

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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**Before The  
State of Wisconsin  
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

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In the Matter of a Petition for an Administrative  
Injunction Involving Gary L. Jones, Respondent

FINAL DECISION AND ORDER

Order No. 0006106

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**Division of Legal Services and Compliance Case No. 17 UNL 068**

The State of Wisconsin, Department of Safety and Professional Services, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make 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, Department of Safety and Professional Services.

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 at Madison, Wisconsin on the 16<sup>th</sup> day of May, 2019.



Aloysius Rohmeyer  
Chief Legal Counsel

Department of Safety and Professional Services



**Before The  
State of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

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In the Matter of a Petition for an Administrative  
Injunction Involving Gary L. Jones, Respondent

DHA Case No. SPS-18-0055  
DLSC Case No. 17 UNL 068

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**PROPOSED DECISION AND ORDER**

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Gary L. Jones  
2415 Mt. Zion  
Janesville, WI 53545

Wisconsin Department of Safety and Professional Services  
P.O. Box 8366  
Madison, WI 53708-8366

Department of Safety and Professional Services, Division of Legal Services and  
Compliance, by

Attorney Jameson Whitney  
Department of Safety and Professional Services  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

**PROCEDURAL HISTORY**

The proceedings were initiated on December 17, 2018, when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a Petition for an Administrative Injunction against Respondent Gary L. Jones (Respondent), alleging that Respondent engaged in the unlicensed practice of professional counseling by listing himself on social media and professional networking sites as a "Therapist" and working for Over The Mountain Counseling Service and Crossroads Counseling Center, in violation of Wis. Stat. §§ 457.04(5) and 457.04(6).

The Division served Respondent on December 17, 2018, by sending a copy of the Notice of Hearing and Petition for an Administrative Injunction to 2415 Mt. Zion, Janesville, Wisconsin

53545, via certified and regular mail. The Division received both mailings back as undeliverable on January 2, 2019, and January 14, 2019, respectively.

At the expiration of the 20-day time period to file an Answer, the Administrative Law Judge (ALJ) scheduled a telephone prehearing conference for January 22, 2019. Notice of the prehearing conference was mailed to the Respondent on January 7, 2019, instructing Respondent to provide the ALJ a telephone number at which he could be reached for the conference no later than January 18, 2019. Respondent failed to provide a telephone number and failed to appear for the prehearing conference. The Division moved for default based on Respondent's failure to appear and failure to file an Answer, pursuant to Wis. Admin. Code § SPS 3.13 and HA 1.07.

On January 22, 2019, the ALJ issued a Notice of Default and Order against Respondent and ordered that the Division file a recommended proposed decision and order by February 21, 2019. The Division timely filed its submission.

### FINDINGS OF FACT

#### Facts Related to the Alleged Violations

Findings of Facts 1-3 are set forth in the Division's Complaint against Respondent filed in this matter.

1. Respondent Gary L. Jones was licensed in the State of Wisconsin as a professional counselor, license number 3905-125. This license was first granted to Respondent on June 7, 2007, and was voluntarily surrendered on October 24, 2016.

2. The most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) for Respondent is 2415 Mount Zion, Janesville, Wisconsin 53545.

3. The Respondent currently has a Facebook page where he presents himself as a "Therapist at Over the Mountain Counseling Service." An active entry exists on the National Provider Identifier Registry that lists the Respondent as "Active" using the title "Therapist." A LinkedIn profile for the Respondent lists him as a "Therapist at Crossroads Counseling Center."

#### Facts Related to Default

4. The Notice of Hearing and Petition for an Administrative Injunction in this matter were served on Respondent on December 17, 2018, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 3.07. The Notice of Hearing instructed Respondent: "If you do not provide a proper Answer within 20 days or do not appear for the hearing, you will be found to be in default and a special order may be entered against you enjoining you from the continuation of a practice or use of a title. If a special order is issued as a result of this proceeding and thereafter you violate the special order, you may be required to forfeit not more than \$10,000 for each offense."

5. Respondent failed to file an Answer as required by Wis. Admin Code § SPS 3.08(4).

6. Following expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for January 22, 2019. Notice of this prehearing conference was sent to both parties, using the address on record for Respondent. The Notice instructed Respondent to provide the ALJ with a telephone number at which he could be reached for the conference. The Notice further instructed Respondent: "The Respondent's failure to appear at a scheduled conference or hearing may result in default judgment being entered against the Respondent."

7. Respondent did not provide a telephone number and did not appear for the prehearing conference on January 22, 2019. At the prehearing conference, the Division provided a telephone number for Respondent, at which the ALJ attempted to reach him. The telephone number was for Crossroads Counseling, and a receptionist at that business informed the ALJ that the Respondent has not worked there for a few years. The ALJ granted the Division's motion for default based on failure to file an Answer and failure to appear.

8. On January 22, 2019, the prehearing notice sent to Respondent was returned to the Division of Hearings and Appeals (DHA) by the U.S. Postal Service with a stamp indicating that the address was not deliverable as addressed and that the mail could not be forwarded.

9. On January 22, 2019, the ALJ issued a Notice of Default and Order which required the Division to file and serve no later than February 21, 2019, a recommended proposed decision and order. The Notice of Default and Order were not returned to DHA by the U.S. Postal Service.

### DISCUSSION AND CONCLUSIONS OF LAW

#### Default

As stated in the January 22, 2019 Notice of Default and Order, Respondent is in default for failing to file an Answer to the Division's Petition for an Administrative Injunction and failing to appear at the telephone conference held on January 22, 2019. *See* Wis. Admin. Code § SPS 3.13; Wis. Admin. Code § HA 1.07(3). Accordingly, an order may be entered against Respondent on the basis of the Petition and other evidence. *See* Wis. Admin. Code § SPS 3.13; Wis. Admin. Code § HA 1.07(3).

#### Wisconsin Stat. § 457.28

The Division alleges that Respondent is subject to an order enjoining him from engaging in the practice of professional counseling or using a title or designation that represents the Respondent as a professional counselor without a credential, pursuant to Wis. Stat. § 457.28, which grants the Board the authority to seek injunctive relief for violations of § 457.04.'

The undisputed facts establish that as of December 13, 2018, Respondent had a Facebook page where he presented himself as a "Therapist at Over the Mountain Counseling Service." An active entry existed on the National Provider Identifier Registry that listed the Respondent as

“Active” using the title “Therapist.” A LinkedIn profile for the Respondent listed him as a “Therapist at Crossroads Counseling Center.”

Based on the facts of this case and that Respondent has made no argument to the contrary, Respondent violated Wis. Stat. § 457.04(6), by advertising services as a “counselor” or “therapist” and presenting himself on the internet using these titles.

As a result of the above violations, Respondent is subject to an order enjoining such behavior pursuant to Wis. Stat. § 457.28.

### ORDER

Accordingly, it is hereby ORDERED that:

1. Unless and until Respondent is properly licensed to practice Professional Counseling by the Wisconsin Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board, Respondent is enjoined and prohibited from the practice of Professional Counseling in the State of Wisconsin.

2. Unless and until Respondent is properly licensed to practice Professional Counseling by the Wisconsin Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board, Respondent is enjoined and prohibited from using the title of “therapist,” “counselor,” or any other title or designation that represents or may tend to represent that he is a professional counselor or marriage and family therapist in the State of Wisconsin.

3. Violation of this special order may result in a forfeiture of up to \$10,000 for each day of violation. *See* Wis. Stat. § 440.21(4)(a).

4. If the Department determines that there is probable cause to believe that Respondent has violated any terms of this Administrative Injunction, the Department may refer the violations covered by this decision and order to any appropriate prosecutorial unit for review for possible criminal charges.

Dated at Madison, Wisconsin on April 26, 2019.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
4822 Madison Yards Way, 5<sup>th</sup> Floor North  
Madison, Wisconsin 53705  
Tel. (608) 266-7709  
Fax (608) 264-9885

By: \_\_\_\_\_

Jennifer E. Nashold  
Administrative Law Judge