

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

In the Matter of the Application for  
Licensure as an Alcohol and Drug  
Counselor by Berkley Lewis IV

RECOMMENDATION ON MOTION  
FOR SUMMARY DISPOSTION

This matter is before Allan W. Klein, Administrative Law Judge, for a ruling on the Department's Motion for Summary Disposition, which was filed on December 3, 2004. Berkley Lewis IV filed his response on December 13, 2004. The Motion is now ripe for decision.

Appearing on behalf of the staff of the Minnesota Department of Health is Assistant Attorney General Audrey Kaiser Manka, 445 Minnesota Street, Suite 1200, St. Paul, MN 55101-2130.

Berkley Lewis IV, 3422 Judd Trail, Stillwater, MN 55082, appears on his own behalf, without counsel.

Based on all of the files, records, and proceedings herein, the arguments of the parties, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

**RECOMMENDATION**

IT IS HEREBY RECOMMENDED that the Department's Motion for Summary Disposition is GRANTED.

Dated this 14<sup>th</sup> day of January 2005.

S/ Allan W. Klein  
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ALLAN W. KLEIN  
Administrative Law Judge

**NOTICE**

This report is a recommendation, not a final decision. The Commissioner of Health ("the Commissioner") will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the 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 office of Dianne Mandernach, Commissioner of Health, 85 East Seventh Place, Suite 400, Saint Paul, Minnesota 55101, telephone (651) 215-5813, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law

## **MEMORANDUM**

### Facts and Position of Parties

A prehearing conference in this matter was held on November 16, 2004. Ms. Manka and Mr. Lewis agreed that it was likely that this matter could be resolved through a Motion for Summary Disposition. A schedule was agreed to, and the filings have now been made, with the record closing on December 13, 2004.

Berkley Lewis IV is currently 46 years old. He has been employed by the Hazelden Foundation as a Chemical Dependency Practitioner since 1999. Prior to that time, he was employed at Amethyst Chemical Dependency Services as a chemical dependency counselor beginning in 1997.

Between 1994 and 1997, Lewis received workers' compensation benefits. In connection with the workers' compensation program, he sought and obtained approval for an educational plan and employment plan that involved becoming a chemical dependency counselor. In 1997, a person desiring to practice alcohol and drug counseling was required to obtain a license from the Commissioner of Health. Pursuant to the statutory scheme then in effect, the Commissioner was to adopt rules establishing standards and methods for licensure, including examinations and standards for the regulation of professional conduct. The Commissioner could either administer the examinations (both written and oral) himself, or he could contract with a private organization to do so. The statute went on to provide that there would be an Initial Regulatory Period, which would run for five years after the rules became effective, during which time a person could become licensed without having a bachelor's degree. The rules became effective on January 27, 1998, and thus the five-year period ran from January 27, 1998 to January 27, 2003. However, a different statute provided for a Transition Period that would last for two years from the effective date of the rules, from January 27, 1998 to January 27, 2000 (and ultimately extended to February 27, 2000).

During this transition period, an applicant had four ways in which to obtain a license. These were as follows:

1. If he were already credentialed as a Certified Chemical Dependency Counselor (CCDC) or Certified Chemical Dependency Counselor Reciprocal (CCDCR) by the Institute for Chemical Dependency Professionals of Minnesota, Inc.
2. If he had 6000 hours of supervised alcohol and drug counseling experience, and...
3. Had 10,000 hours of supervised alcohol and drug counselor experience, and...
4. Had 14,000 hours of supervised alcohol and drug counselor experience, and... or,
5. Met certain other specialized licensing criteria not applicable here.

Lewis determined to avail himself of the first of these options, and on July 13, 1998, he became credentialed as a Certified Chemical Dependency Practitioner (CCDP) by the Institute for Chemical Dependency Professionals of Minnesota, Inc. In order to obtain that certification, he entered into a training plan with a private educational operation known as the Edens Group. Beginning on May 28, 1997, and continuing through December 1, 1998, Lewis took and completed a series of courses designed to permit him to fill requirements for the CCDC certification by the ICDP group. Edens represented to Lewis that ICDP would accept "any and all course work" which Lewis completed through Edens for ICDP's certification process. However, at some point in 1998, ICDP went out of business. Not only did this cause havoc for Lewis' educational plans, the Department of Health had contracted with ICDP to conduct examinations for the Department. In 1998, the statute was amended to provide that applicants relying on ICDP certifications could document their status by submitting a certificate "issued by an International Certification and Reciprocity Consortium Board" in Minnesota or another state.

On December 12, 1998, Lewis did sit for, and pass, the Alcoholism and Other Drug Abuse examination of the International Certification Reciprocity Consortium. This was administered in Wisconsin, which had agreed to administer ICRC tests for Minnesota residents because of the demise of the ICDP program. However, after he passed the written exam, he attempted to take the oral examination from the Wisconsin Board, but they declined to administer it to Minnesota residents because Minnesota had by then established a new testing process. Lewis attempted to take an oral exam through the new Minnesota process, but because they could only administer ten exams per month, and there was a substantial backlog, he was unable to do so prior to February 27, 2000, when the Transition Period expired.

On November 6, 1998 and January 16, 1999, the Wisconsin Certification Board, under agreement with the Department, offered the oral alcohol and drug counselor

ICRC examination in Minnesota. Then, an organization called the Minnesota Certification Board (MCB) emerged as a successor organization to ICDP in early 1999 and began offering oral ICRC examinations in Minnesota under agreement with the Department. Those oral examinations were offered by MCB in Minnesota on seven dates between June and December of 1999, and four dates in January and February of 2000. The transition period ended on February 27, 2000, with the Department receiving 292 applications in January, 2000 alone. Mr. Lewis did not submit an application before the transition period ended. It was not until July 10, 2000, that he submitted his application.

In July of 2000, when Lewis submitted his application, the standards for licensure were those set forth for the Initial Regulatory period that ran for five years after the effective date of the rules. The requirements in place when Lewis filed his applicaiton included an associate degree, or an equivalent number of credit hours, and a certificate in alcohol and drug counseling including 270 clock hours of counseling classroom education from an accredited school or educational program, and 880 clock hours of alcohol and drug counseling practicum. In addition, the applicant must have completed a written case presentation and satisfactorily passed an oral examination that demonstrates competence in the core functions. Finally, applicant must have satisfactorily passed a written examination as established by the Commissioner.

The application form in use during 2000 asks the applicant to designate which of three application methods he is relying upon. It lists the three methods as "licensure by associate degree," "licensure by bachelor degree," and "licensure by reciprocity." Lewis indicated that he was applying for "licensure by associate degree." He also indicated that he had taken the written exam on December 11, 1998, and the oral exam on May 20, 2000. Lewis executed the application on July 3, 2000, and it was received by the Department on July 10, 2000.

Shortly thereafter, on July 24, 2000, Lewis applied for a temporary exemption from licensing pursuant to a process which allows for temporary practice alcohol and drug counseling prior to licensure for persons who are practicing in programs licensed by the Department of Human Services and under the direct, on-site supervision of a licensed person. The application was signed by James H. Akins, a Licensed Counselor at Hazelden. It is not clear from the record whether or not this temporary exemption was granted. But whether or not it was granted is of no consequence to the outcome of this proceeding.

Of consequence to the outcome of this proceeding is the fact that after reviewing Lewis' application for full licensure which had been submitted on July 10, the Department found some omissions and lack of verification, and sent a letter to Lewis, dated August 16, 2000, indicating that additional information was required. Among the items required was verification of any alcohol and drug counseling training by means of an official transcript. More importantly, the letter notes that Lewis had applied for licensure by associate degree. That requires a minimum of an associate's degree or an equivalent number of credit hours from an accredited school or educational program, including 270 clock hours of alcohol and drug counsel or classroom education and 880

clock hours of alcohol and drug counselor practicum. The letter notes that Lewis had documented classroom education taken through an individualized training program with the Edens Group, and directs Lewis to request that Edens Group submit documentation explaining the accreditation process that it had completed with ICDP. Lewis was also to request that Edens Group document that his practicum hours were done for credit through an accredited school or education program, and the hours must appear on his official transcript. The letter concluded by indicating that all the requested information had to be submitted by September 18, 2000.

On September 18, 2000, Lewis did submit one of the requested items, a completed page 2 of the application form, indicating that he had possessed a Minnesota Chemical Dependency Counselor credential between July 13, 1998 and July 20, 2000, but that it had lapsed. This is a reference to the ICDP practitioner credential (CCDP) referred to earlier.

On September 5, 2000, Karen Edens, president of Edens Group, submitted a letter to the Department indicating that Edens Group had not pursued accreditation for its counselor training program, but rather viewed itself as a continuing education and professional development resource. But the letter went on to assert that Edens Group course work had always been approved, and many other professionals had completed their 270 hours of education through Edens Group, and had become licensed.

In 2000, the governing statute defined an “accredited school or educational program” to mean:

A school of alcohol and drug counseling, university, college, or other post-secondary education program that, at the time the student completes the program, is accredited by a regional accrediting association whose standards are substantially equivalent to those of the North Central Association of Colleges and Post-Secondary Education Institutions or an accrediting association that evaluates schools of alcohol and drug counseling for inclusion of education, practicum, and core function standards in this chapter.

In an earlier memo from Eric Stolberg, Director of Operations at Edens Group, Edens claimed that ICDP had accepted any and all course work that Lewis completed for ICDP’s certification process. That memo was written May 30, 2000, and related to course work that Lewis had completed between 1997 and 1998. Whatever the relationship may have been between Edens Group and IDCP in 1998, by the time Lewis applied for licensure in July of 2000, the Department believed that work at Edens Group did not constitute work at an “accredited school or educational program.”

The matter of Lewis’ application seems to have laid dormant until May 24 of 2001. At that time, the Department’s Jon Hall sent Lewis a letter, pointing out that he had a number of outstanding items required for completion before his application could be processed. Hall indicated that Lewis had documented 20 semester credits towards an associate degree, but that a minimum of 64 semester credits was required. Hall also

indicated that Lewis had not documented any hours of classroom education from an accredited school or education program, nor had he documented any hours of practicum through an accredited school or academic program. Hall did acknowledge Lewis had documented passing scores on the required written and oral examinations. Hall went on to suggest that Lewis contact an accredited school to determine whether any of the training and practicum hours he had received from other sources (presumably Edens Group or Hazelden) could be granted academic credit. Hall attached a list of programs recognized by the Department. Hall gave Lewis until June 25, 2001, to reply. Lewis did not reply.

On August 6, 2001, Hall again wrote to Lewis, indicating that he had not yet received the information requested in the May 24 letter. Hall gave Lewis until September 7, 2001, to reply.

The temporary exemption referred to earlier expired on July 1, 2002.

On July 5, 2002, Meagan Thompson of the Department wrote to Lewis, indicating that his application for a permanent license was still incomplete. She informed Lewis that the Department wanted official transcripts verifying the associates degree, the classroom education from an accredited college or training program, and the practicum from an accredited college or training program. She asked that this be submitted to her no later than August 16, 2002. The letter closed with a reminder that he could not practice alcohol and drug counseling without a license unless he had a temporary exemption (which had just expired), had been granted temporary practice status, or was employed in a number of specific settings, none of which appeared to include Hazelden.

Following Thompson's July 5 letter, a number of telephone conversations ensued, and on July 24, 2002, Thompson wrote a letter to Lewis, indicating that there was a student exemption from licensing for students enrolled in an accredited school of alcohol and drug counseling so long as they were under qualified supervision in an accredited school.

On August 22, Thompson again wrote to Lewis, indicating that the information requested in her July 5 letter had not yet been received, and that he should submit it by September 30, 2002. On October 11, 2002, Thompson again wrote to Lewis, indicating that the Department had received transcripts from Metro State verifying that he had completed his practicum, but that he still had to complete an additional 28 semester credits to qualify for the AA degree or equivalency, and that he also needed to complete the 270 clock hours of classroom work. Thompson asked that these be submitted by November 15, 2002.

On November 21, 2002, Thompson again wrote to Lewis, and indicated that the information requested in the letter of October 11 had not yet been received, and that he should submit it no later than December 26, 2002.

On December 26, 2002, Thompson sent essentially the same letter to Lewis, indicating that he should submit the information no later than January 30, 2003.

On August 29, 2003, Thompson sent essentially the same letter to Lewis, indicating the information should be submitted no later than October 2, 2003.

On November 13, 2003, David Giese, the Director of the Health Policy & Systems Compliance Division at the Department wrote to Lewis. Giese informed Lewis that the July 10, 2000 application was denied because Lewis had failed to demonstrate that he qualified for a license. The letter went through the various methods by which a person could become licensed, and concluded that Lewis did not qualify under any of them. Of particular interest in this proceeding is the method referred to a "Licensure by Associate's Degree." Referring to Thompson's letter of October 11, 2002, Giese reminded Lewis that he had not submitted evidence of an associates degree or equivalency, nor had he submitted evidence of 270 clock hours of classroom education from an accredited school or education program. The other method of interest in this proceeding is "licensure by reciprocity." That method requires documentation of current licensure as an alcohol and drug counselor in another state or territory "with requirements substantially equivalent to those in Minnesota." Giese noted that Lewis had become credentialed in Wisconsin, but that the requirements to obtain that license are not equivalent to those in Minnesota. Giese concluded by reminding that Lewis' application was now denied because he had failed to demonstrate that qualified for a license and that until his academic requirements were satisfied, Lewis could not work as an alcohol and drug counselor unless he met the student employment exceptions. The letter gave Lewis 30 days from November 13 to provide additional information to address the reasons stated for denial. The letter also advised him of his right to a contested case hearing, with a 30-day period to file the appeal.

On November 15, 2003, Lewis filed a request for a contested case hearing. He asserted that the Department had earlier approved "both my educational program and projecting this toward licensure." Lewis also asserted that the Wisconsin credential which he held (apparently the Wisconsin Certified Alcohol/Drug Counselor III credential) is much more stringent and certainly "substantially equivalent" to the Minnesota license. He enclosed a copy of the Wisconsin requirements.

On November 26, 2003, Tom Heindelmayer, the Director of the Health Occupations Program at the Department responded to Lewis. Heindelmayer noted that Jon Hall and Meagan Thompson had consistently requested, on at least ten occasions in writing, evidence of completion of the 270 clock hours of classroom course work from an accredited school or educational program. In addition, Heindelmayer indicated that his analysis of the Wisconsin requirements does not indicate that Wisconsin's required 360 hours of classroom education and training had to be taken from an "accredited academic based institution," but that up to 135 hours could be taken from "professional development/home study training endorsed by the Wisconsin Certification Board." Heindelmayer went on to suggest that Lewis had met the Wisconsin requirements through completion of "informal" training, and that Heindelmayer did not believe that this was equivalent to the Minnesota requirements of an associate's degree or equivalent credits from an accredited school or educational program. Heindelmayer gave Lewis until December 29, 2003 to indicate whether he wanted to pursue his appeal through a contested case hearing.

On December 16, 2003, Lewis responded to Heindelmayr indicating he did want to continue with the appeal process. In his letter, Lewis suggests that the confusion following the demise of ICDP, the attempt to use Wisconsin as a substituted testing body, and the backlog of applicants for the oral exam in Minnesota caused him to miss the deadline for being “grandfathered” (the Administrative Law Judge believes he is referring to the Transition Period). Lewis went on to argue that when the reciprocity law permits the Commissioner to issue a license if he finds that the requirements for a credential are “substantially similar” to the requirements under Minnesota law, he [Lewis] should be licensed because he has worked for over 11,000 hours in a Minnesota licensed treatment facility, passed both of the examinations, completed over 360 hours of classroom education as well as 50 hours of continuing education, and has obtained 16 semester hours of practicum through Metro State. Lewis went on to point out that his clinical reputation was “impeccable,” and that he had been selected to work with several specialty groups at Hazelden, including impaired health care professionals, pilots, and the vast majority of assessment program patients. Lewis has also been appointed to committees for documentation standards and implementation of further clinical dimensions. He argued that all of this was more than “substantially similar” to the Minnesota licensure requirements.

On January 16, 2004, Heindelmayr responded to Lewis, indicating that even though his training and experience may have met earlier requirements, Lewis had to meet the requirements in place when he filed his application, and that as previous correspondence had documented, Lewis had not met those requirements. He offered to meet with Lewis in an attempt to explain why the Department did not believe he had met the licensing requirements. This meeting apparently took place on January 28, 2004, because on February 10, 2004, Heindelmayr sent a letter to Lewis, indicating that the two had reached an impasse at that meeting. The February 10 letter went on to discuss their respective views concerning “substantially similar,” with Heindelmayr suggesting that Wisconsin was more willing to accept work experience in lieu of academic course work, and that Minnesota may have taken that same position during the Transition Period, but that Minnesota no longer took that position by the time that Lewis filed his application. Heindelmayr suggested that their discussions might be aided by research from the attorney general’s office on how the term “substantially similar” was interpreted in other occupational licensing settings, and that the both the Departments denial of his application and his appeal of the denial would be “pending until further notice.”

The record does not contain whatever additional correspondence transpired between the two, but there was no satisfactory resolution of the differences and on September 30, 2004, Giese issued a Notice and Order for Hearing, setting the prehearing conference of November 16, 2004. In that Notice, Giese framed the issues as twofold: (1) Did the Department properly deny the application when it determined that Lewis had failed to demonstrate that he had the qualifications necessary for licensure during the initial five-year period because he did not have an associate degree and had not completed the required number of clock hours in classroom education from an accredited school program? and, (2) Did the Department properly deny Lewis’ application when it determined that the Wisconsin credential was not based on

requirements that are “substantially similar” to the Minnesota requirements because Wisconsin does not require the academic application be from an accredited school or program?

Pursuant to an agreement reached during the prehearing conference, the Department filed a Motion for Summary Disposition. The Department argues that there are no facts in dispute and that the law requires that the Department’s denial be upheld. Lewis, in response, argues that since the state was willing to accept education, testing and credential and procedures of ICDP, a recognized ICRC Board prior to ICDP’s demise, it should recognize that the unexpected closure of ICDP created a hardship for himself (and others) so that the state should therefore further adjust the length of the Transition Period. Secondly, he argues that “substantially similar” should mean “equal or greater,” and the fact that Wisconsin has requirements for more education hours and supervised clinical practice should require Minnesota to accept the Wisconsin credentials.

### ALJ Analysis

Grandfathering during the transition period. The legislature has broad authority to establish licensing requirements and licensing procedures within the state. The legislature chose to make the Transition Period two years in length. It then chose to extend it for one more month. The legislature could have made the Transition Period only one year long, two years long, three years long, or it could have allowed for no transition period at all. It chose two years, and then extended it for an additional month. For whatever reason, Lewis did not take his oral examination within the required time period (the transition period ended in February 2000, and he took the oral exam in May of 2000). Oral examinations were given numerous times during that period, and during January, 2000 alone, the Department received 292 applications from persons who had, presumably, found a way to take the oral exam. The long and short of the matter is that the legislature designated a set period of time as a Transition Period, and Lewis failed to apply until several months later. There is not much more to say about it.

After the Transition Period, Lewis did apply, indicating that he was seeking licensure by the associate degree method (as opposed to the bachelor degree or reciprocity methods). But he did not have an associates degree. An associates degree requires at least 64 semester hours of classroom education from an accredited school. And the statute also requires 270 clock hours of alcohol and drug counseling classroom education from an accredited school, as well as 880 clock hours of practicum. Lewis lacked both the associate degree and the 270 clock hours from an accredited school or educational program. The legislature chose to require those items, and Lewis must meet those requirements. He failed to take the oral exam and submit his application until after the Transition Period had ended, and thus he was bound by the legislature’s academic requirements. The Department was operating within the law when it decided to deny his application.

Reciprocity. The law requires the Commissioner to issue a license if the Commissioner finds that the requirements for the credential held by the applicant “are

substantially similar to the requirements in Sections 148C.01 to 148C.11.” The Wisconsin legislature has chosen to place primary emphasis upon work experience, rather than classroom hours. While an applicant may substitute successful achievement of various kinds of academic degrees for a limited number of hours of the required work experience, such substitution is not required. It is entirely possible for a Wisconsin applicant to be credentialed without an associate degree or a bachelor’s degree. Moreover, Wisconsin does require 360 hours of classroom education and training, but a significant portion of those hours may come from professional development/home study training, and there is no requirement that any of the hours come from an accredited school or education program. Again, the various states are free to set their own requirements, and the fact that one state required a certain amount of classroom training from an accredited institution, while another state requires more work experience and does not distinguish between accredited and non-accredited institutions, does not prevent either state from denying recognition of the others’ credential. A State Legislature is perfectly entitled to put more emphasis on accredited classroom over supervised work experience, or visa versa, and to require that any person it licenses meet its own standards. Again, the Department was well within the law when it denied reciprocal licensing.

#### Supporting Case Law

In the Matter of the Mortician License Application of Werner, 571 N.W. 2d 600 (Minn. App. 1977), involved a mortician licensed in California who sought a Minnesota license through reciprocity. In 1974, Werner completed a 12-month mortuary science program, passed the national board examination, and obtained California certification. He then worked continuously in mortuary science in California for roughly 20 years. He then applied for a reciprocal license from Minnesota. The Minnesota Statute allowed for reciprocal licensing without examination if “in the judgment of the Commissioner” the system and standard of examination in the first state is “substantially the equivalent” to that required in Minnesota. In Minnesota, an applicant seeking a license must have completed “at least two scholastic years at an accredited college or university in any subjects the Commissioner may prescribe.” Werner could not meet that requirement, as California applicants (at least back in 1974) were not required to complete two years of higher education. Werner argued that his extensive work experience should be recognized as a substitute for the accredited academics.

The Department denied Werner’s application, and Werner appealed. The Court found that the words in the Minnesota Statute were not ambiguous and that because Werner’s California licensure did not necessitate two years education at an accredited college or university, his California credential was not the product of a licensing system that was “substantially equivalent” to that of Minnesota. The Court of Appeals upheld the denial of Werner’s application. There is no meaningful difference between Werner and the situation presented by Berkley Lewis. Werner had roughly 20 years of full-time experience under his belt, and yet his application was denied because he did not have the two years of accredited classroom work.

Draganosky v. Minnesota Board of Psychology, 367 N.W. 2d 521 (Minn. 1985) involved a situation where Joseph Draganosky twice sought and was twice denied licensure as a licensed consulting psychologist because his doctor's degree was not from a university "accredited by a regional accrediting association." He then applied a third time, seeking a variance from the Board rules regarding accreditation. The Board had a rule that required it to grant a variance if an applicant could specify alternative practices or measures "equivalent to or superior to" those otherwise required. Draganosky attempted to demonstrate that the school where he got his degree, while not accredited by a regional accrediting association, was accredited by a different accreditation agency which he claimed had standards of excellence and reliability at least equal to that of North Central. Draganosky could not convince the Board of that position, and the Board denied him the variance he sought. Draganosky appealed that denial. The Supreme Court upheld the Board's denial, finding that the evidence supported it. In the case of Berkley Lewis, there is substantial evidence to support the Commissioner's determination that the Wisconsin standards are not "substantially similar" to those in Minnesota. Without rehashing what has been said earlier, the Draganosky case supports the Department's position.

#### Standards for Granting Summary Disposition.

Summary disposition is the administrative equivalent to summary judgment. Summary disposition is appropriate when there is no genuine issue of material fact and a party is entitled to judgment as a matter of law. A genuine issue is one that is not a sham or frivolous, and a material fact is one which will affect the outcome of the case. The Department, as the moving party, must demonstrate that no genuine issues of material fact exist. If the moving party is successful, then Mr. Lewis, as the non-moving party, has the burden of proof to show specific facts are in dispute which have an affect on the outcome of the case. It is not sufficient for him to rest upon general averments or denials; he must present specific facts demonstrating a genuine issue for trial.

#### Summary

The Department was justified in denying Lewis' application. He was not entitled to the "grandfathering" allowed during the Transition Period because he did not apply in time. He does not meet the standards in place when he did file his application. The Department has been exceedingly patient in extending him time to meet the requirements that were in place. The requirements for obtaining a Wisconsin credential are not "substantially similar" to those in Minnesota. None of Lewis' theories support a conclusion that the Department must grant him a license. There are no material facts in dispute, and the Department has shown it is entitled to summary disposition.

**A.W.K.**