

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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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

BARTON ALAN WIEDEN, C.I.C.S.W.,                      Case No. LS9907211SOC  
  
RESPONDENT.

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FINAL DECISION AND ORDER  
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The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

*Barton Alan Wieden, CICSW  
22489 Eby's Mill Road  
Cascade, IA 52033*

*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. Barton Alan Wieden, Respondent, date of birth August 17, 1964, is certified by the Social Worker Section as an independent clinical social worker in the state of Wisconsin, pursuant to certificate number 3582, which was first granted May 12, 1995.
2. Respondent was granted certification pursuant to the grandparenting provisions of 1991 Act 160, §21(2)(d), based upon his having received a master of arts degree in December of 1990 from the Department of Education of the University of Northern Iowa, with a major in counseling, and his having engaged in the equivalent of at least 2 years of full-time supervised clinical social work practice after receiving his degree.

3. Respondent's last address reported to the Department of Regulation and Licensing is 22489 Eby's Mill Road, Cascade, Iowa 52033.

4. That at all times relevant, Respondent was employed as a psychotherapist/social worker by Unified Counseling Services of Grant and Iowa Counties (UCS).

#### EVALUATION AND TREATMENT OF MR. A.

5. On February 9, 1995, Mr. A, who was then 14 years of age, was first seen at UCS by Ms. Anna Pins, a psychotherapist. He sought services to address family problems, feelings of suicide, lack of sleep and appetite, and deteriorating school performance.

6. Ms. Pins provided Mr. A with individual psychotherapy on five occasions from February 9, 1995 through March 1, 1995.

7. Ms. Pins' initial assessment report, which was signed and dated March 20, 1995, indicated that Mr. A had the following "Admission Diagnosis:"

Axis I: Depression, Single Episode

Axis II: None

Axis III: None

Axis IV: Severe, Breakup of Parent's Marriage, Father's Mental Illness

Axis V: 45, Suicidal Ideation, Decreased School Achievement, Lost Friends, and Loss of Pleasure Experience

8. From February 21, 1995 to November 7, 1995, Mr. A received psychiatric care from Dr. Clemens Schmidt, M.D., a psychiatrist at the Platteville office of UCS, who provided treatment of depression and medication monitoring. In his psychiatric evaluation report of Mr. A dated February 21, 1995, Dr. Schmidt diagnosed Mr. A as: "Axis I: Major Depressive Disorder, Single Episode - 296.20."

9. Mr. A's psychotherapist, Ms. Pins, went on a medical leave from her job at UCS and Mr. A's psychotherapy was transferred to Respondent. Respondent first provided individual psychotherapy to Mr. A on March 7, 1995. Respondent continued to provide care to Mr. A as follows:

- a. Through June 1995, individual psychotherapy approximately one time per week.
- b. From July 1995 through February 1996, individual psychotherapy approximately twice a month.
- c. From March 1996 through May 9, 1996, Mr. A was scheduled to participate in Respondent's weekly anger management group but only attended four of the ten sessions.
- d. Individual psychotherapy sessions on April 26, 1996, May 17, 1996, and September 17, 1996.

10. A few days before November 6, 1995, Respondent administered the Millon Clinical Multiaxial Inventory-II (MCMI-II) to Mr. A, who was then 15 years old.

11. Respondent intentionally administered the MCMI-II to Mr. A even though it was an inappropriate psychological test for assessing an adolescent and its use could lead to distorted test diagnostic results.

12. No minimally competent practitioner would have administered the MCMI-II to

Mr. A.

13. The MCMI-II answer sheet included a place for the referring clinician to enter the Diagnostic and Statistical Manual of Mental Disorders (DSM) diagnostic code for the clinician's pre-test diagnostic impression. On Mr. A's answer sheet, Respondent noted an Axis I code of 309.40 (Adjustment disorder with mixed disturbance of emotions and conduct) and an Axis II code of 301.40 (obsessive compulsive personality disorder). No one had diagnosed Mr. A as having an obsessive compulsive personality disorder.

14. According to the DSM-IV:

"Personality Disorder categories may be applied to children or adolescents in those relatively unusual instances in which the individual's particular maladaptive personality traits appear to be pervasive, persistent, and unlikely to be limited to a particular developmental stage or an episode of an Axis I disorder. It should be recognized that the traits of a Personality Disorder that appear in childhood will often not persist unchanged into adult life. To diagnose a Personality Disorder in an individual under age 18 years, the features must have been

present for at least 1 year."

15. Mr. A's record at UCS does not indicate that Mr. A had not exhibited traits or features which warranted even a diagnostic impression of Obsessive Compulsive Personality Disorder in November of 1995, and a minimally competent practitioner would not have entered that diagnostic code on Mr. A's MCMI-II answer sheet.

16. Mr. A's MCMI-II was scored, evaluated, and interpreted by National Computer Systems, Inc. (N.C.S.). The results, dated November 6, 1995, were provided to Respondent, and included:

- a. The first page of the report says that the test results have "Questionable Validity."
- b. The Profile of BR Scores, under the Modifier Indices Category, shows a "x" or Disclosure scale score of 95 and a "z" or Debasement score of 95. These scales, which are used to measure the validity of the reported client profile, are extremely elevated and make the report invalid of questionable validity and its conclusions suspect.
- c. Under the "Interpretive Considerations" heading on page two of the report, it states "The Millon Clinical Multiaxial Inventory-II is designed for use with individuals at least 18 years old. Since this individual is less than 18 years old, the resulting narrative should be interpreted with caution."
- d. Under the heading of "Parallel DSM-III-R Multiaxial Diagnosis" on pages six and seven of the report, it lists the following potential diagnoses in order of their clinical significance and salience:

AXIS I: CLINICAL SYNDROME:

295.70 Schizoaffective Disorder

300.02 Generalized Anxiety Disorder

305.90 Psychoactive Substance Abuse NOS

AXIS II: PERSONALITY DISORDERS:

301.84 Passive Aggressive Personality Disorder

301.82 Avoidant Personality Disorder

301.83 Borderline Personality Disorder

17. Respondent had no inadequate training or experience in interpreting psychological testing results from instruments such as the MCMI-II.

18. After receiving the test results from N.C.S., Respondent did not make any effort to have Mr. A take the appropriate version of the test and did not seek any further psychological testing of Mr. A.

19. On November 24, 1995, Respondent sent a copy of the N.C.S. report of the results of the MCMI-II to Mr. A's high school counselor, even though Respondent knew at that time that the results were of questionable validity. The letter Respondent sent with the test results stated:

"Please find enclosed a copy of [Mr. A]'s Millon Clinical Multiaxial Inventory-II.

As you may have noticed, I administered the adult version of this test for [Mr. A] opposed to the teenage version despite [Mr. A]'s age. I did this largely due to [Mr. A]'s level of maturity which I see as quite high - in terms of sophistication.

Please take a moment to look this over and let me know what your thoughts are."

20. No minimally competent practitioner would have sent the invalid MSCI test results to Mr. A's school counselor.

21. The "Prognostic and Therapeutic Implications" portion of the N.C.S. report offers therapeutic suggestions as to what type of treatment would be helpful in providing services to the client. Respondent told the Department of Regulation and Licensing, Division of Enforcement (DOE) that even though the results were from the wrong version of the MCMI, it offered therapeutic suggestions regarding some of the areas Mr. A was having problems with, and he used those suggestions in treating Mr. A.

22. Respondent used the invalid MCMI-II test results in providing services to Mr. A as is evidenced by:

- a. Respondent's December 22, 1995 note in Mr. A's chart states, "A staffing was also suggested as client's Milan (sic) test results indicted some severe psychiatric problems, maybe partially to blame for

client's current situation."

b. Respondent's May 14, 1996 note in Mr. A's chart states "TR: Therapist spoke with Mr. Seuss from the Boscobel Area High School and exchanged information. A: Mr. Seuss was considering referring client to a boot camp type atmosphere for this summer. Therapist offered mixed reviews of such a program for client, especially highlighting client's extreme personality disorder characteristics as well as potential for injurious behavior or injuring other people when pressed...."

c. Respondent's May 17, 1996 note in Mr. A's chart states "A: Client is showing his personality disorder quite clearly in avoidant, schizoid type profile. Client indicates that he purposely did some things to distance himself from his girlfriend even though he cares about her and he finds her very attractive. Client indicated he did this because he does not like to get close to anyone. Client indicates that he has been hurt so many times in the past and does not want to get hurt again in the future which directly links with the schizoid profile."

23. No minimally competent practitioner would have used the invalid MSCI-II test results in the treatment of Mr. A in the manner Respondent used them.

24. On January 8, 1996, Mr. A's psychiatric care was transferred to Dr. Michael Maze, M.D., a psychiatrist at the Lancaster office of UCS, who continued to provide treatment of depression and medication monitoring.

25. From July 27, 1996 to July 31, 1996, Mr. A was hospitalized at the Boscobel Area Health Care facility. The "Discharge Information Report" noted his discharge diagnosis as "Major Depression disorder."

26. On September 18, 1996, Respondent filled out a "Mental Health/General" questionnaire, at Mr. A's request, to be sent to the Job Corps Admission and Placement office as part of Job Corps' requirements for admission. Under the question: "What was his/her diagnosis?" Respondent wrote:

"I 296.32 Major Depressive Disorder, Recurrent, Moderate

II 301.9 Personality Disorder NOS"

27. Respondent closed Mr. A's file at UCS on December 4, 1996 because Mr. A had not had contact with the agency for 90 days. Respondent's discharge summary report, signed and dated 12-06-96, indicated that Mr. A had the following "Discharge Diagnosis:"

Axis I: 309.4 Adjustment Disorder with Mixed Disturbance of Emotions and Conduct

Axis II: 301.4 Obsessive/Compulsive Personality Disorder

Axis III: Asthma

Axis IV: School, Primary Support Group, and Health Related

Axis V: 60 Highest Past Year: 65

28. Other than Respondent, no psychiatrist, psychologist, independent clinical social worker or other mental health care provider, including those supervising Respondent's services to Mr. A. have ever diagnosed Mr. A as having an Axis II personality disorder.

29. Mr. A did not meet the criteria necessary to support Respondent's diagnosis of Personality Disorder NOS or Obsessive/Compulsive Personality Disorder and they were incorrect diagnoses of Mr. A's condition.

30. On December 9, 1996, Dr. Thomas Hayes, Ph.D., a psychologist at the Pauquette Center, saw Mr. A for a psychological evaluation at the request of Mr. A's family. The evaluation was requested in an attempt to clarify the mental health issues raised by Respondent's report that could potentially prevent Mr. A's placement in the Job Corps program.

31. In the summary portion of his psychological evaluation report, Dr. Hayes stated,

"I offer no diagnosis for [Mr. A]. I note that he is fully recovered from a depressive episode experienced from winter 1995 to Spring of 1996. He no longer needs medication, and is not in danger of causing harm to himself or others. It appears that he became noncompliant with treatment when he felt it was no longer necessary. This shows adequate judgment, and the proper use of psychological services, as he sought help on a voluntary basis. At the present time he appears to have adequate coping skills, sufficient

emotional maturity, no psychiatric problems or diagnoses, no need for medication, proper

frustration tolerance and impulse control, and no threat of aggressive or violent behavior...."

#### FALSE STATEMENTS TO DIVISION OF ENFORCEMENT

32. As noted in Finding of Fact 19 above, on November 24, 1995, Respondent sent a copy of the N.C.S. report of the results of the MCMI-II to Mr. A's high school counselor. The letter Respondent sent with the test results, stated:

"Please find enclosed a copy of [Mr. A]'s Millon Clinical Multiaxial Inventory-II.

As you may have noticed, I administered the adult version of this test for John opposed to the teenage version despite [Mr. A]'s age. I did this largely due to [Mr. A]'s level of maturity which I see as quite high - in terms of sophistication.

33. On August 7, 1997, DOE wrote to Respondent and asked him to respond to allegations that, among other things, Respondent had administered an improper psychological test, the MCMI-II, to Mr. A. At the time Respondent responded to these allegations, Mr. A's record at UCS did not contain a file copy of the November 24, 1995 letter Respondent sent to Mr. A's high school counselor, and Respondent did not remember the letter.

34. By letter dated August 21, 1997, Respondent answered the DOE inquiry. In that letter, he stated:

"I erred in accidentally giving [Mr. A] the adult form of this test opposed to the adolescent form I should have given him."

35. In a follow up telephone interview by DOE on September 2, 1997, Respondent said:

a. He first realized that he gave Mr. A the adult version of the MCMI-II, as opposed to the adolescent version, when he received the report back from N.C.S.

b. He met with Mr. A and Mr. A's mother shortly after he received the test results and explained to them that he had given Mr. A the wrong version of the MCMI-II.

36. Contrary to Respondent's statement, Mr. A and Mr. A's mother have told the Division of enforcement that Respondent never told Mr. A or Mr. A's mother that Respondent had administered the wrong version of the MCMI-II.

37. Respondent's statement to DOE that he accidentally gave the wrong version of the test to Mr. A and Respondent's statement to DOE that he told Mr. A and Mr. A's mother that he had given the wrong version of the test to Mr. A are false statements in practice.

#### UNAUTHORIZED RELEASE OF INFORMATION

38. On February 9, 1995, Mr. A's mother signed a Request for and Consent to Disclose Medical and Confidential Information form authorizing Unified Counseling Services to exchange information with Ron Havlik, Mr. A's school counselor. The consent stated that it expired one year from the date it was signed.

39. The Request for and Consent to Disclose Medical and Confidential Information form indicates that the information to be disclosed was "talk w/ school counselor." The form did not authorize the disclosure of any documents regarding Mr. A.

40. On November 24, 1995, Respondent sent a copy of the N.C.S. report of the results of the MCMI-II to Mr. A's school counselor, even though Respondent knew at that time that the results were of questionable validity.

41. Respondent providing the test results to the school counselor without an adequate consent for release of records was a violation of § 146.82, Stats., and a breach of Mr. A's confidentiality. improper

42. On May 14, 1996, after the release expired, Respondent spoke with Mr. Seuss from the Boscobel Area High School and exchanged information regarding Mr. A. Mr. Seuss was considering referring Mr. A to a program with a boot camp type atmosphere for the summer. Respondent told Mr. Seuss his opinion and "offered mixed reviews of such a program for client, especially highlighting client's extreme personality disorder characteristics as well as potential for injurious behavior or injuring other people when pressed. . . ."

43. Respondent providing information about Mr. A to the school counselor, following the expiration of the consent to disclose information, was a breach of Mr. A's confidentiality. improper

44. Respondent did not renew his registration as a certified independent social worker, when the registration expired effective July 1, 1999.

#### CONCLUSIONS OF LAW

1. The Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists, and Professional Counselors has jurisdiction over this matter pursuant to § 457.26, Stats.
2. The Social Worker Section of the 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's conduct, in administering the incorrect version of the Millon Clinical Multiaxial Inventory-II to 15 year old Mr. A, constitutes unprofessional conduct as defined by:
  - a. Wis. Adm. Code § SFC 20.02(1), for performing services for which he was not qualified by education, training or experience.
  - b. Wis. Adm. Code § SFC 20.02(22), for gross negligence in practice.
4. Respondent's conduct, in sending a copy of the N.C.S. report of the results of the MCMI-II to Mr. A's high school counselor, even though Respondent knew at that time that the results were of questionable validity, constitutes unprofessional conduct as defined by:
  - a. Wis. Adm. Code § SFC 20.02(1), for performing services for which he was not qualified by education, training or experience.
  - b. Wis. Adm. Code § SFC 20.02(22), for gross negligence in practice.
5. Respondent's conduct, in using the invalid MCMI-II test results in providing services to Mr. A, constitutes unprofessional conduct as defined by:
  - a. Wis. Adm. Code § SFC 20.02(1), for performing services for which he was not qualified by education, training or experience.
  - b. Wis. Adm. Code § SFC 20.02(22), for gross negligence in practice.
6. Respondent's conduct, in incorrectly diagnosing Mr. A with a Personality Disorder NOS and with Obsessive/Compulsive Personality Disorder, constitutes unprofessional conduct as defined by:
  - a. Wis. Adm. Code § SFC 20.02(1), for performing services for which he was not qualified by education, training or experience.
  - b. Wis. Adm. Code § SFC 20.02(22), for gross negligence in practice.
7. Respondent's conduct, in making the false statements to DOE that he accidentally gave the wrong version of the test to Mr. A and that he told Mr. A and Mr. A's mother that he had given the wrong version of the test to Mr. A, constitutes unprofessional conduct as defined by Wis. Adm. Code § SFC 20.02(7), for making false statements in practice.
8. Respondent's conduct, in providing written test results to the school counselor without an adequate consent to release of records, and in orally providing information about Mr. A to a school counselor, following the expiration of the consent to disclose information, constitutes unprofessional conduct as defined by Wis. Adm. Code § SFC 20.02(10), for revealing information and records regarding a client.
9. The violations set out in these Conclusions of Law subject Respondent to discipline pursuant to § 457.26(2)(f), Stats.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. That the certification of Barton Alan Wieden shall not renew his registration as an independent clinical social worker is hereby SUSPENDED for a period of at least one year, effective immediately.
2. That Respondent may petition the Social Worker Section for the right to renew his registration termination of the suspension, after one year, under the following terms and conditions:
  - a. He shall provide evidence sufficient to the Section that he has successfully completed the the Wisconsin statutes and rules examination then approved required by the Section for certification as an independent clinical social worker, pursuant to Wis. Adm. Code § SFC 35.091(4)) or provide evidence that he is a board certified diplomat (BCD) of the American board of examiners in clinical social work.
  - b. He shall provide evidence of having successfully completed a graduate level college course in diagnosing mental disorders. The course shall be one approved for this purpose by the Section or its

designee, prior to the time Respondent begins the course.

c. He shall provide evidence of having successfully completed a course at least one day in length which has an emphasis on record keeping in clinical practice. The course shall be one approved for this purpose by the Section or its designee, prior to the time Respondent begins the course.

3. If Respondent meets the requirements of paragraph 2, Respondent shall be allowed to renew his registration the suspension shall be terminated and Respondent's certification shall be limited as follows:

a. Respondent shall not administer, score, or interpret tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotion and motivation or other psychological testing. This limitation shall continue for at least two years following the renewal of the registration and until such time as Respondent provides proof sufficient to the Section that Respondent has the training and experience necessary to competently perform these tasks.

b. Respondent shall have supervision of his practice by a psychologist, psychiatrist or a certified independent clinical social worker, with a minimum of five years clinical experience, who has been approved by the Section or its designee.

i. Respondent shall provide the supervisor with a copy of this final decision and order, prior to seeking approval of the supervisor from the Section.

ii. The supervision shall include a prompt review of all initial contacts Respondent has with clients and subsequent reviews after Respondent has provided services to the client for one month and every three months thereafter.

ii. The supervisor shall submit reports to the Section every three months, beginning 3 months from the date the supervisor begins providing supervision to Respondent. The reports shall address the adequacy of Respondent's diagnosing, treatment, and record keeping.

iii. If the supervisor has reasonable suspicion to believe that Respondent has violated this order, the supervisor shall report that suspicion to the Section immediately.

iv. This limitation requiring supervision shall continue for at least two years following the renewal of the registration and until such time as the supervisor provides to the Section a report sufficient to the Section explaining why there is no need for continued supervision.

4. If Respondent believes that the Section's refusal to end the suspension renew Respondent's registration is inappropriate or that any limitation imposed or maintained by the Section under paragraph 3 is inappropriate, Respondent may seek a class 1 hearing pursuant to sec. 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 suspension nonrenewal or limitations on Respondent's license certification shall remain in effect until there is a final decision in Respondent's favor on the issue.

5. Violation of any term or condition of this Order, or of any limitation imposed under paragraph 3 above, may constitute grounds for revocation of Respondent's certification as an independent clinical social worker in Wisconsin. Should the Section determine that there is probable cause to believe that Respondent has violated the terms of this Order, or any limitation imposed under paragraph 3 above, the Section may order that Respondent's license certification be summarily suspended pending investigation of and hearing on the alleged violation.

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 21st day of \_\_\_\_\_ July, 1999.

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Cornelia Gordon-Hempe,



Chairperson

Social Worker Section