

# 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 THE DISCIPLINARY

PROCEEDINGS AGAINST:

BRIEN M. O'BRIEN, PH.D.,

FINAL DECISION AND ORDER

RESPONDENT

LS0206262PSY

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

Brien M. O'Brien, Ph.D.

P.O. Box 11507

Milwaukee, WI 53211

Wisconsin Psychology Examining Board

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Psychology Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Brien M. O'Brien, Ph.D., Respondent, date of birth May 14, 1951, is licensed by the Wisconsin Psychology Examining Board as a psychologist in the state of Wisconsin pursuant to license number 1038, which was first granted May 24, 1983.
2. Respondent's last address reported to the Department of Regulation and Licensing is P.O. Box 11507, Milwaukee, WI 53211.
3. Each person licensed to practice as a psychologist in the state of Wisconsin must renew that license biennially, by October 1 of each odd numbered year. [§§ 440.08(2)(a)64., and 455.06, Stats.]
4. To be qualified to renew the license for the next biennial registration period, Licensees must have completed at least 40 hours of board-approved continuing education in the previous biennial registration period. [Wis. Adm. Code §§ Psy 4.01 and Psy 4.02]
5. In November 1999, the Board audited Respondent's compliance with the continuing education requirements for the October 1, 1997 through September 30, 1999 biennium.
  - o The audit disclosed that Respondent had committed a minor violation of the Board's continuing

education requirements during that period.

- Respondent was issued an administrative warning which put Respondent on notice that any subsequent similar violation might result in disciplinary action.
- Respondent was informed that he would again be audited following the October 1, 1999 through September 30, 2001 biennium.

6. Respondent renewed his license for the October 1, 2001 through September 30, 2003 biennium by completing and signing a renewal form that was sent to him by the Department of Regulation and Licensing. That renewal form contained the following language, immediately above the line which Respondent was to date and sign:

"I have or will have completed 40 contact hours of board-approved continuing education, **including 8 hours in ethics**, during the biennium immediately preceding this application (10/1/99-9/30/01), and I have or will have evidence of this which I will furnish to the Psychology Examining Board upon request." (Emphasis added)

7. On December 28, 2001, Respondent was sent a letter auditing Respondent's compliance with the continuing education requirements for the October 1, 1999 through September 30, 2001 biennium.

8. In response to this audit, Respondent:

- Submitted documentation showing he had completed more than the required 40 hours of board-approved continuing education.
- Submitted documentation showing that he had completed 6 of the required 8 hours in the area of ethics.
- Submitted documentation from which it could not be determined whether additional programs met the remaining 2 hours of required ethics.

9. On February 21, 2002, the Division of Enforcement (DOE):

- Sent Respondent a letter notifying him of his non-compliance with the Board's ethics continuing education requirement.
- Requested Respondent to submit additional information regarding the content of *"Diminished Capacity Due to Substance Abuse"* (1 hour) and *"PTSD: A Lawyer's Dream Diagnosis"* (1 hour), programs Respondent completed during the 1999-2001 biennium, to determine whether the Board might count the hours toward fulfilling the ethics requirement.

10. In response to DOE's request, Respondent:

- Submitted additional information about *"Diminished Capacity Due to Substance Abuse"* and *"PTSD: A Lawyer's Dream Diagnosis"* in an attempt to document content in the area of ethics.
- Said that, on January 20, 2001, when he submitted additional continuing education documentation to show subsequent compliance with the requirements for the 1997-1999 biennium, he included verification of his completion of these two programs.
- Said that in the January 20, 2001 letter, Respondent told the Board that he intended to use those 2 hours toward the ethics requirement for the 1999-2001 biennium.
- Did not include any documentation with the January 20, 2001 letter from which the Board could determine whether the course content would meet the ethics requirements.
- Said that because he did not receive a response stating that these programs could not be counted toward fulfilling the ethics requirement, he believed the Board had accepted the programs for that purpose.

11. On March 27, 2002, the members of the Board reviewed the information Respondent had recently submitted regarding the content of the programs *"Diminished Capacity Due to Substance Abuse"* and *"PTSD: A Lawyer's Dream Diagnosis."* The Board determined that neither of the programs met the criteria necessary for approval by the Board and, therefore, could not be used to satisfy the continuing education requirement for content in the area of ethics.

12. On March 28, 2002, DOE notified Respondent that no ethics credit could be granted for the programs *"Diminished Capacity Due to Substance Abuse"* and *"PTSD: A Lawyer's Dream Diagnosis."* Respondent was also requested to either submit documentation of having completed an additional 2 hours in ethics or a plan outlining how he intended to comply with the Board's requirements.

13. On April 3, 2002, Respondent submitted his plan to obtain, on May 14, 2002, the remaining 2 hours of continuing education in the area of ethics by completing *"Ethics, Boundaries and Practice: Current Issues,"* a 6-hour continuing education program offered by the University of Wisconsin-Extension. DOE informed Respondent that his plan was acceptable and Respondent was requested to submit documentation upon completion of the program.

14. On May 21, 2002, Respondent submitted documentation of having completed an additional 6 hours of board-

approved continuing education, of which 2 hours have been counted toward fulfilling the ethics requirement for the 1999-2001 biennium. Respondent has agreed not to count those 2 hours toward the 40 hours or 6 ethics hours he will be required to obtain during the current biennium.

15. Respondent had completed only 6 of the required 8 hours of board-approved continuing education in the area of ethics during the October 1, 1999 through September 30, 2001 biennium and, therefore, was in violation of Wis. Adm. Code § 5.01(28) for having violated the continuing education requirements of § 455.06, Stats.

#### CONCLUSIONS OF LAW

1. The Wisconsin Psychology Examining Board has jurisdiction over this matter pursuant to § 455.09, Stats.
2. The Wisconsin Psychology Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.
3. Respondent, by only obtaining 6 of the required 8 hours of board-approved continuing education in the area of ethics during the biennium immediately preceding his application for the renewal of his license for the October 1, 2001 through September 30, 2003 biennium, as required by Wis. Adm. Code § PSY 4.01 and 4.02(1)(a), is subject to discipline pursuant to Wis. Adm. Code § PSY 5.01(28) and § 455.09(1)(g), Stats.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Brien M. O'Brien, Ph.D., is hereby REPRIMANDED for his conduct.
2. Respondent is prohibited from applying 2 of the 6 credits received for "*Ethics, Boundaries and Practice: Current Issues*," toward satisfaction of the continuing education required during the October 1, 2001 through September 30, 2003 registration biennium.
3. Respondent shall, within 30 days of the date of this Order, pay to the Department of Regulation and Licensing the partial costs of this proceeding in the amount of \$400.00 pursuant to § 440.22(2), Stats.

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

Dated at Madison, Wisconsin this 26th day of June, 2002.

Barbara Van Horne, M.B.A., Ph.D.

Chairperson

Psychology Examining Board