

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE PSYCHOLOGY EXAMINING BOARD

---

IN THE MATTER OF THE	:	
APPLICATION FOR A LICENSE TO	:	FINAL DECISION
PRACTICE AS A PSYCHOLOGIST OF	:	AND ORDER
	:	LS0705231PSY
LAUREN J. NELSON, PH.D.,	:	
APPLICANT.	:	

---

Division of Enforcement Case No. 07PSY001

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 department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 6th day of February, 2008.

Bruce R. Erdman, Ph.D.  
Member of the Board  
Psychology Examining Board

STATE OF WISCONSIN  
BEFORE THE PSYCHOLOGY EXAMINING BOARD

---

IN THE MATTER OF THE APPLICATION  
FOR A LICENSE TO PRACTICE AS  
A PSYCHOLOGIST

PROPOSED DECISION  
AND ORDER

LAUREN J. NELSON, PH.D.,

CASE #LS0705231PSY

APPLICANT.

---

(Division of Enforcement Case No. 07 PSY 001)

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

TO: Lauren J. Nelson, Ph.D.  
c/o Paul R. Erickson, Attorney for Applicant  
Gutglass, Erickson, Bonville & Larson, SC  
735 North Water Street, Suite 1400  
Milwaukee, WI 53202-4267

John R. Zwiig, Attorney  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708

Psychology Examining Board  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

A hearing constituting a Class 1 proceeding as defined in Wis. Stat., § 227.01(3)(a) was held in the above-captioned matter on September 14, 2007, before Administrative Law Judge Colleen M. Baird. The Division of Enforcement appeared by Attorney John R. Zwiig. The applicant appeared represented by Attorney Paul R. Erickson. The Notice of Hearing indicated that the Psychology Examining Board had issued a Notice of Denial on November 6, 2007, to applicant denying her application for a license to practice as a psychologist on the bases that the applicant had engaged in improper sexual conduct with a client; the applicant continued to have a dual relationship with the family of the client with whom the applicant had improper sexual conduct; and the application record lacks evidence establishing that the applicant has been sufficiently rehabilitated to safely and competently practice as a psychologist.

The Notice of Hearing indicated that the issues raised for consideration at the hearing were:

1. Whether the applicant's 1998 sexual contact with a person who was a current or recent client is a basis for denying the application for license.
2. Whether the applicant continued to have a dual relationship with the family of the person with whom the applicant had sexual conduct.
3. If the applicant continued to have a dual relationship with the family, whether that relationship is a basis for denying the application for license.

4. Whether the applicant has been sufficiently rehabilitated to safely and competently practice as a psychologist.
5. Whether the applicant should be licensed as a psychologist.

The hearing in this matter was originally scheduled for two days beginning on September 14, 2007. Following the conclusion of the first day of hearing, Mr. Erickson notified the Administrative Law Judge that his client did not wish to continue with the hearing. As a result, on September 17, 2007, the second day scheduled for the proceeding, Mr. Erickson made a formal motion on the record requesting that his client be allowed to withdraw her application for licensure, or alternatively, to withdraw her request for hearing. Mr. Erickson indicated that the basis for his motion was “more of factual issue” and in consideration of his client’s desires. He indicated that his goal was to protect his client as much as possible in terms of what is in the record. Mr. Zwiag opposed the motion to withdraw the application on the basis that the request was too late given that the Board had already issued a decision denying the application. Mr. Zwiag contended that the applicant had pursued her right for a hearing on the denial decision and that was the appropriate remedy; that if the withdrawal of the application were allowed the decision of denial would still stand.

Based upon the entire record in this case, the undersigned 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. The applicant, Lauren J. Nelson, Ph.D., first submitted an application for licensure as a psychologist on or about September 2, 1998.
2. On January 11, 1999, the Psychology Examining Board considered information submitted by Dr. Ronald Hands, the post-doctoral supervisor for Dr. Nelson, regarding her suspension from her position with the Department of Corrections for violating a work rule relating to sexual contact with an inmate.
3. On May 11, 2000, a Notice of Intent to Deny was issued by the Psychology Examining Board informing Dr. Nelson that her application contained information that on November 28, 1998, she admitted to having engaged in a sexual relationship since approximately August, 1998, with an inmate/client at her place of employment at the Racine Correctional Institution, Sturtevant, Wisconsin. The Notice stated that these allegations, if true, would constitute a violation of sec. Psy. 5.01 (14), Wis. Admin. Code, and such violation would constitute a basis for disciplinary action by one licensed as a psychologist and would constitute a basis for denial of a license of an applicant engaged in supervised practice under sec. Psy 2.09 (3), Wis. Admin. Code.
4. Following the receipt of additional information from Dr. Nelson, the Psychology Examining Board decided that it would further consider Dr. Nelson’s application for a license provided that it received evidence of her ability to safely and competently engage in the independent practice of psychology in Wisconsin.
5. On March 22, 2001, based upon the psychological evaluation of Dr. Nelson of John C. Gonsiorek, Ph.D., and other information, the Psychology Examining Board reviewed Dr. Nelson’s application for licensure and offered her a stipulation for a limited license. Dr. Nelson did not accept the stipulation and through her attorney submitted a counter-proposal.
6. On March 13, 2003, correspondence was sent by John Schweitzer, the Psychology Examining Board’s Legal Counsel, to Dr. Nelson’s attorney, declining the counter-proposal but indicating that the stipulation offered in 2001 would still be considered.
7. On December 10, 2003, the Psychology Examining Board reviewed all of the material submitted in support of Dr. Nelson’s long-pending licensure application and issued a decision denying her application for the following reasons: (1) gross negligence in the practice of psychology, (2) performance of professional services inconsistent with training, education or experience; (3) engaging in sexual contact, sexual conduct or any other behavior which could be

reasonably construed as seductive, with a client.

8. Subsequent to the decision denying Dr. Nelson's application, and a timely request for a license denial hearing, efforts were renewed to reach a stipulation for the issuance of a limited license to Dr. Nelson in lieu of proceeding to a hearing.
9. Pursuant to these settlement efforts, Dr. Nelson obtained an updated psychological evaluation from a Joseph Marceil, Ph.D., the designated provider which the Psychology Examining Board determined had the expertise to perform an evaluation of Dr. Nelson.
10. The extensive evaluation prepared by Dr. Marceil included a recommendation that the 2001 stipulation was premature and that Dr. Nelson was not yet prepared for independent practice as a licensed psychologist. The evaluation offered suggestions for additional treatment and clinical supervision of Dr. Nelson's practice should a conditional license be approved for Dr. Nelson. It was further recommended that such limitations should remain in effect for approximately two years.
11. Dr. Nelson requested that the Psychology Examining Board reconsider her application for licensure with her request for modifications to the recommendations by Dr. Marceil.
12. On November 6, 2006, the Psychology Examining Board issued a Notice of Denial of Application for a License to Practice Psychology to Dr. Nelson stating the reasons for denial as follows: (1) You engaged in improper sexual conduct with a client; (2) You have continued to have a dual relationship with the family of the client with whom the applicant had improper sexual conduct; (3) Your application record lacks evidence establishing that you have been sufficiently rehabilitated to safely and competently practice as a psychologist.
13. On September 14, 2007, a Class 1 hearing was commenced in this matter pursuant to a timely request for a hearing by Dr. Nelson, and testimony and evidence was received on the record.
14. On September 17, 2007, after the taking of testimony Dr. Nelson's attorney made a formal request that his client be allowed to withdraw her application for licensure or, alternatively, to withdraw her request for a hearing.

#### CONCLUSIONS OF LAW

The Wisconsin Psychology Examining Board has jurisdiction in this matter pursuant to Wis. Stat., § 455.09(1)(g) and Wis. Admin. Code § PSY 5.01(14) and (17).

#### ORDER

NOW THEREFORE IT IS HEREBY ORDERED that pursuant to RL 1.12 Wis. Admin. Code, the request for hearing on the denial of the application for licensure filed by Lauren J. Nelson, Ph.D., shall be and is hereby AFFIRMED.

IT IS FURTHER ORDERED that the request for withdrawal of the application is hereby DENIED.

THEREFORE IT IS ORDERED that this action shall be, and hereby is, DISMISSED WITH PREJUDICE and the decision of the Psychology Examining Board dated November 6, 2006, denying the application of Lauren J. Nelson, Ph.D., for a license to practice as a psychologist is AFFIRMED.

#### OPINION

The present posture of this matter raises a somewhat novel question for a regulatory body, pursuant to the rules governing the

right to a hearing on the denial of licensure. Specifically, the question is whether an applicant who has requested a hearing pursuant to RL 1.12, Wis. Admin. Code, to challenge the decision denying an application for licensure may withdraw the license application after the hearing has commenced and evidence has been submitted to the record. It is the opinion of this Administrative Law Judge that the request to withdraw an application is significantly different than the withdrawal of the request for a hearing and it is legally permissible. There are also important policy considerations for a regulatory board with respect to withdrawal of an application after its adjudication has occurred.

### Withdrawal of Request for Hearing

The withdrawal of a request for a hearing is permissible under the provisions of RL 1.12, Wis. Admin. Code, which states as follows:

A request for a hearing may be withdrawn at anytime. Upon the filing of a request for withdrawal, the credentialing authority shall issue an order affirming the withdrawal of the request for hearing on the denial or on the determination of cheating on an examination or determination of breach of examination security.

The Notice of Right to Hearing on Credential Denial issued in this proceeding also explicitly stated that a withdrawal of the request for a hearing shall be with prejudice and the applicant will not be allowed to refile a request for a hearing unless otherwise expressly stated in the order. It is consistent with both Chapter RL 1 hearing procedures and the Notice of Hearing in this matter, therefore, to allow Ms. Nelson to withdraw her request for a hearing.

### Withdrawal of Application for Licensure

Conversely, an applicant's request to withdraw a license application after its adjudication by the Board after a hearing has commenced is not contemplated under the provisions in Chapter RL 1. Such request is also inconsistent with the purpose of administrative finality; to ensure that the regulatory body has an ability to reach a final conclusion or resolution through its administrative decision-making process. If a request to withdraw a license application were to be routinely permitted after a complete adjudication by the licensing board, such as in the instant proceeding, the administrative decision-making process would be rendered a futility. An applicant who did not agree with the decision by a licensing board would simply request a hearing to challenge the decision and then withdraw their application if they felt that the hearing was not going in their favor so as to avoid a further adverse determination.

The withdrawal of an application after adjudication would also place future boards, the public and regulatory bodies in other jurisdictions at a disadvantage because it would be deprived of a decision of record to guide its future licensing and disciplinary actions. License denial decisions are typically reportable to other jurisdictions and may affect the applicant's ability to obtain licensure in the future.

The administrative hearing process afforded under Chapter RL 1, Wis. Admin. Code is the appropriate remedy available to Dr. Nelson if she disagrees with the Board's decision or if she believes that the credentialing authority should grant her application. In fact, Dr. Nelson took advantage of that opportunity and was afforded a hearing. For various reasons she has now decided to withdraw her request for a hearing; in an attempt to "unring the bell" so to speak. If an applicant, such as Dr. Nelson, were allowed to withdraw her application after it has been adjudicated and a hearing has commenced, an inordinate amount of resources would be wasted and the public interests would not be protected. The opportunity for an applicant, such as Dr. Nelson, to choose to withdraw her application, is prior to the rendering of a decision on the application and certainly prior to the commencement of a hearing.

The Department of Regulation and Licensing, the Psychology Examining Board and the Division of Enforcement have spent considerable time and resources adjudicating Dr. Nelson's application, beginning with the initial review and processing of her application, the attempted resolution by stipulation, the issuance of the denial decision, the issuance of a hearing notice, and the actual commencement of the hearing. What is most troubling is that by now requesting to withdraw her application, Dr. Nelson will, in effect, avoid an adverse determination in her license history. Although such a result is not a total vindication for Dr. Nelson since she still would not be granted a license to practice as a psychologist, it is an undeserved benefit. Dr. Nelson's attempt to obtain a license has been of an unusually lengthy duration, having begun in 1998. The current 2006

decision of the Psychology Examining Board regarding Dr. Nelson's application was not the first and only decision which found her unsuitable for licensure. If Dr. Nelson believes that her chance of being approved for a license would be enhanced by obtaining another psychological evaluation, she may submit such additional information at the time of a new application, as she is not precluded from filing a new application for a license in the future. However, Dr. Nelson is not entitled, at this late juncture, to simply withdraw her application, and thereby avoid the record of decision because she now second-guesses the strength of her case.

It appears that Dr. Nelson's request to withdraw her application is intended to preclude the Psychology Examining Board from considering the evidence presented during the first day of this proceeding wherein Dr. Nelson admitted, while under oath, that she had continued contact with the former patient and sexual contact with the brother of the former patient. Dr. Nelson also admitted that she maintained contact with the patient, his brother and his mother for a considerable time after she had been in treatment; the last of those contacts occurred in 2004. This testimony is recited in the transcript of the proceedings dated September 14, 2007, pgs. 47-59. This information was elicited during cross-examination at the hearing and was not previously known or considered by the Board. Obviously, Dr. Nelson would prefer not to have that information included in a final decision that is published on the Department's website. Yet, that is precisely the type of information which is relevant to her licensure and which the Board has a right to know.

### CONCLUSION

For the reasons discussed herein, it is the recommendation of the undersigned that Dr. Nelson's request to withdraw her application be denied. It is further recommended that pursuant to the provisions of RL 1.12, Wis. Admin. Code, Dr. Nelson may withdraw her request for a hearing with prejudice.<sup>[1]</sup> Finally, it recommended that the November 6, 2006, denial decision of the Psychology Examining Board should be affirmed as the final decision of record for Dr. Nelson's application.

Dated this \_\_\_\_\_ day of January, 2008.

---

Colleen M. Baird  
Administrative Law Judge  
P.O. Box 8935  
Madison, WI 53708

---

<sup>[1]</sup> Dismissal with prejudice would preclude Dr. Nelson from reasserting her right to a hearing on the current decision denying her application. Should Dr. Nelson reapply for licensure in the future, she would be entitled to a hearing if her application for licensure was again denied.