

MARK L. NELSON, Ph.D.

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BOARD OF EXAMINERS

License Number: 3906

*

OF PSYCHOLOGISTS

APPLICANT

*

CASE NUMBER: 2006-013

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Examiners of Psychologists (the "Board"), and subject to Md. Health Occ. Ann. § 18-101, et seq., (2005 Repl. Vol.) (the "Act"), the Board charged Mark Nelson, Ph.D., (the "Applicant"), with violations of the Act. Specifically, the Board initially denied the Reinstatement Application of the Applicant, based on the following provisions of § 18-313:

Subject to the hearing provisions of § 18-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license of any licensee if the applicant or licensee:

- (2) Fraudulently or deceptively uses a license;
- (6) Practices psychology fraudulently or deceitfully;
- (7) Violates the code of ethics adopted by the Board under §18-311 of this subtitle;
- (9) Submits a false statement to collect a fee;
- (10) Willfully makes or files a false report or record in the practice of psychology;
- (12) Violates any rule or regulation adopted by the Board;
- (16) Behaves immorally in the practice of psychology;
- (17) Commits an act of unprofessional conduct in the practice of psychology;

- (19) Fails to cooperate with a lawful investigation conducted by the Board; or
- (20) Does an act that is inconsistent with generally accepted professional standards in the practice of psychology.

The Board further denied the Applicant a reinstatement of his license on the basis that the Applicant violated § 18-302 (b) of the Act:

(b) *Moral character.* - The applicant shall be of good moral character.

The Applicant also violated the Board's Code of Ethics and Professional Conduct, Code Md. Regs. tit. 10, § 36.05 (November 10, 2003):

.01 Scope.

This chapter governs the professional conduct of licensed psychologists, psychology associates, and applicants for both.

.04 Competence.

B. Impaired Competence.

(1) A psychologist shall:

(a) Represent accurately and objectively the psychologist's professional qualifications; and

(b) Seek competent professional assistance to determine whether to suspend, terminate, or limit the scope of professional or scientific activities when the psychologist becomes or is made aware that the psychologist's competence is impaired.

(2) A psychologist may not:

(a) Undertake or continue a professional relationship with a client when the competence or objectivity of the psychologist is or could reasonably be expected to be impaired due to:

(i) Mental, emotional, physiological, pharmacological, substance abuse, or personal problems; or

(ii) The psychologist's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative, or legal relationship with the client or a person associated with or related to the client; or

(b) Engage in other relationships that could limit the psychologist's objectivity or create a conflict of interest or the appearance of a conflict of interest.

.05 Representation of Services and Fees.

A. Public Statements and Advertising.

(1) A psychologist shall:

(a) Represent accurately and objectively the psychologist's professional qualifications, education, experience, and areas of competence;

(c) Make public statements that contain:

(i) False, fraudulent, misleading, or deceptive statements[;].

.07 Client Welfare.

A. A psychologist shall:

(1) Take appropriate steps to disclose to all involved parties conflicts of interest that arise, with respect to a psychologist's clients, in a manner that is consistent with applicable confidentiality requirements; and

(2) Make arrangements for another appropriate professional to deal with emergency needs of the psychologist's clients as appropriate, during periods of anticipated absences from professional availability.

B. Exploitation. A psychologist may not:

- (1) Exploit or harm clients, colleagues, students, research participants, or others;
- (4) Allow personal, social, religious, organizational, financial, or political situations and pressures to lead to a misuse of their influence[; or].

The Applicant was given notice of the issues underlying the Board's Initial Denial by letter dated February 9, 2007. Accordingly, a Case Resolution Conference was held on September 20, 2007, and was attended by Robert Brown, Ph.D. and Marvin Hoss, Ph.D., Board members, Lorraine Smith, Executive Director of the Board, and Linda Bethman, Assistant Attorney General, Counsel to the Board. Also in attendance were the Applicant and his attorney, Richard Bloch, and the Administrative Prosecutor, Roberta Gill, Assistant Attorney General.

Following the Case Resolution Conference, the parties and the Board agreed to resolve the matter by way of settlement. The parties and the Board agreed to the following:

FINDINGS OF FACT

1. The Applicant was first issued a license to practice psychology by the Board on December 13, 2002. The Applicant's license expired March 31, 2004.
2. In a timely manner, the Board sent the Applicant a renewal application, which was due back to the Board by January 31, 2004. Because the Applicant submitted his

renewal application in February,¹ after the deadline, the application was returned to him.² Pursuant to the Board's Act and regulations thereunder, the Applicant was required to submit the continuing education documentation for renewal forms submitted after January 31st, providing proof of completion of continuing education activity and a continuing education reporting form.³

1 The Applicant's renewal application is dated 1/20/04, but was not submitted until February, because

2 The Board's regulations at Code Md. Regs. tit. 10, § 36.01.08 License Renewal, Expiration, and Inactive Status (May 1, 2000).

B. Expiration. A license automatically expires when the psychologist fails to meet the renewal requirements by March 31.

3 Code Md. Regs. tit. 10, § 36.02.06 (January 1, 2000)

C. Denial of License Renewal and Suspension of License.

(1) The Board shall notify a psychologist by certified letter that license renewal will be denied as of March 31 if the:

(a) Board did not receive a completed reporting form by January 31;

(b) Psychologist did not fulfill audit requirements in the time allotted by the Board;

(c) Psychologist did not complete the required number of CEUs, and the Board:

(i) Did not receive by January 31 a written request for an extension of time to complete additional CEUs, or

(ii) Denied a written request for an extension of time[; or].

E. Reinstatement of an Inactive or Expired License.

(2) A psychologist who applies for reinstatement of a license that expired within the last 5 years because of a failure to renew the license, denial of license renewal, or suspension of the license shall:

(a) Provide documentation of a minimum of 20 CEUs completed during the current reporting period, with not more than 8 CEUs in independent or home study; and (b) Complete the remainder of the continuing education requirements by the end of the reporting period.

3. Thereafter, the Applicant failed to submit the renewal application and requisite documentation; nor did he request an extension of time to complete same.

FACTS WARRANTING DENIAL OF REINSTATEMENT

4. The Applicant contacted the Board in October 2005, via a letter dated June 23, 2005, inquiring how he might regain his license, which expired on March 31, 2004.

5. As a result of same, the Board generated a complaint based on the Applicant's inquiry and opened an investigation, which disclosed the following:

A. At the time of the above events, the Applicant was employed at HERO (Health Education Resources Organization) as a Staff Psychologist-Psychology Associate in 1999, and then as a full-time Psychologist in 2000. The Applicant worked under a contract to provide HIV/AIDS mental health services to Baltimore, Harford and Howard Counties;

B. The Applicant failed to inform his employer that his license had expired and that, as such, he was not authorized to provide psychological services to clients on its behalf;

C. Despite the fact that the Applicant's license had been expired since March 31, 2004, the Applicant knowingly continued to work at his job at HERO until February 2006, when the organization's contract was not renewed and the Applicant lost his position.

6. Accordingly, by letter dated June 23, 2005, but received by the Board in October

2005 (while the Applicant was still practicing psychology on a license that had expired a year and a half prior thereto), the Applicant asked what he had to do to reinstate his license.

7. By renewal application dated September 5, 2006, the Applicant filed an application, listing the number "7" ("other"), as the reason under Inactive, stating "need to get license reinstated for employment." He further indicated that he was not currently employed. The Applicant answered "Y[es]" to question #2, which asks: "Has a state, federal, or foreign licensing or disciplinary board or agency in any jurisdiction (including Maryland and the District of Columbia), or a comparable body in the armed services, filed any complaints or charges against you, or investigated you for any reason?" As required, the Applicant attached the following explanation: "Yes. I let my license lapse on March 31, 2004, and continued practicing. I self-reported to the board (sic) in October, 2005 and was investigated. This re-application is an attempt to get my license back in good standing." The Applicant submitted evidence of 20 CEUs, as required.

8. As set forth above, by practicing for over a year and a half while his license was expired, by failing to inform his employer of his licensing status, including submitting documents indicating that he was a licensed psychologist, and by conducting counseling sessions under the guise of being a licensed psychologist, the Applicant lacks the moral character to qualify for reinstatement of his psychology license in Maryland.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that Applicant violated § 18-313 (2), (6), (7), (9) ,(10), (12) , (16), (17), (19) and (20). The Board further concludes that the Applicant § 18-302 (b) of the Act, as well as Code Md. Regs. tit. 10, § 36.05 10.

.01, .04 B. (1) (a) and (b); (2) (a) (i) or (ii) (b); .05 A. (1) (a), (c) (i); .07 A. (1) and (2), B. (1) and (4).

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and agreement of the parties, it is this 5th day of December, 2007, by a majority of a quorum of the Board,

ORDERED that the Applicant's license to practice psychology is hereby **REINSTATED**, subject to compliance with the Board's licensing regulations; and be it further

ORDERED that the Applicant is hereby placed on a minimum of two years Probation, subject to the following terms and conditions:

1. The Applicant shall obtain clinical and professional supervision by a Board-approved supervisor, subject to the following terms and conditions:
 - a. The Applicant shall provide the supervisor with sufficient work product to enable the supervisor to evaluate the timeliness and quality of the Applicant's practice;
 - b. The Board shall forward the Applicant's complete instigative file to the Supervisor;
 - c. The Applicant shall meet with the Supervisor a minimum of two times per month for the first six months, and then at the Supervisor's professional discretion for the remainder of the probationary period;
 - d. The Supervisor shall submit quarterly progress reports to the Board;

e. The Applicant shall fully cooperate with the recommendations of the Supervisor;

2. The Applicant shall continue receiving psychotherapy.

3. The Applicant shall pay a fine of \$1500 to the Board.

4. The Applicant shall be responsible for all costs associated with fulfilling the terms and conditions of this Order.

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and be it further

ORDERED that the Applicant shall practice in accordance with the laws and regulations governing the practice of psychology in Maryland; and be it further

ORDERED that, no earlier than two years following the effective date of the Order, the Applicant may petition the Board to terminate the Probation, provided that the Applicant has fully complied with all probationary terms and has no outstanding complaints pending against the Applicant. Should the Applicant fail to demonstrate compliance, the Board may impose additional terms and conditions of Probation, as it deems necessary;

ORDERED that, should the Board receive a report that the Applicant has violated the Act or if the Applicant violates any conditions of this Order or of Probation, after providing the Applicant with notice and an opportunity for a hearing, the Board may take further disciplinary action against the Applicant, including suspension or revocation. The burden of proof for any action brought against the Applicant as a result of a breach of the conditions of the Order or of Probation shall be on the Applicant to demonstrate compliance with the Order or conditions; and be it

ORDERED that for purposes of public disclosure, as permitted by Md. State Gov't. Code Ann. §10-617(h) (Repl. Vol. 2004), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to.

A handwritten signature in black ink, appearing to read "Douglas Johnson-Greene", written over a horizontal line.

Douglas Johnson-Greene, Ph.D., Chairman
State Board of Examiners of Psychologists

CONSENT OF MARK NELSON, Ph.D.

I, Mark Nelson, Ph.D., by affixing my signature hereto, acknowledge that:

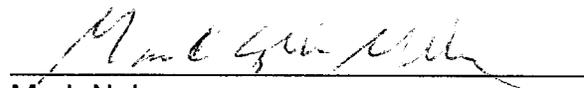
1. I am represented by an attorney, Richard Bloch, and have been advised by him of the legal implication of signing this Consent Order;

2. I am aware that without my consent, my license to practice psychology in this State cannot be limited except pursuant to the provisions of § 18-313 of the Act and the Administrative Procedure Act (APA) Md. State Govt. Code Ann. §10-201, et seq., (2004 Repl. Vol.)

3. I am aware that I am entitled to a formal evidentiary hearing before the Board

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 18-315 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 18-316 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my license to practice psychology in the State of Maryland.

12/05/07
Date


Mark Nelson

STATE OF Maryland

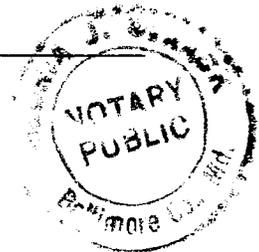
CITY/COUNTY OF Baltimore:

I HEREBY CERTIFY that on this 5th day of December, 2007, before me, Gloria Stack, a Notary Public of the foregoing State and (City/County),
(Print Name)

personally appeared Mark Nelson, License No.3906, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Gloria Stack
Notary Public



My Commission Expires: 10/31/11