DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M. Wells Building
160 East 300 South
P O Box 146741
Salt Lake City UT 84114-6741
Telephone: (801) 530-6628

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING OF THE DEPARTMENT OF COMMERCE OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF	: **FINDINGS OF FACT,**
ROBERT ALEXANDER NIELSON	: **CONCLUSIONS OF LAW,**
UTAH LICENSE #278057-3902	: **RECOMMENDATION, AND**
TO PRACTICE AS A LICENSED	: **ORDER FOR PUBLIC REPRIMAND**
MARRIAGE & FAMILY THERAPIST	:
IN THE STATE OF UTAH	: Case No. DOPL-2017-1

FINDINGS OF FACT

Pursuant to Utah Code Ann. § 63G-4-203(1)(i) and Utah Admin. Code R156-46b-404, the following findings of fact were made by the Utah Division of Occupational and Professional Licensing ("Division") after consultation with the Utah Marriage & Family Therapist Licensing Board ("Board") on March 10, 2017:

1. This matter is classified as an informal proceeding pursuant to Utah Admin. Code R156-46b-202(2)(d)(i).

2. Robert Alexander Nielson ("Respondent") was initially licensed in Utah as a licensed marriage & family therapist on or about January 22, 1997.

3. On January 4, 2017 the Division filed a Notice of Agency Action ("Notice"). The Notice sought disciplinary action against Respondent pursuant to Utah Code Ann. § 58-1-401(2). On January 9, 2017 the Notice of Informal Agency Action was mailed to Respondent at 4094 West 5625 North, Roosevelt, UT, 84066 by both first class mail and certified mail.

4. A written response was required in this matter pursuant to Utah Admin. Code R156-46b-402 and the Notice filed herein. Respondent filed a written response with the Division on February 3, 2017.

5. This Notice was placed on the agenda of the March 10, 2017 meeting of the Board for its recommended action. Respondent attended the March 10, 2017 meeting with the Board.

6. At the March 10, 2017 meeting, the Division provided the Board with documents and other evidence substantiating the allegations contained in the Notice and with a copy of Respondent's response, including:

    a. January 4, 2017 Notice of Agency Action;
    b. Duchesne County Justice Court, State of Utah, Case Docket Record, Case No. 161200259, where Respondent pleaded no contest, held in abeyance, for failure to report child abuse, a Class B misdemeanor;
    c. Duchesne County Crime Report;
    d. Respondent's written response;
    e. Respondent's Licensing information; and
    f. Copy of Utah Code Ann. Section 58-1-501(2)(a) and (c).

7. The Division summarized Respondent's unprofessional conduct as described in the Notice of Agency Action. The Division argued that the evidence showed that Respondent had violated Utah Code Ann. § 58-1-501(2)(a) and (c) when on or about October 25, 2016 Respondent pleaded no contest for failure to report child abuse, a Class B misdemeanor in Duchesne County Justice Court. The Respondent's crime involved his failure to report a juvenile male age 16 having a sexual relationship with another juvenile male age 13. The Respondent's criminal conduct constituted unprofessional conduct in Utah pursuant to Utah Code Ann. Sections 58-1-501(2)(a) and (c).

8. Respondent addressed the Board, reviewed the documents in his DOPL licensing file, the status of his criminal record and discussed the additional documents he provided to the Division and Board, including:

    a. Respondent's written response.

9. Respondent discussed the status of his criminal case and his written response. Board members asked Respondent questions. Respondent had an opportunity to answer the questions asked by the Board and to ask the Board questions.

10. The Division informed the Board that the Division's bureau manager with responsibility for marriage & family therapists would defer to the Board for recommendations regarding appropriate disciplinary action concerning Respondent's license.

11. The Board meeting was closed to allow the Board to deliberate.

12. The Board meeting was reopened.

13. The Board unanimously found by a preponderance of the evidence that Respondent violated Utah Code Ann. Section 58-1-501(2)(a) and (c) when on or about October 25, 2016, in Duchesne County Justice Court, State of Utah, Case Number 161200259, Respondent pleaded no contest, held in abeyance, for failure to report child abuse, a Class B misdemeanor. The Respondent's crime involved his failure to report a juvenile male age 16 having a sexual relationship with another juvenile male age 13.

14. The Board unanimously found by a preponderance of the evidence that Respondent's criminal conduct was a crime, when considered with the functions and duties of a licensed marriage & family therapist, that bears a reasonable relationship to Respondent's ability to safely and/or competently practice the profession.

15. In addition to the Board's recommended findings, the Division finds that Respondent's criminal conduct constitutes unprofessional conduct and grounds for denial of licensure or disciplinary proceedings in Utah pursuant to Utah Code Ann. Sections 58-1-501(2)(a) and (c).

16. The Board considered the information presented and recommended, by a unanimous vote, that Respondent's license be subject to a public reprimand and that Respondent complete a written 500 word essay to be submitted to and discussed with the Board at their meeting on June 9, 2017. The essay is to be completed independently from his associate Brent Crane. The essay shall address Respondent's responsibility for his negligence in failing to report the child abuse. The essay shall discuss how this affected the patients involved and how this affected his profession. The essay shall review his understanding concerning consent, his renewed commitment to follow the law, and his renewed commitment to stay current with future laws and rules regulating the profession.

CONCLUSIONS OF LAW

Pursuant to Utah Code Ann. § 63G-4-203(1)(i) and Utah Admin. Code R156-46b-404, the following Conclusions of Law were made by the Division after consultation with the Board on March 10, 2017:

1. Respondent has engaged in unprofessional conduct as defined in Utah Code Ann. Sections 58-1-501(2)(a) and (c).

ORDER

After a careful consideration of this matter, the Findings of Fact and Conclusions of Law herein are hereby adopted by the Director. The Director concurs with the Order recommended by the Board. The issuance of this Order is disciplinary action pursuant to Utah Admin. Code R156-1-102(6) and Utah Code Ann. § 58-1-401(2).

WHEREFORE, IT IS ORDERED, that Respondent's license to practice as a licensed marriage & family therapist in the State of Utah shall be subject to public reprimand consistent with the terms and conditions recommended by the Board.

This Order is effective immediately.

Dated this 23 day of March, 2017.

W. Ray Walker, Acting Director
for MARK B. STEINAGEL
Director

Notice of Right to Administrative Review

Agency review of this order may be obtained by filing a request for agency review with the Executive Director of the Department of Commerce, 160 East 300 South, Box 146701, Salt Lake City UT 84114-6701, within thirty (30) days after the date of this order. The agency action in this case was an informal adjudicative proceeding. The laws and rules governing agency review of this proceeding are found in Utah Code Ann. Section 63G-4-101 et seq. and in Utah Admin. Code R151-4-901 to 906.