

# 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	:	
	:	FINAL DECISION AND ORDER
EDWARD J. DONNER, PH.D.,	:	<u>LS 0707031 PSY</u>
RESPONDENT.	:	

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[Division of Enforcement Case # 05 PSY 059]

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

Edward J. Donner, Ph.D.  
3601 S. 30<sup>th</sup> Avenue LL1  
Kenosha, WI 53144

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

Wisconsin Psychology Examining Board  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

On July 3, 2007, the Notice of Hearing and Complaint in this matter were filed and served. The parties 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 adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Edward J. Donner, Ph.D., Respondent, date of birth November 19, 1954, is licensed by the Wisconsin Psychology Examining Board to practice psychology in the state of Wisconsin pursuant to license number 2142, which was first granted February 24, 1999.

2. Respondent's last address reported to the Department of Regulation and Licensing is 3601 S. 30<sup>th</sup> Avenue LL1, Kenosha, WI 53144.

3. Respondent practices psychology at Alliance Psychological Family Services, his private practice clinic in Kenosha, Wisconsin.

4. On July 25, 2004, Respondent, while at Six Flags Great America in Gurnee, Illinois, was videotaping young women at the theme park without their consent. Respondent signed a form which said he was banned by Six Flags from returning to the park during 2004 and 2005 and which advised that if he was caught on the property, he could be charged with a village ordinance of Criminal Trespass.

5. On August 12, 2005, Respondent was again videotaping people at Six Flags Great America and was recognized by park security officers as the person they had banned from the park the previous year. Security officers and a police officer stopped and interviewed Respondent. Respondent was asked if he was taking inappropriate pictures and he admitted he was taking close ups of the breasts and buttocks of girls under age 18. The officer viewed images on the camera and saw images of a girl, approximately 15 years old, with the video zooming in on different areas of the girl's body, including her buttocks and feet.

6. On August 15, 2005, Gurnee police detectives met with Respondent at Respondent's residence and performed a consent search of Respondent's home and computer. The detectives found videotapes of adult pornography and many photographs of young girls, apparently taken from various pornographic and household magazines. An examination of Respondent's computer using FBI Image Scan 2 software located several pornographic images of young girls who appeared to be under the age of 18. The girls were fully or partially unclothed in lewd poses. Based on this information, a search warrant was issued and executed at Respondent's residence and detectives seized computer equipment and pornographic materials.

7. On September 7, 2005, Respondent was indicted by a grand jury and charged in Lake County Illinois Circuit Court case number 05CF3082 with six counts of violating Illinois statute number 720ILCS5/11.20.1(a)(6) [Possession of Child Pornography], a class 3 felony, punishable by imprisonment of 2 to 5 years and a fine of \$1,000 to \$100,000. On July 20, 2006, following a jury trial, Respondent was found guilty and convicted of one count of Possession of Child Pornography and was found not guilty on the other five counts.

8. As part of the presentence investigation, evaluations were performed of Respondent:

a. A psychological evaluation report dated August 10, 2006, by a psychologist with the Division of Psychological Services of the 19<sup>th</sup> Judicial Circuit, diagnosed Respondent: Axis I: Dysthymic Disorder (300.4), Obsessive-Compulsive Disorder (300.3) and Paraphilia NOS (302.9); Axis II: Personality Disorder NOS, with schizoid/avoidant, dependent, and compulsive features (301.9).

b. A psychosexual assessment performed on August 8 and 14, 2006, by a clinical professional counselor concluded that Respondent had a pattern of sexually deviant behavior and that he was a suitable candidate for an outpatient sex offender treatment program.

9. On September 14, 2006, Respondent was sentenced to 30 months of probation. Terms of probation ordered by the court or imposed by the Lake County Probation Department (Department), included:

- a. 12 months imprisonment, which was stayed pending successful compliance with all conditions of probation.
- b. Sex offender and psychiatric counseling.
- c. No contact with any children under 18, except his own 2 children.
- d. Monitored by the sex offender unit of the Department.
- e. Register as a sex offender.
- f. Undergo sex offender evaluation within 45 days and follow all recommendations.
- g. No internet access.
- h. His computers subject to random search by the Department.
- i. Not to possess video cameras.

10. In April 2007, Respondent violated the terms of his probation.

a. On April 9, a Gurnee police officer was dispatched to an address in response to a call that a suspicious vehicle had been sitting in front of a house for approximately 30 minutes. The officer found Respondent sitting in the car, ran Respondent's information and found him to be a registered sex offender. Respondent told the officer that he had pulled over to talk on the phone to a patient and told the officer he would go to a more public location to finish his phone call. Later it was determined that Respondent had been using a laptop computer with a wireless network card to access the internet through an unprotected wireless network in that area.

b. Later that day, the officer saw Respondent park his car in the back lot of a public library. As the officer approached the vehicle, Respondent closed his laptop which was sitting on the front passenger seat. Respondent told the officer that he was speaking to one of his patients and parked the car so he could talk. The officer observed a program running on Respondent's laptop, which could be used to delete files. Respondent went into the library.

c. On April 11, the officer told a Lake County probation officer of his April 9 contacts with Respondent. On April 13, police officers and the probation officer went to Respondent's residence and conducted a search of his residence and both of his laptop computers. After initially denying that he had done

anything wrong, Respondent admitted he had accessed the internet numerous times through the use of a wireless internet card, including both times he had contact with the police officer on April 9. Respondent admitted he had relapsed, bought pornographic material, and accessed pornographic web sites via the internet.

d. The officers seized Respondent's laptops and wireless internet card, a "Thumb Drive," and numerous DVD's/CD's. Inspection of the computers revealed pornographic images, numerous of them were "teen" based. Five of the DVD's had themes involving women portraying themselves as "teens."

11. A Petition to Revoke Respondent's probation was filed by the Cyber Crimes Division of the Lake County State's Attorney's Office and Respondent admitted to the allegations. As a result, Respondent was remanded into the custody of the Lake County Jail and served a 60 day sentence for violating the terms of his probation.

12. Respondent's attorney referred Respondent to Dr. Patricia Coffey, a Madison psychologist with extensive experience in evaluating sexual offenders, for a psychosexual evaluation and an assessment of Respondent's sexual offending risk issues. The Division agrees that Dr. Coffey is an appropriate person to perform this evaluation and asked Dr. Coffey to provide recommendations relating to Respondent's risk as a practicing psychologist and management of those risks.

13. Dr. Coffey's March 13, 2008 report of the psychological evaluation of Respondent has been reviewed by the Board.

a. The report concludes Respondent qualifies for the following DSM-IV diagnoses:

- 1) Major Depressive Disorder, in early remission.
- 2) Anxiety Disorder, not otherwise specified (NOS).
- 3) Need to rule out personality disorder, NOS, with avoidant and passive aggressive traits.
- 4) Sexual Disorder, NOS, (sexual compulsivity).
- 5) Voyeurism.
- 6) Fetishism.

b. It noted the following about Respondent:

- 1) He presents with a low level of psychopathy.
- 2) He has sexual and relationship issues that clearly need to be addressed, including his serious sexual compulsivity.
- 3) There are no indications he has ever directly sexually abused a child or adult. Those types of offenses indicate an ability to disregard the emotional distress of a victim while committing an offense, which is significantly different than viewing a picture or video.
- 4) He is not generally antisocial with a disregard for the law and the rights of others.
- 5) No tool has yet been developed that can specifically predict the risk of child pornography offenders committing direct contact offenses.

c. The report says there is reason to be concerned that Respondent's sexually compulsive behaviors may result in problems within the context of his relationships with clients and that he should only practice as a psychologist under limited conditions. It says:

"While in a general sense he is at low risk of reoffending sexually, he is in a unique role as a psychologist and is trusted with the care of vulnerable individuals. While he may not directly offend against a client, the compulsivity issues may make clients uncomfortable."

d. It states that he must notify clients that he is on the sexual offender registry (which he had not been doing) and it concludes that he could practice as a psychologist in certain conditions and that the following would minimize the risk:

- 1) No treating of female clients of any age.
- 2) No treating children or teens.
- 3) No treating sexual trauma clients of any sex.
- 4) No treating male clients with any sexual compulsivity or sexual offense related issues.
- 5) No working with families with children.
- 6) Working in a position that utilizes his skills as a psychologist while avoiding therapeutic relationships.

and minimizing the length of the professional relationship, such as social security disability evaluations or performing triage of mental health resources in a medical practice.

14. Illinois statute number 720ILCS5/11.20.1(a)(6), Possession of Child Pornography, is a crime the circumstances of which substantially relate to the circumstances of the professional practice of psychology.

### CONCLUSIONS OF LAW

1. The Wisconsin Psychology Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 455.09 and authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by having violated, and been convicted of, a crime the circumstances of which substantially relate to the circumstances of the professional practice of psychology, has committed unprofessional conduct as defined by Wis. Adm. Code § Psy 5.01(5) and is subject to discipline pursuant to Wis. Stat. § 455.09(1)(g).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of Edward J. Donner, Ph.D., to practice as a psychologist in the state of Wisconsin is hereby LIMITED, as follows:

- a. Respondent shall not treat female clients of any age.
- b. Respondent shall not treat individuals under the age of 18.
- c. Respondent shall not treat sexual trauma clients.
- d. Respondent shall not treat clients with sexual compulsivity or sexual offense related issues.
- e. Respondent shall not provide family treatment that includes working with children.
- f. Respondent is permitted to perform:
  - 1) Evaluations and assessments of adult males and females including social security disability evaluation and employment and insurance related evaluations. Such evaluations may not involve establishing a therapist/client relationship.
  - 2) Treatment and evaluation of male clients age 18 and above who are not known to be sexual trauma clients and not known to have sexual compulsivity or sexual offense related issues;
  - 3) Triage functions for the allocation of mental health resources;
  - 4) Group educational programs for male and female adults. Such programs may not involve establishing a therapist/client relationship with attendees.
- g. Prior to providing therapeutic services to any client, Respondent shall notify the client that Respondent is on the sex offender registry.
- h. Respondent shall have another staff person present in his office suite during the time he sees any client.
- i. Respondent shall not practice psychology except under the following supervision by a supervisor approved by the Board or its designee:
  - 1) Gerald H. Blain, LPC (WI), LCPC and LSW (IL), of Gray's Lake, IL, who specializes in treatment of sex offenders and is an approved provider by the Illinois Sex Offender Management Board, is approved as Respondent's supervisor, for purposes of this Order.
  - 2) If Mr. Blain becomes unable or unwilling to continue as Respondent's supervisor, Respondent shall cease practice until another supervisor has been approved by the Board or its designee.
  - 3) Respondent shall immediately provide his supervisor and any subsequent supervisors with a copy of

this Final Decision and Order.

- 4) Respondent shall arrange for his billing service to provide the supervisor on a monthly basis with all billings Respondent submits, so the supervisor can determine the sex and diagnosis of each client.
- 5) The supervisor shall be physically present at Respondent's practice setting at least one day each week. The supervisor shall: a) inquire of all staff personnel whether Respondent has been following the limitations on his practice, b) select and review client charts to determine whether Respondent has been following the limitations on his practice, and c) review the information provided by Respondent's billing service and d) discuss Respondent's practice with him with an emphasis on any boundary issues.
- 6) The supervisor shall submit quarterly reports to the Board. The reports shall say whether any issue has arisen that appears to be related to Respondent's condition and shall say whether his practice has remained within the limits of this Order. Submission of the reports by the supervisor shall be Respondent's responsibility. The due date for the first report and subsequent reports shall be determined by the Department Monitor.
- 7) Upon becoming aware that Respondent has violated the terms of this Order, the supervisor shall immediately submit written notification to the Board.

2. Respondent may petition the Board for modification of the limitations imposed by this Order, but whether to grant the petition shall be in the Board's discretion.

3. If Respondent believes that the Board's refusal to modify or end any term of this Order is inappropriate, Respondent may seek a class 1 hearing pursuant to Wis. Stat. § 227.01(3)(a) in which the burden shall be on Respondent to show that the Board's decision is arbitrary or capricious. The Board's decision shall remain in effect until there is a final decision in Respondent's favor on the issue.

4. Respondent shall, within 180 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$2,850.00, pursuant to Wis. Stat. § 440.22(2).

5. All requests, reports, notifications and payment shall be sent to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax (608) 266-2264  
Telephone (608) 267-3817

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to pay costs as ordered, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

7. This Order is effective on the date it is signed.

Wisconsin Psychology Examining Board

By: Donald L. Crowder  
A Member of the Board

10/8/08  
Date

STATE OF WISCONSIN  
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	
EDWARD J. DONNER, PH.D.,	:	STIPULATION
RESPONDENT.	:	<u>LS 0707031 PSY</u>
	:	

[Division of Enforcement Case # 05 PSY 059]

It is hereby stipulated and agreed, by and between Edward J. Donner, Ph.D., Respondent; Hal Harlowe of Hal Harlowe & Associates, S.C., attorneys for Respondent; and John R. Zwieg, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary proceeding against Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this matter by stipulation and without a hearing.
2. Respondent understands that by signing this Stipulation, he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's Order, if adopted in the form as attached
5. Solely for purposes of this attempted resolution, Board members have been provided with copies of Dr. Patricia Coffey's March 13, 2008 psychological evaluation of Respondent. It is the position of the parties that the report remains confidential under Wis. Stats. §§ 51.30 and 146.82, and this does not constitute a waiver of that confidentiality for any other purpose.
6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the administrative law judge for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.
7. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Board ever assigned as a case advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.
8. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.
9. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

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Edward J. Donner, Ph.D.  
Respondent  
3601 30<sup>th</sup> Avenue LL1  
Kenosha, WI 53144

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Date

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Hal Harlowe  
Hal Harlowe & Associates, S.C.  
Attorneys for Respondent  
519 N. Pinckney Street  
Madison, WI 53703-1473

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Date

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John R. Zwig  
Attorney for Complainant  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

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Date