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STATE OF WISCONSIN

BEFORE THE SOCIAL WORKER SECTION

EXAMINING BOARD OF SOCIAL WORKERS,

MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

JUDY ANN POLIFKA,

FINAL DECISION AND ORDER

RESPONDENT

LS0112051SOC

The parties to this action for the purposes of § 227.53, Stats., are:

Judy Ann Polifka

502 Green Oaks Circle, #2037

Arlington, TX 76006

Social Worker Section

Wisconsin Examining Board of Social Workers,

Marriage & Family Therapists and Professional Counselors

PO Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

PO Box 8935

Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision in this matter, subject to the approval of the Section. The Section has reviewed this Stipulation and considers it acceptable.

Accordingly, the Section in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Judy Ann Polifka, Respondent, date of birth August 27, 1962, was certified by the Social Worker Section as an advanced practice social worker in the state of Wisconsin, pursuant to certificate number 1209, which was first granted October 30, 1995.
2. Respondent received a master of science degree in social work from the University of Wisconsin-Milwaukee on August 14, 1993.
3. Respondent was granted certification pursuant to the grand-parenting provisions of 1991 Wisconsin Act 160, § 21(2)(b), based upon her having a master's degree in social work and having submitted her application for certification prior to May 31, 1995.

4. Respondent, for personal reasons not related to this matter, elected not to renew her certification when it expired June 30, 2001. Respondent's certification remains expired.

5. Respondent's last address reported to the Department of Regulation and Licensing is 502 Green Oaks Circle, #2037, Arlington, TX 76006.

6. From July 1, 1996 until March 22, 1999, Respondent was employed as a Senior Mental Health Counselor by Waukesha County Department of Health and Human Services (the Department). As part of her job duties, Respondent received referrals of clients in need of mental health services. Her responsibilities included monitoring and supervising the client's compliance with any court ordered mental health plan and reporting to the court on the compliance of the client's status and progress.

7. In December 1998, a male 17-year-old juvenile was taken into protective custody by officers of the Waukesha County Sheriff's Department and transported to the Milwaukee County Child and Adolescent Treatment Center (CATC). The police intervention was the result of the juvenile having:

- o Swung an ax in the vicinity of his mother.
- o Threatened to harm his mother and his father.
- o In the past made statements threatening to hurt himself and his parents, and cut himself.
- o A history of drug use.

8. On December 16, 1998, Waukesha County Wisconsin Circuit Court - Juvenile Division ordered that a preliminary hearing be held on December 18, 1998 to determine whether there was probable cause for the involuntary commitment of the juvenile.

9. On December 18, 1998, following the probable cause hearing, the juvenile entered into a Chapter 51 stipulation agreement for 90-day inpatient mental health treatment, in lieu of being involuntarily committed. The court ordered that the Department file reports with the court 30 and 60 days after December 18 to monitor the juvenile's cooperation with the terms of the stipulation. Respondent was assigned to the juvenile's case and to monitor his cooperation and file the reports.

10. Respondent and a field placement student were present outside the courtroom at the December 18 hearing. Upon completion of the hearing, the student gave the mother a business card with the student's telephone number and wished the mother "good luck." Respondent did not speak to the juvenile or his mother.

11. Following the December 18, 1998 hearing, the juvenile was an inpatient at Waukesha Memorial Hospital for a few days and while an inpatient, was seen by Dr. Patel. While hospitalized, the juvenile also saw Dr. Sukowaty, who prescribed Paxil, an antidepressant. He was discharged prior to Christmas and was never treated by Dr. Patel as an outpatient.

12. On December 28, 1998, ten days after the hearing, the mother called the Department and spoke with the student, who noted in the case file that the mother said:

- o The juvenile had been released from the hospital three days after he was placed there.
- o He was depressed and crying a lot and that things were not going well.
- o The mother felt that he should be on medication and the mother was upset that no medications were prescribed.
- o The mother would be talking to his doctor about prescribing medications for him and would be requesting more therapy sessions for him.
- o The mother would call back after she had spoken with the doctor. (The mother did not call back after December 28.)

13. Over the holidays, the juvenile was behaviorally out of control and his parents did call Dr. Patel, who referred the juvenile to Robert Simcock for therapy and to Dr. Sukowaty for medication.

14. Respondent failed to:

- a. Make any attempt to monitor the juvenile's cooperation with the terms of the agreement.
- b. File 15-day or 30-day reports with the corporation counsel.
- c. File a 30-day report with the court.

15. On January 27, 1999, approximately 40 days after the hearing, Respondent called the home of the juvenile and his parents. Respondent spoke with the juvenile who told her that he was doing fine, which was not true. Respondent left an oral message with the juvenile that his parents should call Respondent to discuss his compliance with the stipulation agreement. As Respondent should have foreseen, the juvenile did not give Respondent's message to his parents. Respondent never followed up on the message she left with the juvenile.

16. Respondent failed to:

- a. Make any reasonable attempt to monitor the juvenile's cooperation with the terms of the agreement.
- b. File 45-day or 60-day reports with the corporation counsel.
- c. File a 60-day report with the court.

17. On March 15, 1999, almost 90 days after the hearing, the mother called the Department and reported:

- o The juvenile not been complying with the terms of the stipulation agreement.
- o He continues to use alcohol and drugs, and has had "dirty" drug screens.
- o He is defiant, and continues to make threats to harm himself and his parents.
- o He had been arrested the past weekend for possession and carrying a concealed weapon.
- o The mother was distraught that no one from the Department had followed up with them on the issue of his compliance.

18. As a result of the mother's March 15 telephone call, the Department assigned the juvenile's case to another social worker for follow up. That social worker contacted the parents and met with them and the juvenile at the Lawrence [AODA Treatment] Center in Waukesha, WI on March 15. An attempt was made to have the juvenile agree to voluntary treatment. The juvenile refused and was emergency detained and transported again to CATC.

19. On March 15, 1999, after the mother called the Department, Respondent filed with the corporation counsel the following Stipulation Compliance Reports, which she had signed, regarding the juvenile:

- a. Report, with a date of January 18, 1999, which indicated he was in compliance with the agreement and said "[The juvenile] was in inpatient hospitalization and is following up with outpatient currently." [Respondent had no basis for this report except the student's notes of December 28.]
- b. Report, with a date of February 28, 1999, which indicated he was in compliance with the agreement and said "Client is following up for outpatient treatment with Dr. Patel." [Respondent had no basis for this report, which contains incorrect information, except the student's notes of December 28 and her telephone conversation with the juvenile on January 27.]

20. By submitting reports which stated that the juvenile was in compliance with the terms of the agreement, when Respondent had no reasonable basis for knowing whether the juvenile was actually in compliance, Respondent was making false statements in practice.

CONCLUSIONS OF LAW

1. The Social Worker Section of the Wisconsin Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors has jurisdiction over this matter pursuant to § 457.26(2), Stats.
2. The Social Worker Section of the Wisconsin Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.
3. Respondent, by submitting a report containing false and misleading information, which she knew was intended to be provided to the court, has committed unprofessional conduct as defined by § SFC 20.02(7), Wis. Adm. Code, and is subject to discipline pursuant to § 457.26(2)(f), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. If Respondent ever seeks to renew her certification as an advanced practice social worker or applies to the Section for any certification as a social worker:
 - a. Respondent shall be required to meet all requirements for that certification which are then required by statute and administrative rule, prior to being renewed or certified.
 - b. Respondent shall notify the Division of Enforcement (Division) of the request and the Division shall have the opportunity to apprise the Section of all allegations and information contained in investigative file 99 SOC 033.
 - c. If the Section believes that it will be of assistance to the Section in responding to Respondent's petition:
 - i. Respondent shall, at her own expense, have undergone an assessment by a mental health

care practitioner with experience in assessing health care providers.

ii. The practitioner performing the assessment must have been approved by the Section or its designee, with an opportunity for the Division of Enforcement to make its recommendation, prior to the assessment being performed.

iii. Respondent shall provide the Section with the practitioner's written report and provide the Section with the opportunity to discuss the evaluation and findings with the practitioner.

d. Following the presentation of information by the Division and review of any assessment requested by the Section, the Section may in its sole discretion elect to renew or certify Respondent, with or without limitations, or to deny Respondent's petition.

e. If Respondent believes that the Section's denial of renewal or certification is inappropriate or that any limitation imposed by the Section is inappropriate, Respondent may seek a class 1 hearing pursuant to § 227.01(3)(a), Stats., in which the burden shall be on Respondent to show that the Section's decision is arbitrary or capricious. The denial of renewal or certification or limitations on Respondent's certification shall remain in effect until there is a final decision in Respondent's favor on the issue.

f. Respondent shall appear before the Section on an annual basis, if requested by the Section, to review the progress of any treatment and rehabilitation.

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

Dated at Madison, Wisconsin this 5th day of December, 2001.

Cornelia Gordon-Hempe

Chairperson

Social Worker Section