

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE PSYCHOLOGY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

ELAINE M. GOLDBERG, Ph.D.,  
RESPONDENT.

FINAL DECISION AND ORDER  
LS9905252PSY

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The State of Wisconsin, Psychology Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Psychology Examining Board.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 1st day of September, 1999.

Stephen F. Seaman, Ph.D.

A member of the Board

STATE OF WISCONSIN

BEFORE THE PSYCHOLOGY EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :

PROCEEDINGS AGAINST PROPOSED DECISION

AND ORDER

ELAINE M. GOLDBERG, Ph.D.

RESPONDENT Case No. LS9905252PSY

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**PARTIES**

The parties to this action for the purposes of § 227.53, Wis. Stats., are:

*Mr. John R. Zwieg  
Department of Regulation & Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935*

*Ms. Elaine M. Goldberg  
P.O. Box 610*

## **PROCEDURAL HISTORY**

A hearing in the above-captioned matter was held on July 20, 1999, before Administrative Law Judge Jacquelynn B. Rothstein. The Division of Enforcement appeared by Attorney John R. Zwieg. Ms. Goldberg did not appear.

Based on the entire record of this case, the undersigned administrative law judge recommends that the Psychology Examining Board adopt as its final decision in this matter, the following Findings of Fact, Conclusions of Law, and Order.

## **FINDINGS OF FACT**

1. Elaine M. Goldberg, Ph.D., (DOB 12/22/40) is licensed as a psychologist in the State of Wisconsin (License #1150). Her license was granted on March 15, 1985.
2. Respondent's last known address with the Department of Regulation and Licensing (Department) is 11240 NE 132<sup>nd</sup> Street, Apt. A207, Kirkland, Washington. Ms. Goldberg's current mailing address is P.O. Box 610, Bellevue, Washington.
3. Ms. Goldberg's license to practice psychology in Wisconsin expired on September 30, 1995, when she failed to renew it.
4. In May of 1995, the Department of Regulation and Licensing was notified that Ms. Goldberg had been disciplined by the California Board of Psychology and also by the Illinois Department of Professional Regulation. The Renewal Office subsequently placed a hold on her record.
5. On January 13, 1999, Ms. Goldberg submitted a renewal application and fee to the State of Wisconsin Psychology Examining Board for the purpose of renewing her license to practice psychology.
6. On March 17, 1999, the Psychology Examining Board reviewed Ms. Goldberg's application for the reinstatement of her psychology license. The Board denied her application on the basis of the disciplinary actions taken against her in California and Illinois.
7. On April 26, 1990, the California Board of Psychology issued a psychologist's license (PSY 11645) to Ms. Goldberg. The license was in full force and effect until November 24, 1992, at which time her license was suspended pending the filing of an accusation and the completion of a hearing on the matter. The suspension was in effect until May 30, 1993.
8. On December 3, 1992, the California Board of Psychology filed an Accusation against Ms. Goldberg. On April 30, 1993, based upon the Accusation, the California Board of Psychology issued a Default Decision in which Ms. Goldberg's license to practice psychology was revoked, effective May 30, 1993.
9. The California Board of Psychology made the following findings in their Decision of April 30, 1993:
  - A. On February 28, 1992, a neighbor of Ms. Goldberg's at 147 North La Peer Avenue, West Hollywood, California, called the Los Angeles County Sheriff's Department because of the extreme, potentially dangerous, bizarre, and disordered behavior of Ms. Goldberg. Ms. Goldberg had been making loud noises for a long period that evening, which sounded as if she were throwing a bowling ball against the ceiling of her apartment. Ms. Goldberg had also operated her vacuum for over two hours without stopping.
  - B. Ms. Goldberg's conduct on February 28, 1992, resulted in her being charged in Los Angeles County California Criminal Court with violation of three counts of California Penal Code § 415.2, Disturbing the Peace (unreasonable noise) and one count of California Penal Code § 372, Maintaining a Public Nuisance.
  - C. On June 18, 1992, following a jury trial, Ms. Goldberg was found guilty and convicted of all four counts in Los Angeles County California Criminal Court.
  - D. As a result of that conviction, Ms. Goldberg's sentence was suspended. She was placed on conditional probation for thirty-six (36) months provided that she perform sixty hours of community service, that she have at least two (2) consultations with a psychologist and report whether further treatment is recommended, that she not go on the same block as a certain apartment, and that she not annoy or harass tenants.
  - E. The behavior for which Ms. Goldberg was convicted may be symptomatic of severe psychological impairment, which would interfere with the effective, competent practice of psychology.

F. California Penal Code § 415.2 and § 372 are laws the circumstances of which substantially relate to the circumstances of the professional practice of psychology.

G. In February 1991, Ms. Goldberg was hired by Psychological Health Center (PHC) to interview patients, to evaluate them, and to prepare written reports based on the interviews and evaluations. By March 31, 1991 Ms. Goldberg had seen 202 patients, turned in 13 reports, and had in her possession 189 patient files belonging to PHC for which no reports had been prepared.

H. When Ms. Goldberg failed to complete work on the above 189 files, PHC demanded the return of the files on or about April 5, 1991.

I. Between April 5, 1991, and May 16, 1992, Ms. Goldberg refused to return the files and variously maintained that she would destroy them, that they were her files, or that PHC could pay her \$20,000 and the files would be returned.

J. Ms. Goldberg failed to return the files to PHC.

K. Ms. Goldberg's conduct as described in Paragraphs G-J constituted gross negligence in the practice of psychology.

L. Ms. Goldberg was licensed by the California Board on April 26, 1990, and commenced supervising a psychological assistant in or around August 1990.

M. The California Professional and Vocational Regulations § 1391.1 requires any person desiring to supervise a psychological assistant to registered with the Board of Psychology.

N. Ms. Goldberg failed to register with the Board prior to or during her supervision of a psychological assistant in and around August 1991.

O. The California Professional and Vocational Regulations § 1391.5(a) requires an individual seeking to supervise a psychological assistant to have 3 years of post-licensure professional practice.

P. Ms. Goldberg failed to properly accrue the necessary 3 years of professional experience before commencing supervision of a psychological assistant in or around August 1990.

Q. In August 1990, Ms. Goldberg advertised for a psychological assistant and subsequently hired an individual who took the position in order to obtain the supervised work experience the assistant needed as a prerequisite to licensing by the California Board.

R. Ms. Goldberg was not legally qualified to supervise psychological assistants for the work experience needed as a prerequisite to licensing by the California Board.

S. Ms. Goldberg was evicted from her residence at 428 North Norwich, West Hollywood, California, in or around January 1991, because of her conduct which included: frequently disturbing and annoying her neighbors at night with loud noises such as banging pots and blasting an air horn; and threatening a tenant with a revolver. After Ms. Goldberg was evicted, the apartment had to be completely rehabilitated because she had kicked holes in the walls and doors, she had used a hammer on the counters and a hand axe on the window sills, baseboards and walls, and she had written passages from the U.S. Constitution in black marking pen on the living room wall.

T. Ms. Goldberg was evicted from her residence at 147 North LaPeer Avenue, West Hollywood, California, on or about June 1, 1992, because of her conduct which included: frequently disturbing and annoying her neighbors at night with loud noises such as loud banging noises ranging from the sound of a hammer pounding on a wall to a bowling ball being thrown against the wall; slamming her closet doors violently back and forth; running the water in the bathroom; leaving the vacuum cleaner on in the living room; and screaming obscenities at the top of her lungs. Ms. Goldberg also threatened people with a hand axe and attempted to run a pedestrian down with her car. Ms. Goldberg did \$1000 worth of damage to the apartment; she had used an axe on the heating unit, put holes in the walls and ceiling, broken the glass shower door and had put holes in her closet door. Upon being evicted, Ms. Goldberg smeared dog feces on the door handles of some of her neighbors' cars and also struck several cars with an axe, breaking mirrors and denting the cars.

U. Ms. Goldberg was evicted from 11732 Dorothy Street, Los Angeles, California, on or about September 10, 1992, because of her conduct which included frequently disturbing and annoying her neighbors at night with loud noises such as: loud television all night long;

swearing and cursing; and singing. She also threw stones at neighbors' windows, smeared her dog's excrement on a tenant's car, and put puddles of urine on tenants' patios in the night. Ms. Goldberg threatened a postman with a hand axe. She spit at and pushed a man on the sidewalk without provocation. She screamed at and slapped in the face a young woman on the sidewalk without provocation. When Ms. Goldberg was evicted she cut up her own furniture and broke vases and plates. She also had put a large hole in a wall of her apartment and had chopped up the inside of a closet.

V. Ms. Goldberg's behavior as described in Paragraphs S-U was extreme, potentially dangerous, bizarre, and disordered behavior

W. The behavior of Ms. Goldberg as described in Paragraphs S-U above may be symptomatic of severe psychological impairment, which would interfere with the effective, competent practice of psychology.

X. Ms. Goldberg's California license was subject to revocation, suspension, probation and/or other action as deemed appropriate by the California Board because Ms. Goldberg's ability to practice her profession safely is impaired because she is mentally ill, affecting competency.

### **CONCLUSIONS OF LAW**

1. The Psychology Examining Board has jurisdiction in this matter pursuant to

§ 455.09, Wis. Stats.

2. By failing to file an Answer as required by § RL 2.09, Wis. Admin. Code, and by failing to appear at the hearing, Ms. Goldberg is in default under § RL 2.14, Wis. Admin. Code, and the Psychology Examining Board may make findings and enter an order on the basis of the Complaint and the evidence presented at the hearing.

3. Having been convicted in the State of California of crimes the circumstances of which substantially relate to the circumstances of the professional practice of psychology, Elaine M. Goldberg has committed unprofessional conduct as defined in § Psy 5.01 (5), Wis. Admin. Code.

4. By having failed to complete work on 189 files in connection with her employment at Psychological Health Center, Elaine M. Goldberg has demonstrated gross negligence in the practice of psychology as defined in § Psy 5.01 (2), Wis. Admin. Code.

5. By having agreed to supervise and by hiring a psychological assistant without first having gained the requisite experience, Elaine M. Goldberg has committed unprofessional conduct as defined in § Psy 5.01 (1), (3), and (5), Wis. Admin. Code.

### **ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that the license of Elaine M. Goldberg to practice psychology in the State of Wisconsin and any existing right to renew it are **REVOKED**.

### **OPINION**

Section RL 2.14 of the Wisconsin Administrative Code further provides that if a respondent fails to answer a complaint or fails to appear at a hearing, that he or she is in default. If found to be in default, the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence against a respondent.

In this case, Ms. Goldberg did not file an answer to the above-captioned complaint, nor did she appear at the scheduled hearing. As a result, she is clearly in default and has effectively admitted all of the allegations contained in the complaint.

It is undisputed that the California Board of Psychology took disciplinary action against Ms. Goldberg's psychology license. Indeed, by Decision dated April 30, 1993, Ms. Goldberg's license to practice psychology was revoked. As she did in California, Ms. Goldberg did not appear at her disciplinary hearing.

Section Psy 5.01 of the Wisconsin Administrative Code identifies unprofessional conduct in the practice of psychology. More specifically, § 5.01 (1) states that it is unprofessional conduct to engage in false, fraudulent, misleading, or deceptive advertising, or to maintain a professional relationship with one engaging in such advertising. In addition, § 5.01 (2) provides that it is unprofessional conduct to commit gross negligence in the practice of psychology. Section 5.01 (3) also provides that it is unprofessional conduct to misrepresent one's professional competency by offering to perform services that are unwarranted on the basis of education, training, or experience. Section 5.01 (5) further provides that it is unprofessional conduct to be convicted of a crime or to violate a law the circumstances of which substantially relate to the circumstances of the professional practice of

psychology.

Ms. Goldberg was convicted in California in June of 1992, of Disturbing the Peace and of Maintaining a Public Nuisance. The California Board of Psychology found her convictions to be substantially related to the circumstances of the professional practice of psychology. In February of 1991, Ms. Goldberg also was hired by Psychological Health Care (PHC) to interview patients, evaluate them, and prepare written reports regarding them. By March of 1991, Ms. Goldberg had seen two hundred and two (202) patients, but had only turned in thirteen reports. Her employer PHC demanded the files in April of 1991, but Ms. Goldberg never returned them.

In approximately August of 1990, Ms. Goldberg advertised and subsequently hired a psychological assistant who she supervised. However, she failed to accrue the requisite three years of professional experience before beginning her supervision of the assistant. From January of 1991, and continuing through September of 1992, Ms. Goldberg was also evicted from three of her residences for a variety of reasons including: frequently disturbing and annoying her neighbors; and committing property damage to the various dwellings.

Ms. Goldberg's criminal convictions and her conduct while employed at PHC constitute unprofessional conduct. By having advertised, hired, and supervised a psychological assistant without first having gained the required professional experience likewise constitutes unprofessional conduct. In light of Ms. Goldberg's failure to appear and defend against these allegations, there is sufficient evidence in the record to justify the Findings of Fact and the Conclusions of Law set forth herein.

The question remains as to what the appropriate form of discipline is for Ms. Goldberg. Revocation of her license has been recommended. It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*. 41 Wis. 2d 481, 485 (1969).

There is nothing in the record to suggest that imposing any discipline short of revocation would have a rehabilitative effect on Ms. Goldberg or that she even has an interest in being rehabilitated. As to the deterrence of others, absent some mitigating evidence, imposing anything less than revocation would not aid in deterrence, but may instead wrongly encourage others to engage in similar conduct. Accordingly, revocation remains as the only way in which to safeguard the public. By revoking Ms. Goldberg's license to practice psychology, the public will be adequately protected from any further misconduct by Ms. Goldberg.

Dated at Madison, Wisconsin, this 29<sup>th</sup> day of July, 1999.

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Jacquelynn B. Rothstein  
Administrative Law Judge