

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
STEVEN A. BENSON, Ph.D.,	:	LS0805301PSY
RESPONDENT.	:	

[Division of Enforcement Case # 05 PSY 067]

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

Steven A. Benson, Ph.D.
500 Third Street, Ste. 319B
Wausau, WI 54403

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

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 adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Steven A. Benson, Ph.D., Respondent, date of birth August 24, 1956, is licensed by the Wisconsin Psychology Examining Board as a psychologist in the state of Wisconsin pursuant to license number 1327, which was first granted February 2, 1988.

2. Respondent's last address reported to the Department of Regulation and Licensing is 500 Third Street, Ste. 319B, Wausau, WI 54403.

3. During the events of this matter, Respondent practiced psychology at his private office located in the Wausau, Wisconsin.

COUNT I (Failure to Release Records)

4. From January 15, 2002 to May 27, 2003, Respondent provided psychotherapy to Ms. A. Ms. A moved to Minnesota and in May 2005, sought treatment from a psychologist licensed in that state.

5. On May 3, 2005, the Minnesota psychologist faxed Respondent a legally adequate consent for release of information form signed by Ms. A, which authorized the release of Respondent's: "History and intake information," "Treatment plan" and "Psychological/medical test results." On the fax cover sheet, the Minnesota psychologist checked the

boxes “Urgent” and “Please Reply.” Although the Minnesota psychologist made several follow-up requests for the records, Respondent did not provide the records.

6. Wis. Stat. § 146.83(1)(b) provides that any person may, upon submitting a statement of informed consent, receive a copy of a patient's health care records from a psychologist. Wis. Stat. § 146.83(4)(b) prohibits the withholding of a patient health care record with intent to prevent its release to a person with a statement of informed consent.

COUNT II (Failure to Cooperate with Board Investigation)

7. In October 2005, Ms. A and the Minnesota psychologist each filed a complaint with the Board and the Division of Enforcement (DOE) regarding Respondent's failure to provide the records. During the screening process, DOE intake staff wrote to Respondent in November 2005, January 2006 and March 2006 asking him to respond to the complaints so the Board's screening panel could decide whether to open an investigation. Respondent did not respond to any of those requests. As a result, investigative file 05 PSY 067 was opened on May 24, 2006.

8. On October 5, 2006, a DOE investigator wrote to Respondent and said that DOE was conducting an investigation on behalf of the Board and asked why he had not provided the Minnesota psychologist with the requested records. In a letter dated October 17, 2006, Respondent acknowledged that he had not provided the records and also stated that he had sent a treatment summary and letters of apology to the Minnesota psychologist and Ms. A. DOE confirmed with the Minnesota psychologist that she had received a lengthy treatment summary in October 2006, 17 months after the request, but it was of no use to her as the patient was no longer in treatment.

9. Because Respondent had never produced copies of the actual records which had originally been requested, on October 27, 2006, the DOE investigator wrote to Respondent requesting additional information, including copies of the documents he sent to the Minnesota psychologist. Respondent did not reply and the investigator repeated the requests on December 1, 2006 and January 11, 2007. Respondent did not produce all that was requested and the investigator wrote to him again on May 24, 2007. On June 14, 2007, Respondent finally produced what was requested.

COUNT III (Failure to Obtain Continuing Education)

10. Each person licensed to practice as a psychologist in the state of Wisconsin, who wishes to remain licensed, must renew that license biennially, by October 1 of each odd numbered year. To be qualified to renew the license for the next biennial registration period, the licensee must have completed, in the previous biennial registration period, at least 40 hours of board-approved continuing education, including 6 hours in ethics and 2 additional hours in cultural competence, AODA, or supervision.

11. Respondent renewed his license for the October 1, 2005 through September 30, 2007 biennium by completing and signing the renewal form that was sent to him by the Department of Regulation and Licensing (Department). Immediately above the line which Respondent dated and signed on the renewal form was a statement by which Respondent certified that he had or would complete during the previous biennium the 40 hours of required approved continuing education, including 6 hours in ethics and 2 additional hours in cultural competence, AODA, or supervision.

12. However, during the October 1, 2003 through September 30, 2005 biennium, Respondent had actually completed only 10 of the required total 40 hours of board-approved continuing education and completed none of the required 6 hours in ethics or 2 additional hours in cultural competence, AODA, or supervision, and therefore failed to comply with the continuing education requirements.

13. Respondent's failure was discovered and addressed, as follows:

a. On October 5, 2006, DOE sent a letter to Respondent requesting him to provide documentation of the continuing education programs he completed during the previous (2003-2005) biennium.

b. Respondent did not respond to the October 5 continuing education request and DOE made additional requests by letters dated October 26 and December 1, 2006 and January 11, 2007.

c. Finally, on February 15, 2007, Respondent submitted a summary of the continuing education he completed during the 2003-2005 biennium. No continuing education credit could be granted based on the

information he submitted.

d. On February 23, 2007, DOE sent a letter to Respondent notifying him of his apparent non-compliance with the Board's continuing education requirements. The letter informed Respondent that he must either submit documentation of having completed 40 hours of board-approved continuing education, including 6 hours in ethics and 2 additional hours in cultural competence, AODA, or supervision, during the 2003-2005 biennium or a plan outlining how he intended to comply with the Board's requirements.

e. Respondent subsequently submitted documentation of having completed 10 hours of board-approved continuing education during the 2003-2005 biennium and an additional 30 hours of board-approved continuing education after September 30, 2005 which were counted toward fulfillment of the requirements for the 2003-2005 biennium. These additional hours included sufficient hours in ethics and cultural competence.

14. Respondent completed an additional 30 hours of board-approved continuing education after September 30, 2005, including sufficient hours in ethics and cultural competence, which were counted toward fulfilling the continuing education requirements for the 2003-2005 biennium. Respondent agreed not to count those 30 hours toward the 40 hours he was required to obtain during the 2005-2007 biennium.

CONCLUSIONS OF LAW

1. The 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 failing to release Ms. A's treatment records as required by Wis. Stat. § 146.83(1), has violated laws the circumstances of which substantially relate to the circumstances of the professional practice of psychology, which is unprofessional conduct as defined by Wis. Adm. Code § Psy 5.01(5), and subjects Respondent to discipline pursuant to Wis. Stat. § 455.09(1)(g).

3. Respondent, by failing to respond in a timely manner to a request for information from the Board, has committed unprofessional conduct as defined by Wis. Adm. Code § Psy 5.01(24), which subjects Respondent to discipline pursuant to Wis. Stat. § 455.09(1)(g).

4. Respondent, by only obtaining 10 of the required 40 hours of board-approved continuing education during the biennium immediately preceding his application for the renewal of his license for the October 1, 2005 through September 30, 2007 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 Wis. Stat. § 455.09(1)(g).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Respondent, Steven A. Benson, Ph.D., is hereby REPRIMANDED for the conduct set out in each of the three counts above.

2. Respondent's license is LIMITED as follows:

a. Within 120 days of the date of this Order, Respondent shall provide proof sufficient to the Board, or its designee, of Respondent's satisfactory completion of a total of three (3) hours of continuing education in the area of ethics, which course(s) shall first be approved by the Board, or its designee.

b. Upon Respondent providing proof sufficient to the Board, or its designee, that he has completed the education, the Board shall issue an Order removing this limitation of Respondent's license.

c. The credits required by this Order shall be in addition to the continuing education required for licensure renewal for the following biennium and Respondent shall not attempt to apply these credits to the biennial requirement.

3. Respondent shall, within 120 days of the date of this Order, pay to the Department of Regulation and Licensing the costs of this proceeding in the amount of \$1,310.00 pursuant to Wis. Stat. § 440.22(2).

4. Requests for approval, notification of completion of educational programs and payment shall be faxed, mailed or delivered 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

5. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

Wisconsin Psychology Examining Board

By: Don Crowder
A Member of the Board

5/40/08
Date

STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
STEVEN A. BENSON, Ph.D.,	:	LS _____ PSY
RESPONDENT.	:	

[Division of Enforcement Case # 05 PSY 067]

It is hereby stipulated and agreed, by and between Steven A. Benson, Ph.D., 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 investigation of Respondent's licensure by the Division of Enforcement. Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.
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 been provided an opportunity to obtain 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. 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 Division of Enforcement 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 the consideration of this attempted resolution.
6. 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, if any, 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.
7. 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.
8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Steven A. Benson, Ph.D.
Respondent
500 Third Street, Ste. 319B
Wausau, WI 54403

Date

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

Date