix I**)

It was also at this time that the AAG told my attorney, "This case keeps me up at night. There are bits and pieces but nothing he did wrong." During this same period, she sent my attorney an email, informing him that

“The Board has agreed to put \$1,000 toward paying for the evaluations in order to further facilitate resolution of this matter...This is Dr. Solon’s best chance of getting back into the field quickly. (Appendix J)

In light of the explicit purpose of the evaluations, and especially in light of their results, it seemed to me, it was reasonable to assume that finally, the state would permit me to once again use my skills to help others.

Unfortunately, my assumption was dead wrong. Once the evaluations were submitted to the Board, rather than *reinstate* my license, they authorized a sting.

To clarify: It’s unclear whether it was the Board or another entity that authorized the sting. It’s possible, for example, it was the Assistant Attorney General who authorized the sting. Within the arena of administrative law, only a select few truly know, who decides what; and the reason is simple enough: The Board and its lawyer make their most important decisions during secret, closed door meetings.

In any event, the investigator who posed as a patient called me on the telephone toward the goal of influencing me to schedule an appointment. The goal here was to prove that I was practicing while my license was suspended. I refused. And yet, until this day, the Board continues to accuse me of practicing without a license. It’s as if the Board is driven to justify their preconceived decision, *“He must be guilty of something.”*

In fact, two and a half years after the initial trigger-complaint, in June of 2018, although I hadn’t seen a patient in years, the Board hired yet another investigator who again posed as a patient and again tried to make yet another appointment with me. Both stings failed and the reason is clear. I would never practice without a license.

Consumer Safety Is Our Slogan, Money is Our Mission

Licensing boards in Colorado were created to protect the safety of consumers. In fact, DORA’s slogan is still, “Consumer safety is our mission” but the truth is, their de facto mandate disappeared decades ago. The Colorado Board of Psychology is *not* about consumer safety. They’re about the accumulation and distribution of wealth.

Technically, I was a licensed psychologist in the state of Colorado and yet, I wasn’t permitted to practice for over three years; which is to say, the state removed my ability to earn an income in my chosen profession.

In the way of a personal aside, the removal of my income devastated my life. Over the course of the three year legal proceedings, I spent my life savings to survive; I spent an additional \$100,000 on attorneys’ fees and recently filed for bankruptcy. My house is in the final stages of foreclosure and it’s scheduled to be auctioned by my lender within a matter of weeks. And at 64 years of age I have less than \$25 to my name. And yet, still currently, as I write this sentence, the legal proceedings continue to churn forward.

The administrative law judge (ALJ), Assistant Attorney General, members of the Board of Psychology, representatives of DORA and employees of yet another critical part of the bureaucracy, the Office of Administrative Courts (OAC), all continue to be deeply involved but more importantly, *they're all well-paid* and (to overstate the obvious) I'm not.

At some point, I realized, dozens upon dozens of state employees earn vast amounts of money *as long as I continued to participate*. This is partly why, toward the end of 2018, I lost all interest in the charade and realized, my legal advisors and elder colleagues were right all along. The battle was pointless.

A Cultural Taboo

The AAG who represents professional Boards in Colorado maintains a unique, rarely discussed financial relationship with the accused professional. One particular aspect of this relationship is so sensitive, it's rarely if ever discussed in public circles.

Should the AAG enter into a litigated dispute with the accused professional, to win the dispute, she simply removes accused professional's capacity to present a competent legal defense. She accomplished this feat simply by removing the professional's ability to earn an income, i.e., by suspending his license. Without a license – which is to say, without the power to earn an income - very few people, if anyone, can afford competent legal representation.

Make no mistake: The Board and/or AAG create an *appearance* of suspending the professional's license due to a (carefully chosen) piece of misconduct. In my case, the notion that I falsely reported abuse was their convenient justification; but the *actual* reason is that license suspension equals loss of earning power which, in turn, equals the inability to afford competent legal representation.

This unique, rarely discussed financial relationship guarantees a win for the plaintiff.

The Legal Component

Due to discussions with my advisors, attorneys and elder colleagues, as well as my own research and observations, I appreciate the extent to which Colorado's revocation hearings are merely a pretense, designed to create the *appearance* of justice. If Mr. Joe Everyman walked into a license revocation hearing, it would *appear* as if the accused professional is exercising his right to defend himself. But the hearings are not what they *appear* to be.

They're not about justice. They're about money; and power. In my case, the AAG had already informed my attorneys, *there wasn't a piece of evidence, set of facts or legal strategy that could prevent her from revoking my license and the reason is simple enough. The AAG has the support of the most powerful law enforcement official in the state and thus, she wields absolute power.*

Few people know – or even care – that when a professional like myself walks into a revocation hearing, the presiding judge isn't impartial but in fact, works for the Board and even if, due to some miracle, the judge makes a decision in the professional's favor, the Board isn't obligated to follow that decision.

It's true, there *are* doctors in Colorado who engage in unethical or incompetent conduct and thus, should be disciplined. But it's equally true, the licenses of PhD and MD doctors are often revoked - and their ability to earn an income removed – not because they're guilty – but simply because they somehow captured the attention of their licensing board.

The Final Kill

The Board of Psychology held my license revocation hearing in September 2018. On December 7, 2018, I received an email with the judge's decision. My license to practice was revoked. The rationale for the revocation boggles the mind.

My license was revoked, not because of the abuse I reported. Nor was it revoked because of their accusations that I practiced while my license was suspended. The conclusions of law were four-fold. Two of them are so general, they're meaningless and can be applied to any professional in any profession (i.e., 'The professional doesn't live up to ethical standards,' etc.) The other two focus upon one violation: I failed to give one patient, one form, on one occasion. (The form is known as the mandatory disclosure form).

Rather than delve into the details, the reader is referred to appendices M through X that contain the ALJ's final decision, a breakdown of the AAG's accusations and my attorneys' replies to these accusations. Our replies that contain evidence that meets the beyond-a reasonable-doubt threshold, the accusations are without merit.

The bottom line: In Colorado, if a PhD level psychologist receives even one complaint – *depending upon the whim of the Assistant Attorney General* - his license can be suspended and the professional can be scrutinized, at times, for years - until the powers that be find some foible (and make no mistake, every one of us has foibles) that can be used to justify a revocation.

In this little known legal arena called 'administrative law,' Board members wield enormous power; due process doesn't exist; rules of evidence are nowhere to be found and guilt versus innocence doesn't enter into the picture. Board members destroy the lives of innocent professionals at will, without ever giving it a second thought.

The AAG and/or the Board also used a sophisticated national database known as the National Practitioner's Databank, to make certain, my inactive license in California was revoked and that I would never work as a psychologist again, anywhere in the United States or Canada.

Concluding Remarks

Knowing I was innocent of wrongdoing, and assuming our system of 'checks and balances'

would eventually rule the day, throughout the first two years of the ordeal, I couldn't accept being tossed aside like a piece of trash. Whether it was because I contacted the governor's office or spoke with state senators - or because I wrote emails to the NY Times and Huffington Post - I assumed the reinstatement of my license was inevitable. I never really considered the possibility that my license to practice would actually be revoked and my ability to work in my chosen profession would be taken.

But taken it was.

After decades of full time practice, my license was taken by a skilled attorney who works for the state of Colorado, a lawyer who makes a living revoking the licenses of haircutters, psychiatrists, real estate agents and psychologists alike, without regard for the evidence that often proves their innocence.

I suppose from the Board's point of view, they offered me the chance to avoid outright revocation when, two years into the proceedings, they informed my attorneys, they were willing to accept a settlement. As part of the settlement, I would be required to make 'admissions of guilt.' They wanted me to say that I was guilty of things I didn't do; like 'falsely reporting abuse.' I would then have to accept the consequences; namely, prohibitively expensive rehab measures over a period of many years.

I refused.

In fact, it was at this juncture when one of my attorneys wrote a letter to DORA, requesting that they send documentation that supports their claims. Out of the hundreds, perhaps thousands of documents that are part of my case, it seemed to me, Mr. Eric Steiner's letter captured the sense of befuddlement that my attorneys and I experienced as we watched the process unfold. March 13, 2017, he writes,

We are in a position of potentially having to admit to a fact that we have no understanding [of] ...Therefore we respectfully ask for documentation to help us understand and appropriately respond.

The last Appendix of this article, (**Appendix L**) is my CV which, for obvious reasons, is a useless document. Throughout the more or less thirty years I practiced as a psychologist, I conducted thousands upon thousands of psychotherapy hours and an even greater number of hours doing psychological testing evaluations. Now it's all gone. And all I did was try to help an old man.