

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE PSYCHOLOGY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

KIM S. FINCK, PH.D.,  
RESPONDENT.

FINAL DECISION AND ORDER  
LS9909271PSY

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The State of Wisconsin, Psychology Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Psychology Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 14<sup>th</sup> day of April, 2000.

Barbara Van Horne

A Member of the Board

STATE OF WISCONSIN  
BEFORE THE PSYCHOLOGY EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY

PROCEEDINGS AGAINST

KIM S. FINCK, Ph.D.,  
RESPONDENT.

PROPOSED DECISION  
(Case No. LS9909271PSY)

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The parties to this proceeding under Wis. Stats. § 227.44, and for the purposes of Wis. Stats. § 227.53, are:

*Kim S. Finck, Ph.D.*  
*2121 Wood Glen Dr., #2C*  
*Sheboygan, WI 53081*

*State of Wisconsin*  
*Psychology Examining Board*  
*1400 East Washington Avenue*  
*P.O. Box 8935*  
*Madison, WI 53708*

*State of Wisconsin*  
*Department of Regulation and Licensing*  
*Division of Enforcement*  
*1400 East Washington Avenue*  
*P.O. Box 8935*  
*Madison, WI 53708*

A hearing was held in the above-captioned matter on November 16, 1999. The respondent, Kim S. Finck, did not appear nor did anyone appear on her behalf. The complainant appeared by attorney, John R. Zwieg, Department of Regulation and Licensing, Division of Enforcement, 1400 East Washington Avenue, P.O. Pox 8935, Madison, Wisconsin 53708.

Based upon the entire record herein, the administrative law judge recommends that the Psychology Examining Board adopt as its final decision in this proceeding the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Kim Finck, Ph.D., Respondent, date of birth January 25, 1951, was licensed by the Psychology Examining Board as a psychologist in the state of Wisconsin pursuant to license number 1877, which was first granted November 11, 1994. Her license expired on October 1, 1999 and has not been renewed.
2. Respondent's last address known to the Department of Regulation and Licensing is 2121 Wood Glen Drive, #2C, Sheboygan, WI 53081.
3. From November 22, 1993 until her resignation on June 11, 1998, Respondent was employed as a psychologist at the Lincoln Hills School (LHS) in Irma, Wisconsin.
3. From November 22, 1993 until her resignation June 11, 1998, Respondent was employed as a psychologist at the Lincoln Hills School (LHS)
4. LHS is a secured correctional facility for juveniles adjudicated delinquent.
5. LHS was originally part of the Department of Health and Social Services, but effective July 1, 1996 it became part of the Wisconsin Department of Corrections, Division of Juvenile Corrections. Respondent was employed in the Clinical Services Unit, and her job duties included providing direct services to juvenile residents requiring intensive treatment.
6. In February of 1998, Respondent was providing psychological services to her client Mr. A, a resident at LHS, who was 16 years of age.
7. In February of 1998 prior to the 24<sup>th</sup>, Dr. Tom Mueller, Respondent's supervisor and the Clinical Services Unit Chief at LHS, spoke to Respondent in supervisory sessions about her relationship with Mr. A. Dr. Mueller

expressed his concern about the amount of time Respondent was spending with Mr. A and cautioned her about the need to be more reasonable in the amount of time she spent with Mr. A.

8. On February 24, 1998, Dr. Mueller met with Respondent to discuss continuing concerns about the amount of time she was spending with Mr. A. Dr. Mueller told Respondent to limit her sessions with Mr. A to two, one-hour sessions per week.

9. On February 25, 1998, Dr. Mueller met with Mr. A at Respondent's request. Although Mr. A was upset about the limitation imposed on his time with Respondent, Mr. A did not appear to be in a crisis situation.

10. On March 1, 1998, Respondent met with Mr. A for several hours. Dr. Mueller received a call from the duty officer who informed him that Respondent had been meeting with Mr. A for several hours. Respondent's meeting with Mr. A was terminated at Dr. Mueller's direction.

11. Respondent was scheduled to work at LHS the next day, March 2, 1998, but Respondent called in sick.

12. On March 3, 1998, Dr. Mueller met with Respondent to discuss Respondent's March 1, 1998 meeting with Mr. A. Dr. Mueller removed Respondent from providing services to Mr. A. Respondent strenuously disagreed with Dr. Mueller's decision and Dr. Mueller agreed to provide services to Mr. A himself. Dr. Mueller advised Mr. A of this change and Mr. A was unhappy with that change.

13. On March 3, 1998, Dr. Mueller also sent a memo to all Clinical Services staff, including Respondent. The memo cited safety and security concerns and ordered the staff not to work with youths after 4:30 p.m. unless another staff member remained in the immediate area during the entire treatment session.

14. During the first week of April, 1998, Respondent approached Dr. Mueller and told him that she realized she had made mistakes in managing Mr. A's case. Respondent asked for an opportunity to become re-involved with the case and agreed to abide by any limitations that may be set.

15. Dr. Mueller discussed Respondent's request with the superintendent of LHS, and other supervisory and clinical staff. Respondent was reassigned to Mr. A's case with the limitation that she meet with Mr. A for only one hour a week during normal working hours to help him prepare for his release, which was anticipated in early May.

16. From April 6, 1998 to April 30, 1998, Respondent met on a weekly basis for one hour with Mr. A. Dr. Mueller spoke to Respondent weekly about the relationship during supervisory sessions.

17. On April 24, 1998, the deputy superintendent of LHS sent a memo to staff, including Respondent. The memo citing safety and security concerns directed staff to inform communication/shift supervisor if a staff member was going to be on LHS grounds after 5:30 p.m. or on week ends.

18. On May 4, 1998, Respondent met with Mr. A for 6 hours, and remained on the grounds past 4:30 p.m. without having another staff member in the immediate area.

19. On May 5, 1998, Respondent met with Mr. A for 5 hours and remained on the grounds past 4:30 p.m. without having another staff member in the immediate area. On that date, Respondent reported to communications staff that she would be on the grounds until 5:20 p.m., but actually remained on the grounds until 8:00 p.m.

20. On May 6, 1998, Mr. A left Lincoln Hills School and was placed at Nova House Group Home, a half-way house for juveniles in Wautoma, Wisconsin, pursuant to an order of the Sheboygan County Circuit Court, to begin a 14-day Trial Visit to Release.

21. On May 12, 1998, investigatory and predisciplinary meetings were held at LHS regarding Respondent's work rule violations. Respondent acknowledged that her conduct was contrary to Dr. Mueller's instructions and institution policies.

22. On May 14, 1998, Mr. A absconded from Nova House and was the subject of an arrest warrant.

23. On May 18, 1998, Respondent asked for immediate time off to visit her sick mother in California. LHS granted the request.

24. On May 28, 1998, the LHS superintendent sent Respondent a letter of reprimand for violation of Corrections Work Rule A1, which prohibits insubordination, disobedience, or failure to carry out assignments or instructions.

25. On June 1, 1998, Respondent returned to work at LHS.

26. On June 2, 1998, Respondent informed Dr. Mueller that "staff from LHS" were "spying" on her house. Respondent stated to Dr. Mueller that this was intolerable and that she intended to resign effective June 11, 1998. Later that date, Respondent wrote a letter of resignation to LHS superintendent. On June 4, 1998, LHS superintendent wrote a letter to Respondent formally accepting her resignation.

27. Following his absconding from Nova House, Mr. A went to Milwaukee, but left due to gang violence. Sometime between May 14 and June 12, 1998 Mr. A returned to Irma and called Respondent and asked to stay with her. Respondent knew that Mr. A had absconded from Nova House but allowed Mr. A to stay at her residence, without informing any authorities.

28. On June 12, 1998, two off-duty LHS employees called LHS stating they had seen Mr. A and Respondent together canoeing in the Wisconsin River and later in a mini-van with Mr. A driving the vehicle.

29. A deputy dispatched to the Village of Irma to Respondent's resident saw a youth, later identified as Mr. A, run from the back yard of Respondent's residence into her home when the youth saw the marked squad car. The deputy heard noise in the home and knocked on the door, but no one answered the knock. The deputy called for backup who arrived and surrounded the home. The deputy also called for a search warrant and kept the residence under observation. No one entered or left the residence.

30. At 8:30 p.m. on June 12, a SWAT team arrived with a search warrant and knocked at the door one more time with no response. As the SWAT team assembled a battering ram to knock down the front door, Respondent opened the door and the SWAT team entered the home.

31. The SWAT team found Mr. A hiding in an upstairs bedroom. After initially resisting arrest and using profane language, he allowed himself to be handcuffed and escorted out of the home when threatened with a bottle chemical agent.

### CONCLUSIONS OF LAW

1. The Psychology Examining Board has jurisdiction in this matter pursuant to Chapter 449, Wis. Stats.
2. Based upon the above findings, Kim S. Finck has engaged in gross negligence in the practice of psychology, thereby constituting unprofessional conduct as defined by sec. Psy 5.01(2), Wis. Adm. Code.
3. Based upon the above findings, Kim S. Finck has failed to avoid a dual relationship or a relationship that may impair Respondent's objectivity or create a conflict of interest, thereby constituting unprofessional conduct as defined by sec. 5.01(17), Wis. Adm. Code.

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the right to renew the license of the respondent, Kim S. Finck, to practice as a psychologist in the state of Wisconsin shall be, and hereby is revoked.

FURTHERMORE, IT IS ORDERED that the assessable costs of this proceeding be imposed upon the respondent, Kim S. Finck, pursuant to sec. 440.22, Wis. Stats.

### OPINION

The respondent is charged with having engaged in gross negligence and failing to avoid an inappropriate relationship with a 16-year-old male for which she was providing professional services. The respondent did not appear at the hearing nor did she file an Answer contesting the allegations in the Complaint. Accordingly under these circumstances of default, the facts stated in the Complaint will be accepted as true.

The only question is the appropriate action to be taken by the board. Although respondent no longer possesses a valid credential, she does possess the legal right to renew her credential. Accordingly, complainant's attorney argues that the appropriate action is to revoke respondent's right to renew. His recommendation is accepted in this decision.

In determining the appropriate discipline it must be recognized that the well-established and interrelated purposes for applying disciplinary measures are to: 1) promote the rehabilitation of the licensee, 2) protect the public, and 3) to deter other licensees from engaging in similar misconduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. MacIntyre*, 41 Wis. 2d 481, 485 (1969).

Under the circumstances presented showing serious violations of her professional responsibilities, the revocation of respondent's right to renew her license appears to be the appropriate disposition. Her failure to appear in the proceedings leaves the record devoid of any mitigating circumstances that may have been present. Accordingly, this action is recommended in order to protect the public, deter other licensees from engaging in similar misconduct, and to assist to the extent possible in the rehabilitation of respondent.

It should be noted that this determination provides the board with the opportunity to obtain additional information relevant to any future request for reinstatement prior to acting upon an application, if submitted. Therefore, the recommended discipline addresses the un rebutted conduct charged in an appropriate manner, while providing the board with discretion and flexibility in reviewing any future request of respondent for reinstatement.

Dated this 3rd day of March, 2000.

Respectfully submitted,

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Donald R. Rittel

Administrative Law Judge