

BEFORE THE STATE OF OREGON
BOARD OF LICENSED PROFESSIONAL COUNSELORS AND THERAPISTS

In the Matter of the Application) FINAL ORDER
for Licensure Renewal)

JACKLYN S GRAPE
c/o Charles M. Gudger III
Attorney at Law
Northbank Professional Offices
66 Club Road, Ste 200
Eugene, OR 97401

On or about July 2, 1993, a notice stating that the Board intended to refuse to renew profession counselor license C0903 was served upon JACKLYN S GRAPE by certified mail. This notice alleged that JACKLYN S GRAPE (licensee) failed to meet the conditions for renewal by failing to fulfill the continuing education requirements within the time period set forth in OAR 833-25-050.

Pursuant to a written request for hearing as provided by ORS Chapter 183, a hearing before the Board was scheduled for October 15, 1993 at 1:45 pm in the Conference Room of the State Archives Building, Salem, Oregon. Notice of date, time, and place of the hearing and information on procedures, right to representation, and the rights of parties relating to the conduct of the hearing was served upon JACKLYN S GRAPE on or about September 10, 1993 by certified mail. Ms. GRAPE was present, and represented by attorney Charles M. Gudger.

Now therefore, after consideration of the records and files of the board relating to this matter, a majority of the Board enters the following order:

FINDINGS OF FACT

1. Licensee was first licensed 10/04/91, therefore her first license renewal would have been 04/01/92. Continuing education was not required for that renewal. Her second renewal, following a full year as a licensee was 04/01/93. Completion of 20 clock hours of continuing education was required as a condition of renewal for 1993-94.
2. Board rules require 20 clock hours of continuing education be completed. Clock hours is defined as actual attendance. The rule provides an equivalency standard to translate college credit hours into clock hours. Rules do not require continuing education be taken for credit nor state hours will be based on when the credits were received.
3. The Board provided licensees with numerous documents explaining the continuing education hours were to be accumulated between April 1 and April 1— including license renewal form sent out prior to April 1992, and mailings to all licensees dated December 7, 1992, March 1, 1992, and one indicating a date of January 1993.
4. Licensee relied upon information from others that hours taken after April 1, 1993 would be accepted as long as the training was taken for credit.

5. Licensee assumed she could complete the continuing education hours during the "grace period" -- the time set forth in statute and Board literature in which application could be completed without penalty. Licensee interpreted "complete application" to mean more than the process of submitting materials. Licensee interpreted "complete application" to include complete taking continuing education courses.

ULTIMATE FINDINGS OF FACT

1. Licensee was required to complete the continuing education requirements as a condition to renew the license.
2. Licensee relied on misinterpretation of requirements by others.
3. Law indicates "grace period" to make application and Board materials used words "to complete application" which may have been interpreted to mean complete continuing education if not read with background material sent out over the course of the year.
4. Licensee completed more than 20 clock hours of continuing education during license year plus "grace period".

CONCLUSIONS OF LAW

The number of hours of continuing education required for renewal by ORS 675.725(1)(d) were fulfilled to the satisfaction of the Board.

OPINION

The Board believes licensees, by seeking licensure, have agreed to abide by the regulations of the Board and are obligated to keep abreast of the regulations and must accept the responsibility for and consequences of not reading or studying Board rules and distributed information. The Board believes sufficient information has been distributed and opportunity for clarifications available. The Board also believes that it should not be held accountable for interpretations by others that were not in keeping with the printed materials provided to all licensees. The Board stated that it was not setting precedent by recognizing a first-time situation and may not accept similar arguments in the future.

The Board accepted Attorney Gudger's argument that this was the first time for renewal and it was confusing to many. The Board did not accept his argument that this was Ms. Grape's first renewal, based on the Board's own knowledge of its operations and her first issue date which indicates that this had to be her second renewal. Ms. Grape placed a lot of emphasis on taking the course for credit. The Board does not require graduate credit, so her desire for credit is not an issue. The Board declined to consider the legal argument that there was an error in the order and the argument concerning re-application, or Mr. Gudger's assumptions as to the meaning of the Board's rules that a translation of credit hours into clock hours somehow implies that the date of the transcript or date the credits were received is the date of record rather than attendance.

While reviewing the file, accepted into evidence, it was noted that Ms. Grape's application for renewal was also incomplete as to submission of an acceptable disclosure statement, but a new page to the disclosure statement had been added to the file a few minutes prior to the hearing at the request of Ms. Grape. The Board had not made the lack of an approved disclosure statement part of its proposed order, so did not believe it could be considered. The Board allowed another applicant for renewal to correct a disclosure statement. The Board did not take separate action to refuse the corrected page.

ORDER

Having met the conditions for renewal, the professional counselor license of JACKLYN S GRAPE is renewed to April 1, 1994.

Dated: 11-8-93



Joshua D. Kadish, Presiding Officer
Board of Licensed Professional Counselors
and Therapists

Service by certified mail no. P 909 902 521

Mailed: 11-10-93

Appeal Rights

JACKLYN S. GRAPE is entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days from the service of this order after it becomes final, which will be accomplished by mailing. The appeal procedures are set forth in ORS 183.482.