

# FILED

FEB 12 2013

Division of Consumer Affairs  
New Jersey State  
Board of Polysomnography

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF POLYSOMNOGRAPHY

---

IN THE MATTER OF THE  
APPLICATION OF

**PAUL LIFSCHUTZ**

FINAL ORDER OF  
DENIAL OF LICENSURE

FOR LICENSURE AS A  
POLYSOMNOGRAPHY TECHNOLOGIST

---

The New Jersey State Board of Polysomnography (Board) received and reviewed information related to the application of Paul Lifschutz ("respondent " or "Mr. Lifschutz") for a license as a polysomnography technologist. The Board made preliminary findings of fact and conclusions of law in a Provisional Order of Denial of issued on May 29, 2012. That order gave respondent the opportunity to seek modification or dismissal of the order through submission of materials for the Board's consideration.

Mr. Lifschutz, through V. Scott Macom, Esq., his counsel, submitted a letter dated July 10, 2012, from Dean Dickson, MS, a psychologist licensed in Pennsylvania, who, at the time of the letter, had been treating respondent on a weekly basis since November 2011.

Deputy Attorney General Susan Carboni responded to the submission by letter dated October 12, 2012.

On December 11, 2012, the Board considered the materials provided in response to its provisional order. After full consideration, the Board is not persuaded that its findings of fact and conclusions of law should be modified. The Board reiterates its concern that respondent's conduct, as reflected in repeated arrests between 1986 and 2006, demonstrates a pattern that, even if currently in remission, warrants denial of his license.<sup>1</sup> The Board again notes that Mr. Lifschutz began therapy only after he had appeared before the Board in July 2011. Respondent has been treated by Mr. Dickson on a regular basis since November 2011, and Mr. Dickson asserts that through continued therapy and attendance at support groups, respondent's risk to re-offend is low to moderate. That conclusion, however, had a significant caveat: the risk is low to moderate if he successfully completes sex offender specific treatment and continues to attend 12-step groups for sex addiction and alcohol abuse. The same conclusion was reached by Dr. Jeffrey Allen in his independent evaluation of respondent. Even with extensive therapy, the risk remains.

Alas, that risk is simply too high for the Board to approve this application. As noted in the Provisional Order of Denial, licensure and employment as a polysomnography technologist places

---

<sup>1</sup> Mr. Dickson writes: "I cannot predict anyone's future behaviors. Mr. Lifschutz clearly has a Paraphilia NOS (Telephone Scatologia). We have no evidence that he has ever committed any hands on offenses or presented any danger to the public other than telephone scatologia."

the licensee with vulnerable patients and gives him access to personal and identifying information. Respondent's long history of telephone paraphilia, his seeming lack of candor and understanding of his paraphilia demonstrated at his appearance before the Board in July 2011, and an insufficient demonstration of a commitment to long term counseling causes this Board to find that the public health, safety, and welfare are better served by denying this application.

For those reasons, the Board will adopt its preliminary findings of fact and conclusions of law as final

#### FINDINGS OF FACT

1. Paul Lifschutz applied for licensure as a polysomnography technologist with an application dated February 5, 2011.

2. The applicant disclosed and the Criminal History Background Check revealed that he had been arrested for and convicted of a crime/crimes or offense(s). Specifically:<sup>2</sup>

He was arrested on or about February 4, 1986 on charges of harassment by communication; he was convicted of those charges on or about June 6, 1986 and sentenced to one year probation, fines and costs.

He was arrested on or about November 16, 1988 on charges of harassment by communication; he was convicted of those

---

<sup>2</sup> There are some minor discrepancies between the dates indicated in the Criminal History Background check and those on documents supplied by Mr. Lifschutz, provided by the State of Pennsylvania, where the conduct took place.

charges on or about June 13, 1989 and sentenced to one year probation, fines and costs.

He was arrested on or about April 19, 1990 and charged with harassment by communication; he was convicted of those charges on or about August 10, 1990 and sentenced to one year probation, fines and costs.

He was arrested on or about March 26, 1991 on charges of harassment; he was convicted on or about February 6, 1992 but given a suspended sentence.

He was arrested on or about October 14, 1991 on charges of indecent exposure and lewdness; he was convicted of both charges on or about February 6, 1992 and sentenced to two years probation and costs.

He was arrested on December 1, 2000 on charges of harassment by communication and disorderly conduct; he was convicted of harassment by communication on or about June 19, 2001 and sentenced to not less than 48 hours and not more than one year confinement, and assessed a fine and costs.

He was arrested on in 2005 on charges of harassment; he was convicted of those charges.<sup>3</sup>

He was arrested in 2006 on charges of harassment; he was convicted of those charges, and sentenced on September

---

<sup>3</sup> It appears that sentencing for the 2005 offense and the 2006 offense may have been combined.

24, 2007 to four to twelve months imprisonment. House arrest was granted, and the court ordered payment of court costs and continued participation in treatment.

3. The applicant appeared before the Board on July 12, 2011 where he testified under oath that the conduct that led to all but one of his convictions consisted of telephone calls of a sexual nature which he made to women. He maintained that some of the telephone calls were made to women with whom he had a liaison of some kind; and some were to women that he thought he knew, but didn't. He indicated that these calls had some connection with extramarital affairs that he purportedly engaged in with several women, implying that some of the calls were directed to these women. He attributed the cause of his making these phone calls to stress in his marriage, although he indicated that his marriage has improved since the date of his conviction(s). T8-2 to 10-23.

4. Mr. Lifschutz was asked to provide recommendations from employers or former employers, and he provided a recommendation from the Chief Executive Officer of his current employer, where he has worked for over three years, and a physician who worked with him in a Sleep Center where he had worked as laboratory manager for eight years. Both recommendations were very positive as to his skills, knowledge and commitment to his profession.

5. Mr. Lifschutz was asked to provide a copy of a psychological evaluation prepared in 2007, in connection with his most recent

arrest, and with a current psychological evaluation.

a) The 2007 report by Licensed Psychologist Barry Zakireh, Ph.D., of the Joseph J. Peters Institute, indicated that at the time of the report, Mr. Lifschutz was awaiting sentencing for making sexually obscene telephone calls to two different women, and noted that he made "unsolicited and sexual[ly] explicit phone calls to adult female strangers with varying frequency much of his adult life." Mr. Lifschutz's risk level in terms of the potential for sexual aggression was determined to be in the low to moderate range. The report found Mr. Lifschutz was a low to moderate risk for reoffending, and was not a significant threat to the community. The report indicated that despite a tendency to "minimize" his conduct, and indications that he had limited insight into his offense, "he does not manifest any major tendencies that would contradict amenability to treatment[.]"

b) A current evaluation by a Licensed Practicing Psychologist, Jeffrey B. Allen, Ph.D., dated March 14, 2012, noted that Mr. Lifschutz suffered from a sexual deviation characterized as "Telephone Scatalogia": this was described as a paraphilia characterized by "recurrent, intense sexually arousing fantasies and behaviors involving making obscene phone calls to non-consenting persons" over a period of at least six months. Dr. Allen's report noted that Mr. Lifschutz had made obscene phone calls even after being placed on probation by the court. The evaluator rated the risk

of re-engaging in the conduct as low to moderate: low, if Mr. Lifschutz completed sex-specific treatment, continued attendance of 12-step programs for sex addiction and alcohol abuse,<sup>4</sup> and moderate if Mr. Lifschutz ceased or failed to successfully complete participation in such programs. However, Dr. Allen found, in pronouncing on Mr. Lifschutz's amenability to treatment, that there was "a poor prognosis."

#### DISCUSSION

The 2012 evaluation indicated that as of the date of evaluation, Mr. Lifschutz was attending individual and group therapy once weekly, as well as participating in a sex addiction 12-step group. The report stated that Mr. Lifschutz had been "sexually sober" for 48 days at the time of the evaluation.

According to Mr. Lifschutz, his paraphilia has never affected his professional behavior. However, the Board finds that a compulsion to make obscene telephone calls to strangers has persisted since Mr. Lifschutz was twenty years old, and continues into the present. Nevertheless, at the time Mr. Lifschutz appeared before the Board in July of 2011, he did not appear to fully recognize the nature of his problem, nor was he in therapy. He testified that he had been in court-ordered therapy, but since his last contact with the court system, he apparently did not continue in therapy. The 2012 report

---

<sup>4</sup> Both the 2007 and 2012 reports indicated that the use of cocaine, other drugs, and/or alcohol use played a role in triggering the aberrant conduct.

suggests that he has initiated therapy at the present time in response to the Board's concern about his prior conduct. Moreover, Mr. Lifschutz's description of the conduct that led to his arrest was vague to the point of being evasive: a review of the psychological evaluations makes it clear that he made obscene telephone calls to women who were strangers, but in his testimony he implied he knew, or thought he knew, the women he called, which the Board does not find credible.

As a polysomnography technologist, the Board finds that Mr. Lifschutz would be dealing with a vulnerable patient population. Even if Mr. Lifschutz, in his current professional position, has limited direct involvement with patients, he has access to personal information; and if he has not directed his harassing phone calls to patients in the past, the Board cannot be certain that this will not occur in the future, since the conduct is compulsive in nature. The fact that Mr. Lifschutz had been "sexually sober" for less than two months at the time of his evaluation in January of 2012 indicates that the paraphilia driving his conduct has not receded into the distant past.

Accordingly, the Board finds that Mr. Lifschutz has engaged in conduct relating adversely to polysomnography within the intendment of N.J.S.A. 45:1-21(f). Moreover, after considering the psychological evaluations, including the July 2012 report of Mr. Dickson, and Mr. Lifschutz's testimony, the Board is not reassured



that in granting licensure to Mr. Lifschutz, the public would be sufficiently protected, even if Mr. Lifschutz were to remain in therapy and continue in a sex addiction support group, given the vulnerability of the patient population he would be dealing with.

CONCLUSIONS OF LAW

The conduct upon which the applicant's convictions were based relates adversely to the practice of polysomnography within the intendment of N.J.S.A. 45:1-21(f).

ACCORDINGLY,

IT IS on this 12<sup>th</sup> DAY of February 2013,

ORDERED that Mr. Lifschutz's application for licensure as a polysomnography technologist in New Jersey is denied.

NEW JERSEY STATE  
BOARD OF POLYSOMNOGRAPHY

By:



---

Michael J. Lahey  
Board Chairman