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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 13F-1241-SYA

LYDIA B. GARRETT, Ph.D.

ADMINISTRATIVE LAW JUDGE

Holder of License No. 1382
For the Practice of Psychology
In the State of Arizona

DECISION

Respondent.

RECEIVED

JUL 22 2013

Z PSYCHOLOGY B

HEARING: April 22, 2013

APPEARANCES: Lydia B. Garrett, Ph.D. did not appear; the State Board of Psychologist Examiners was represented by Assistant Attorney General Jeanne Galvin

ADMINISTRATIVE LAW JUDGE: Thomas Shedden

FINDINGS OF FACT

1. On March 13, 2013, the Arizona Board of Psychologist Examiners ("Board") issued a Complaint and Notice of Public Hearing setting the above-captioned matter for hearing at 8:00 a.m. April 22, 2013, at the Office of Administrative Hearings in Phoenix, Arizona.

2. Respondent Lydia B. Garrett, Ph.D. had not appeared by 8:20 a.m. and the matter was convened in her absence at that time. The Board presented the testimony of its executive director, Cindy Olvey, Psy.D.

3. Dr. Garrett holds License No. 1382 issued by the Board. Dr. Garrett's license was due to expire on April 30, 2013. In an undated letter received by the Board on April 15, 2013, Dr. Garrett informed the Board that she would not be renewing her license.

4. The Complaint in this matter alleges that Dr. Garrett failed to comply with an Order issued by the Board on September 27, 2012.

1 5. On April 13, 2011, the Board received a Request for Investigation ("RFI")
2 related to Dr. Garrett's treatment of a minor during a custody dispute between the
3 minor's parents.¹ The Board designated the April 13, 2011 RFI as RFI 11-12.

4 6. On May 23, 2011, Dr. Garrett filed with the Board a Response to RFI 11-
5 12.

6 7. The Board issued a subpoena to Dr. Garrett to compel her attendance at
7 an Informal Interview set for February 3, 2012. Dr. Garrett did not comply with the
8 subpoena and did not attend the Informal Interview. Because Dr. Garrett did not
9 appear, the Board did not conduct the Informal Interview on February 3, 2012.

10 8. On August 18, 2012, the Board met in open session and held an Informal
11 Interview regarding RFI 11-12. Although Dr. Garrett received notice of the August 18,
12 2012 Informal Interview, she did not attend.

13 9. On September 27, 2012, the Board issued its "Findings of Fact,
14 Conclusions of Law and Order" (the "2012 Order") regarding RFI 11-12.

15 10. As set forth in the 2012 Order, the Board determined that Dr. Garrett had
16 violated A.R.S. § 32-2061(13)(o), (13)(r), and (13)(dd). Based on Dr. Garrett's statutory
17 violations, the Board placed Dr. Garrett's license on probation and ordered that within
18 15 days of the 2012 Order she obtain a practice monitor and that she attend 24 hours
19 of continuing education within 6 months of the 2012 Order.

20 11. The 2012 Order informed Dr. Garret that she had the right to petition for a
21 rehearing or review of that Order. Dr. Garrett did not petition for rehearing or review of
22 the 2012 Order.

23 12. On November 1, 2012, the Board received from Dr. Garrett a letter in
24 which she wrote that she would "not be participating" in the "recommendations" made in
25 the 2012 Order.

26 13. Dr. Garrett did not comply with the 2012 Order and, on December 13,
27 2012, the Board initiated RFI 12-41.

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¹ The Board also refers to RFIs as complaints.

1 14. In an Amended Notification, dated December 26, 2012, the Board
2 informed Dr. Garrett that if she did not provide to the Board a substantive response to
3 RFI 12-41, the Board would proceed to a formal hearing.

4 15. On January 28, 2013, the Board received from Dr. Garrett a letter in which
5 she wrote "[y]ou can investigate yourselves until the cows come home, but the fact
6 remains that there is nothing more to be said."

7 16. The Board then issued the Complaint and Notice of Public Hearing that is
8 the subject of this matter, which was delivered to Dr. Garrett at her address of record by
9 certified mail on March 21, 2013.

10 17. Dr. Olvey provided credible testimony that the Board's duties include
11 protecting the public through the regulation of licensed psychologists.

12 18. Dr. Olvey provided credible testimony showing that Dr. Garrett's license
13 should be revoked because Dr. Garrett has shown that she is not amenable to the
14 Board's regulation, which is demonstrated by Dr. Garrett's failure to comply with the
15 Board's subpoena, her unwillingness to participate in the Informal Interviews, and her
16 failure to adequately respond to RFI 12-41.

17 CONCLUSIONS OF LAW

18 1. The Board bears the burden of persuasion. A.R.S. § 41-1092.07(G)(2).

19 2. The standard of proof on all issues in this matter is that of a
20 preponderance of the evidence. A.A.C. R2-19-119.

21 3. Dr. Garrett had proper notice of the hearing in this matter because the
22 Complaint and Notice of Public Hearing was sent to her address of record. A.R.S. § 41-
23 1092.04.

24 4. The preponderance of the evidence shows that Dr. Garrett did not comply
25 with the 2012 Order, which is a violation of A.R.S. § 32-2061(aa).

26 5. Because Dr. Garrett has violated A.R.S. § 32-2061(aa), the Board has
27 authority to impose discipline against Dr. Garrett. A.R.S. § 32-2063.

28 6. Although Dr. Garrett's license was due to expire on April 30, 2013, by
29 operation of law her license was suspended on that date and will remain suspended
30 until the Board has concluded its investigation in this matter. See A.R.S. § 32-3202.

1 7. The facts and circumstances of this matter show that Dr. Garrett's license
2 should be revoked.

3 **ORDER**

4 **IT IS ORDERED** that Lydia B. Garrett, Ph.D.'s License No. 1382 is revoked.

5 *In the event of certification of the Administrative Law Judge Decision by the Director of*
6 *the Office of Administrative Hearings, the effective date of the Order is five days after*
7 *the date of that certification.*

8 Done this day, May 1, 2013.

9 /s/ Thomas Shedden
10 Thomas Shedden
11 Administrative Law Judge

12 Transmitted electronically to:

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14 Cindy Olvey, Executive Director
15 Board of Psychologist Examiners
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1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In the Matter of:

No. 13F-1241-SYA

4 LYDIA B. GARRETT, Ph.D.

**CERTIFICATION OF DECISION
OF ADMINISTRATIVE
LAW JUDGE**

5 Holder of License No. 1382
6 For the Practice of Psychology
7 In the State of Arizona

JUL 22 2013

8 Respondent.

PSYCHOLOGY BOARD

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13 I have reviewed the records of the Office of Administrative Hearings and as co-
14 custodian of such records have determined:

- 15
16 1. On May 1, 2013, the Administrative Law Judge Decision in the above entitled matter
17 was transmitted to the Board of Psychologist Examiners by electronic filing.
18
19 2. Pursuant to A.R.S. § 41-1092.08 and A.R.S. § 1-243, the Board of Psychologist
20 Examiners had until July 17, 2013, to accept, reject or modify the Administrative Law
21 Judge Decision, as evidenced by receipt of such action by the Office of
22 Administrative Hearings.
23
24 3. No action by the Board of Psychologist Examiners was received by the Office of
25 Administrative Hearings as of July 17, 2013.
26

27 Therefore, pursuant to A.R.S. § 41-1092.08(D), the attached Administrative Law Judge
28 Decision is certified as the final administrative decision of the Board of Psychologist
29 Examiners.
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1 A Party has the right to request a rehearing from the Board of Psychologist Examiners
2 pursuant to A.R.S. § 41-1092.09(A). In addition, the matter may be reviewed by the
3 Superior Court, pursuant to A.R.S. § 41-1092.08(H), although a party may be required
4 to seek a rehearing from the Board of Psychologist Examiners before petitioning the
5 Superior Court for such review. See A.R.S. § 41-1092.09(B). Further rights may be
6 lost without action in a timely manner. Parties may wish to review these sections as
7 quickly as possible after receipt of this notice. They may be found at the local library or
8 on the internet at <http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp>.
9


10 Done this day, July 19, 2013.
11

12 /s/ Cliff J. Vanell
13 Director
14

15 Copy mailed/e-mailed/faxed July 19, 2013 to:
16

17 Cindy Olvey, Executive Director
18 Board of Psychologist Examiners
19 1400 W. Washington Street, Suite 235
20 Phoenix, AZ 85007

21 Copy mailed July 19, 2013 to:
22

23 Lydia B. Garrett, Ph.D.
24 

25 Office of the Attorney General
26 Jeanne M. Galvin, Esq.
27 1275 West Washington
28 Phoenix, AZ 85007-2997

29 By Rosella J. Rodriguez
30