

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE PROFESSIONAL COUNSELOR SECTION  
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING  
AND SOCIAL WORK EXAMINING BOARD

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IN THE MATTER OF THE APPLICATION	:	
FOR A LICENSE TO PRACTICE AS A	:	
PROFESSIONAL COUNSELOR OF	:	DECISION AND FINAL ORDER
GARRY LIBSTER,	:	
APPLICANT.	:	<u>LS 0607251 CPC</u>

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[Division of Enforcement Case No. 06 CPC 023]

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

Garry Libster, Ed.D.  
104 Steeplechase Drive  
Racine, WI 53402

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

Professional Counselor Section  
Marriage and Family Therapy, Professional Counseling  
and Social Work Examining Board  
Department of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

On December 13, 1986, the Psychology Examining Board issued Applicant a license for the private practice of school psychology, license number 259. On February 21, 2005, Applicant, for the first time, applied for a professional counselor license. On June 1, 2005, the Professional Counselor Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board (“the Section”) issued an Order Denying Application because the Section determined that Applicant had not completed coursework equivalent to a graduate degree in professional counseling. Applicant requested a hearing, which was held on August 2, 2005.

The Section determined that Applicant had not met the academic requirements of Wis. Admin. Code § MPSW 14.01, and on August 11, 2005, again denied the application. Applicant never appealed the Section's decision.

On February 2, 2006, Applicant submitted a second application for his professional counselor license. He again asked the Section to consider hours of supervised clinical practice completed before February 21, 2005. On June 15, 2006, the Board informed Applicant that it was denying his second application because, although he had by then completed the equivalent of a master's degree in professional counseling, and he had not completed at least 3,000 hours of supervised professional counseling after earning the equivalent of a master's degree in professional counseling.

On June 26, 2006, Applicant requested a hearing, which was scheduled for October 26, 2006. On October 6, 2006, the Division filed its Notice of Motion and Motion for Issue Preclusion. On October 16, 2006, Administrative Law Judge Colleen M. Baird granted the Division's Motion and precluded relitigation of the following issue:

Whether, prior to February 21, 2005, applicant Garry Libster had completed a graduate program equivalent to a master's degree or doctoral degree in professional counseling.

The hearing was adjourned indefinitely to allow the parties to negotiate resolution of the matter.

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 Section. The Section has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Section adopts the attached Stipulation and makes the following:

### FINDINGS OF FACT

1. On October 16, 2006, the administrative law judge precluded, at hearing, any litigation concerning the issue of whether, before February 21, 2005, Applicant completed a graduate program equivalent to a master's degree in professional counseling.
2. Applicant is aware that he could appeal the administrative law judge's ruling on the issue of issue preclusion, but he has chosen not to do so.
3. Applicant has not, since February 21, 2005, completed at least 3,000 hours of supervised professional counseling as is required by Wisconsin Admin. Code § MPSW 14.01.
4. Because Applicant has not yet completed 3,000 hours of supervised professional counseling as required by Wisconsin Admin. Code § MPSW 12.01(1), he cannot prevail in further litigation concerning the Section's June 15, 2006, denial of his license.
5. Applicant continues to disagree with the Section's August 12, 2005, assessment of his academic credentials; however he understands that the matter is not available for relitigation.
6. Applicant and the Division jointly ask that this matter be dismissed as there are no remaining unresolved factual or legal disputes.

### CONCLUSIONS OF LAW

1. The Professional Counselor Section of the Wisconsin Marriage and Family Therapy, Professional Counseling and Social Work Examining Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 457.03(1), and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).
2. Applicant has not yet completed 3,000 hours of supervised professional counseling as required Wisconsin Admin. Code § MPSW 12.01(1), and he is therefore currently ineligible for licensure as a professional counselor.
3. On June 15, 2006, the Section denial's of Applicant's Application for licensure as a professional counselor was legally correct.

4. There are no remaining unresolved factual or legal disputes suitable for hearing at this time.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

The Application of Garry Libster, Ed.D., to practice professional counseling in the State of Wisconsin is hereby denied, and this matter is dismissed.

Professional Counselor Section of the Wisconsin Marriage and Family Therapy, Professional Counseling and Social Work  
Examining Board

By: Evelyn Pumphrey  
A Member of the Board/Section

1/30/07  
Date