

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF HEALTH

In the Matter of Michael Richard Greene,
Unlicensed Mental Health Practitioner

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson at 9:30 a.m. on Thursday, January 21, 1999, at the Office of Administrative Hearings in Minneapolis, Minnesota. Susan A. Casey, Assistant Attorney General, Health & Licensing Section, 525 Park Street, Suite 500, St. Paul, MN 55103-2106, appeared on behalf of the Minnesota Department of Health. There was no appearance by or on behalf of the Respondent, Michael Richard Greene, 1882 Radatz, Maplewood, Minnesota 55109. The record closed at the conclusion of the hearing on January 21, 1999.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Health will make the final decision after a review of the record. The Commissioner may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact the Minnesota Department of Health, 450 Metro Square Building, 121 Seventh Place East, St. Paul, Minnesota 55101, tel. (651) 215-5803, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF THE ISSUE

The issue in this case is whether or not the Respondent has violated Minn. Stat. § 148B.68 by failing to comply with self-reporting requirements; engaging in sexual contact with a client or former client or undertaking a professional relationship with a client in which his objectivity would be impaired; improperly using alcohol, drugs, or controlled substances; engaging in conduct demonstrating a willful or careless disregard for the health, welfare, or safety of a client or that may create unnecessary danger to any client's life, health, or safety; and/or failing to cooperate with an investigation; and, if so, whether disciplinary action should be taken against the Respondent, such as censure, reprimand, revocation or suspension of the Respondent's right to provide mental health services in the State, the imposition of limitations or conditions upon the Respondent's provision of such services, the levying of civil penalties, or other actions authorized by Minn. Stat. § 148B.69.

Based upon the record in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On October 12, 1998, the Notice of and Order for Hearing in this matter was mailed to the Respondent at his last known address of 356 Fulton, St. Paul, Minnesota 55102. The envelope containing this Notice was returned by the Postal Service with a notation that Mr. Greene had moved.

2. Counsel for the Department of Health requested a continuance of the hearing to permit the Department to confirm the Respondent's current address and accomplish service of the Notice of and Order for Hearing. The request for continuance was granted by the Administrative Law Judge and the hearing was continued to January 21, 1999. The Department thereafter contacted the Respondent's employer and obtained the Respondent's current address.

3. On December 10, 1998, a revised Notice of and Order for Hearing setting forth the January 21, 1999, hearing date, was mailed to the Respondent at 1882 Radatz, Maplewood, Minnesota 55109, the address supplied by the Respondent's employer. This envelope was not returned to the Department. The Notice of and Order for Hearing was also placed on the front step of the residence located at 1882 Radatz Avenue in Maplewood, Minnesota, after an adult female refused to state her name and accept service. Exs. 1-2.

4. The Notice of and Order for Hearing contained the following statement:

Respondent is urged to attend; failure to do so may prejudice his rights in this and any subsequent proceedings in this matter, may result in the allegations contained herein as being taken as true, and may be the basis for disciplinary action against Respondent.

5. The Respondent did not appear at the January 21, 1999, hearing. The Respondent did not contact counsel for the Department or the Administrative Law Judge to request a continuance. No Notice of Appearance was filed by Respondent in this matter.

6. The allegations set forth in the Notice of and Order for Hearing, having been deemed proved and taken as true, are hereby incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Department of Health and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 148B.69, subd. 2a, and 14.50 (1998).

2. The Respondent was given timely and proper notice of the hearing in this matter.

3. The Minnesota Department of Health has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. Rule 1400.6000 (1997), the Respondent is in default as a result of his failure to appear at the scheduled hearing.

5. Under Minn. Rule 1400.6000 (1997), when a party defaults, the allegations and the issues set out in the Notice of and Order for Hearing may be taken as true and deemed proved. The Administrative Law Judge therefore takes those allegations and issues as true and deemed proved.

6. Based upon the facts set out in the Notice of and Order for Hearing, the Respondent has violated Minn. Stat. §§ 148B.68, subd. 1(c), (d), (f), (l), (j), (o), and (q), and is subject to disciplinary action by the Minnesota Department of Health.

7. An order by the Department prescribing disciplinary action against the Respondent is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED: that disciplinary action be taken against Michael Richard Greene, Unlicensed Mental Health Practitioner, by the Minnesota Department of Health.

Dated: January 25, 1999

BARBARA L. NEILSON
Administrative Law Judge

Reported: Default.

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Board of Nursing is required to serve its final decision upon each party and the Administrative Law Judge by first-class mail.