

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE SOCIAL WORKER SECTION OF THE EXAMINING  
BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS  
AND PROFESSIONAL COUNSELORS

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
LAURIE LESHAUN,	:	LS0206062SOC
RESPONDENT.	:	

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The State of Wisconsin, Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors, 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, Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

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 15<sup>th</sup> day of August, 2002.

Douglas Knight  
Chairperson  
Social Worker Section of the Examining Board of  
Social Workers, Marriage and Family Therapistst  
And Professional Counselors

STATE OF WISCONSIN

BEFORE THE SOCIAL WORKER SECTION

EXAMINING BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY

# **THERAPISTS AND PROFESSIONAL COUNSELORS**

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## **IN THE MATTER OF THE DISCIPLINARY**

### **PROCEEDINGS AGAINST**

### **PROPOSED DECISION**

**LS0206062SOC**

**LAURIE E. LESHAWN, C.S.W.,**

**RESPONDENT.**

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## **PARTIES**

The parties in this matter under § 227.44, Stats., and for purposes of review under § 227.53, Stats., are:

Laurie E. LeShaun, C.S.W.

8457 North Servite Drive

Milwaukee, WI 53223

Social Worker Section

Examining Board of Social Workers, Marriage

and Family Therapists and Professional Counselors

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation & Licensing

Division of Enforcement

P.O. Box 8935

Madison, Wisconsin 53708

This matter was commenced by the filing of a Notice of Hearing and Complaint on June 6, 2002. The respondent, Laurie E. LeShaun, did not file an Answer to the Complaint. On July 2, 2002, the Division of Enforcement, filed a Notice of Motion and Motion for Default. A hearing on the Division's Motion for Default was held on July 10, 2002. Atty. John R. Zwieg appeared on behalf of the Division of Enforcement. The respondent, Laurie E. LeShaun, did not appear at the hearing.

Based upon the record herein, the Administrative Law Judge recommends that the Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors adopt as its final decision in this matter, the following Findings of Fact, Conclusions of Law and Order.

## **FINDINGS OF FACT**

1. Laurie E. LeShaun (formerly known as Olson), C.S.W., date of birth March 24, 1956, is certified by the Social Worker Section of the Wisconsin Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors as a social worker in the state of Wisconsin, pursuant to certificate number 6869, which was first granted November 2, 1998.

2. Respondent's last address reported to the Department of Regulation and Licensing is 8457 North Servite Drive, Milwaukee, WI 53223.

3. Respondent was employed as a social worker by the State of Wisconsin, Department of Corrections (DOC):

a. At Kettle Moraine Correctional Institution (KMCI) in Plymouth, Wisconsin from September 14, 1998 until December 4, 1999.

b. At Oshkosh Correctional Institution (OSCI) in Oshkosh, Wisconsin from December 7, 1999 until June 2, 2000.

4. Inmate A (d.o.b. 3/13/78) was incarcerated at OSCI following his 1997 convictions for third degree sexual assault, contributing to the delinquency of a minor and disorderly conduct.

5. As part of her employment at OSCI, respondent ran a gang prevention program for inmates. Inmate A was a participant in respondent's program. Inmate A was considered respondent's client by DOC. Respondent did not know Inmate A prior to meeting him during her employment at OCSI, while he was incarcerated there.

6. From December 7, 1999 until June 2, 2000, during the time respondent was employed at OSCI and Inmate A was incarcerated there, respondent and Inmate A established a personal relationship, which was prohibited under the DOC's fraternization policy.

7. DOC policy and work rules prohibited employees' fraternization with inmates. The purpose of the policy and rules was to forbid relationships that may create conflicts of interest and to provide security for inmates and staff at the institutions.

8. Respondent was aware of the fraternization policy and work rules at all locations at which she was employed by DOC. Respondent received an Employee Handbook when first employed at KMCI and at OSCI. On September 14, 1998 and December 7, 1999, respondent signed forms acknowledging that she had received a copy of the DOC fraternization policy and that she would follow the policy.

9. On May 9, 2000, Inmate A was released from OSCI on parole, but remained a DOC client. Respondent, who was still employed at DOC, met Inmate A and they had sexual contact, including intercourse on May 12, 13 and 14, 2000.

10. On May 15, 2000, Inmate A was returned to the Kenosha County Jail for violating his parole. DOC was unaware of respondent's conduct with Inmate A and the parole violation was for other conduct. Inmate A's parole was subsequently revoked and Inmate A was returned to Dodge Correctional Institution (DCI). On February 8, 2001, Inmate A was transferred to KMCI.

11. Following her employment with DOC, respondent was employed as a social worker by the State of Wisconsin, Department of Health and Family Services (DHFS), at the Bureau of Milwaukee Child Welfare in Milwaukee, Wisconsin, from June 6, 2000 until her resignation on April 6, 2001.

12. On December 7, 2000, respondent wrote a letter on DHFS letterhead to the Kenosha County judge assigned to Inmate A's criminal case. The letter said many favorable things about Inmate A and suggested that he be moved to a minimum-security setting. This letter was sent well after the commencement of the personal and sexual relationships between respondent and Inmate A, but did not disclose those relationships.

13. Respondent did not file an Answer to the Complaint filed in this matter.

#### **CONCLUSIONS OF LAW**

1. The Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors has jurisdiction in this matter pursuant to

s. 457.26 (2), Stats., and s. SFC 20.02, Wis. Adm. Code.

2. Respondent, by engaging in the conduct, as described in Findings of Fact 5-8 herein, violated s. SFC 20.02 (13), Wis. Adm. Code.

3. Respondent, by engaging in the conduct, as described in Findings of Fact 5-8 herein, violated s. SFC 20.02 (22), Wis. Adm. Code.

4. Respondent, by engaging in the conduct, as described in Findings of Fact 5 and 9 herein, violated s. SFC 20.02 (11), Wis. Adm. Code.

5. Respondent, by engaging in the conduct, as described in Findings of Fact 5 and 10-12 herein, violated s. SFC 20.02 (7), Wis. Adm. Code.

6. Respondent, by engaging in the conduct, as described in Findings of Fact 5 and 10-12 herein, violated s. SFC 20.02 (13), Wis. Adm. Code.

7. Respondent, by failing to file an Answer to the Complaint filed in this matter, is in default under s. RL 2.14, Code.

## **ORDER**

**NOW, THEREFORE, IT IS ORDERED** that the certificate (#6869) of Laurie E. LeShaun to practice as a social worker be, and hereby is, **SUSPENDED** for an **INDEFINITE** period of time.

IT IS FURTHER ORDERED that:

1. At any time after a period of suspension for at least 3 years, respondent may file a petition with the Section for removal of the suspension. The Section may grant the petition for removal of the suspension, upon respondent providing proof sufficient to the Section that:

(a) Respondent has, at respondent's own expense, undergone an assessment by a mental health care practitioner or practitioners with experience in assessing health care providers who have become involved sexually with clients.

i. The practitioner or practitioners performing the assessment must not have treated respondent and must have been approved by the Section or its designee.

ii. The Division of Enforcement shall provide the assessor (s) with those portions of the investigative file that the Division believes may be of assistance in performing the assessment. Respondent may provide the assessor (s) with any information respondent believes will be of assistance in performing the assessment.

iii. Respondent shall authorize the assessor (s) to provide the Section, or its designee, with the assessment report and all materials used in performing the assessment and shall provide the Section, or its designee, with the opportunity to discuss the assessment and findings with the assessor (s).

(b) The assessor (s) rendered opinions to a reasonable degree of professional certainty that respondent can practice with reasonable skill and safety to patients and public.

2. If the Section determines to grant the petition for removal of the suspension, the Section may limit respondent's certificate in a manner to address any concerns the Section has as a result of the conduct set out in the findings of fact and to address any recommendations resulting from the assessment, including, but not limited to:

(a) Psychotherapy, at respondent's expense, by a therapist approved by the Section, to address specific treatment goals, with periodic reports to the Section by the therapist.

(b) Additional professional education in any indicated areas of deficiency.

(c) Restrictions on the nature of the practice or practice setting or requirements for supervision of practice, by a professional approved by the Section, with periodic reports to the Section by the supervisor.

3. Any request for approval of an evaluator, therapists, supervisor or educational program required by this order shall be mailed, faxed and/or delivered to:

Department Monitor  
Department of Regulation and Licensing  
Division of Enforcement  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935  
Fax: 608-266-2264

4. Pursuant to s. RL 2.14, Code, the Division of Enforcement's Motion for Default is granted.

5. Pursuant to s. 440.22, Stats, all of the costs of this proceeding are assessed against respondent and shall be paid to the Department of Regulation and Licensing.

This order is effective on the date on which it is signed by a designee of the Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

### **OPINION**

The Division of Enforcement alleges in its Complaint that Ms. LeShaun's conduct, as described therein, constitutes a violation of subs. SFC 20.02 (7), (11), (13) and (22), Code.

The evidence presented in this case establishes that Ms. LeShaun violated laws governing the practice of social work, as alleged in the Complaint.

#### **I. Applicable Laws**

**457.26 Disciplinary proceedings and actions.** (2) Subject to the rules promulgated under s. 440.03 (1), the appropriate section of the examining board may reprimand a certificate holder or deny, limit, suspend or revoke a certificate under this chapter if it finds that the applicant or certificate holder has done any of the following:

(f) Engaged in unprofessional or unethical conduct in violation of the code of ethics established in the rules promulgated under s. 457.03 (2).

**SFC 20.01 Definition.** "Gross negligence" in the practice of social work, or marriage and family therapy, or professional counseling means the performance of professional services that does not comply with an accepted standard of practice that has a significant relationship to the protection of the health, safety or welfare of a patient, client, or the public, and that is performed in a manner indicating that the person performing the services knew or should have known, but acted with indifference to or disregard of, the accepted standard of practice.

**SFC 20.02 Unprofessional conduct.** Unprofessional conduct related to the practice under the credential issued under ch. 457, Stats., includes, but is not limited to, engaging in, attempting to engage in, or aiding or abetting the following conduct:

(7) Reporting, distorted, false, or misleading information or making false statements in practice.



(11) Engaging in sexual contact, sexual conduct, or any other behavior with a client which could reasonably be construed as seductive. For purposes of this rule, a person shall continue to be a client for 2 years after the termination of professional services.

(13) Failing to avoid dual relationships or relationships that may impair the credentialed person's objectivity or create a conflict of interest. Dual relationships prohibited to credentialed persons include the credentialed person treating the credentialed person's employers, employees, supervisors, supervisees, close friends or relatives, and any other person with whom the credentialed person shares any important continuing relationship.

(22) Gross negligence in practice in a single instance, or negligence in practice in more than one instance.

**RL 2.14 Default.** If the respondent fails to answer as required by s. RL 2.09 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence. The disciplinary authority may, for good cause, relieve the respondent from the effect of such findings and permit the respondent to answer and defend at any time before the disciplinary authority enters an order or within a reasonable time thereafter.

## **II. Evidence Presented**

The Division of Enforcement alleges in its Complaint that Ms. LeShaun's conduct, as described therein, constitutes a violation of subs. SFC 20.02 (7), (11), (13) and (22), Code.

The evidence presented in this case establishes that Ms. LeShaun violated laws governing the practice of social work, as alleged in the Complaint.

The Notice of Hearing and Complaint were filed on June 6, 2002. Ms. LeShaun did not file an Answer to the Complaint. A telephone prehearing conference was held on June 19, 2002. Ms. LeShaun did not appear at the prehearing conference. During the prehearing conference, the hearing was scheduled for July 23, 2002.

On July 2, 2002, the Division of Enforcement filed a Notice of Motion and Motion for Default. On July 5, 2002, Ms. LeShaun filed a letter with the Administrative Law Judge stating that she would be residing in Texas after August 27, 2002, and that she was given legal advice by three attorneys in Wisconsin to retain an attorney in Texas, not in Wisconsin. She requested that the hearing scheduled for July 23, 2002, be held sometime after she moved to Texas.

On July 10, 2002, a hearing was held on the Division's Motion for Default. Atty. John R. Zwieg appeared on behalf of the Division of Enforcement. Ms. LeShaun did not appear at the motion hearing. Following the motion hearing, the Administrative Law Judge sent a letter to Ms. LeShaun informing her that the hearing on the Division's Motion for Default would be held open until July 23, 2002, for purposes of providing her with an opportunity to submit evidence and/or arguments in opposition to the motion. As of this date, Ms. LeShaun has not submitted any evidence or arguments in opposition to the motion.

Section RL 2.14, Code, states that if the respondent fails to answer as required by s. RL 2.09 or fails to appear at the hearing at the time fixed therefore, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence. The disciplinary authority may, for good cause, relieve the respondent from the effect of such findings and permit the respondent to answer and defend at any time before the disciplinary authority enters an order or within a reasonable time thereafter.

In this case, since Ms. LeShaun did not file an Answer to the Complaint, she is in default under s. RL 2.14, Code. Therefore, the Administrative Law Judge recommends that the Social Worker Section make findings and enter an order on the basis of the Complaint filed in this matter. The proposed findings of fact are based solely upon the allegations set forth in the Complaint filed in this matter. Based upon those facts, the evidence establishes that Ms. LeShaun has violated laws governing the practice of social work, as alleged in the Complaint.

### **III. Discipline**

Having found that Ms. LeShaun violated laws governing the practice of social work, a determination must be made regarding whether discipline should be imposed, and if so, what discipline is appropriate.

The Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors is authorized under s. 457.26 (2), Stats., to reprimand a certificate holder or deny, limit, suspend or revoke a certificate if it finds that the applicant or certificate holder has engaged in conduct prohibited under the statutes.

The purposes of discipline by occupational licensing boards are to protect the public, deter other licensees from engaging in similar misconduct and to promote the rehabilitation of the licensee. *State v. Aldrich*, 71 Wis. 2d 206 (1976). Punishment of the licensee is not a proper consideration. *State v. McIntyre*, 41 Wis. 2d 481 (1969).

The Division recommends that Ms. LeShaun's certificate to practice as a social worker be suspended for at least three years and that the certificate be restored at the end of the three-year period; provided, Ms. LeShaun comply with certain requirements. As reflected in the proposed order, the Administrative Law Judge has primarily adopted the Division's recommendations. This measure is designed primarily to assure protection of the public and to deter other certificate holders from engaging in similar misconduct. Ms. LeShaun has shown by her conduct that she is incapable of practicing in a manner that safeguards the interest of her clients or the public. Therefore, it is recommended that the Social Worker Section suspend Ms. LeShaun's certificate to practice as a social worker as provided in the proposed order.

### **IV. Costs of the Proceeding**

Section 440.22(2), Stats., provides in relevant part as follows:

In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credential or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department.

The presence of the word "may" in the statute is a clear indication that the decision whether to assess the costs of this disciplinary proceeding against the respondent is a discretionary decision on the part of the Section, and that the Section's discretion extends to the decision whether to assess the full costs or only a portion of the costs. The Administrative Law Judge's recommendation that the full costs of the proceeding be assessed is based primarily on fairness to other members of the profession.

The Department of Regulation and Licensing is a "program revenue" agency, which means that the costs of its operations are funded by the revenue received from its licensees. Moreover, licensing fees are calculated based upon costs attributable to the regulation of each of the licensed professions, and are proportionate to those costs. This budget structure means that the costs of prosecuting cases for a particular licensed profession will be borne by the licensed members of that profession. It is fundamentally unfair to impose the costs of prosecuting a few members of the profession on the vast majority of the licensees who have not engaged in misconduct. Rather, to the extent that misconduct by a licensee is found to have occurred following a full evidentiary hearing, that licensee should bear the costs of the proceeding.

This approach to the imposition of costs is supported by the practice of the Wisconsin Supreme Court, which is granted similar discretionary authority by SCR 22.24 to impose costs in attorney disciplinary hearings. The Court acknowledges the logic of imposing the cost of discipline on the offender rather than on the profession as a whole, and routinely imposes costs on disciplined respondents unless exceptional circumstances exist. In the Matter of Disciplinary Proceedings against M. Joanne Wolf, 165 Wis. 2d 1, 12, 476 N.W. 2d 878 (1991); In the Matter of Disciplinary Proceedings against Willis B. Swartwout, III, 116 Wis. 2d 380, 385, 342 N.W. 2d 406 (1984).

Based upon the record herein, the Administrative Law Judge recommends that the Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors adopt as its final decision in this matter, the proposed Findings of Fact, Conclusions of Law and Order as set forth herein.

Dated at Madison, Wisconsin this 30th day of July 2002.

Respectfully submitted,

Ruby Jefferson Moore

Administrative Law Judge