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VIRGIL C. JOINER,
RESPONDENT

FINAL DECISION AND ORDER
LS0204161SOC

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

Virgil C. Joiner

P.O. Box 101005

Milwaukee, Wisconsin 53210

Social Worker Section

Wisconsin Examining Board of Social Workers,

Marriage and Family Therapists and Professional Counselors

P.O. Box 8935

Madison, WI 53708-8935

Department of Regulation and Licensing

Division of Enforcement

P.O. 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 Social Worker 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. Virgil C. Joiner, Respondent, date of birth February 1, 1950, was certified by the Social Worker Section as a social worker in the state of Wisconsin pursuant to certificate number 1277, which was first granted September 27, 1993.
2. Respondent, for personal reasons, elected not to renew her certification when it expired June 30, 2001. Respondent's certification remains expired.
3. Respondent received a bachelor of science degree in social work from Concordia University Wisconsin, Mequon, Wisconsin, in May 1993.
4. Respondent was granted certification pursuant to the grandparenting provisions of 1991 Wisconsin Act 160, § 21(2)(a)1, based upon her having a bachelor's degree and having been engaged in the practice of social work for a minimum of 400 hours in a one year period prior to May 1, 1993. For this reason, Respondent did not take the examination otherwise required for certification.
5. Respondent's last address reported to the Department of Regulation and Licensing is P.O. Box 101005, Milwaukee, Wisconsin 53210.

COUNT I and COUNT II

6. On March 3, 1999, Respondent was charged in Milwaukee County Wisconsin Circuit Court case number 99CM003264 with three counts of violating § 108.24(1), Stats., False Statements to Obtain Unemployment Benefits, which alleged that:

a. Count 1: On November 30, 1997, Respondent filed a claim with the Unemployment Insurance Division which stated Respondent had performed no work and earned no wages during the calendar week ending November 29, 1997. Based on this claim, Respondent received and cashed a benefit check in the amount of \$249.00. It was later determined that Respondent had been employed during the calendar week ending November 29, 1997 and earned wages in the amount of \$676.73. Respondent received \$249.00 to which she was not entitled.

b. Count 2: On December 7, 1997, Respondent filed a claim with the Unemployment Insurance Division which stated Respondent had performed no work and earned no wages during the calendar week ending December 6, 1997. Based on this claim, Respondent received and cashed a benefit check in the amount of \$249.00. It was later determined that Respondent had been employed during the calendar week ending December 6, 1997 and earned wages in the amount of \$676.73. Respondent received \$249.00 to which she was not entitled.

c. Count 3: On December 14, 1997, Respondent filed a claim with the Unemployment Insurance Division which stated Respondent had performed no work and earned no wages during the calendar week ending December 13, 1997. Based on this claim, Respondent received and cashed a benefit check in the amount of \$249.00. It was later determined that Respondent had been employed during the calendar week ending December 13, 1997 and earned wages in the amount of \$676.73. Respondent received \$249.00 to which she was not entitled.

7. Between December 20, 1997 and April 4, 1998, Respondent fraudulently obtained unemployment insurance benefits totaling \$3,867.00 in addition to the charged counts. The total amount which Respondent obtained fraudulently was \$4,614.00.

8. On November 5, 1999, Respondent entered a guilty plea and was convicted in Milwaukee County Wisconsin Circuit Court case number 99CM003264 of one misdemeanor count of violating § 108.24(1), Stats., Unemployment Compensation-Fraud to Obtain Benefits. Sentence was withheld and Respondent was placed on probation for 2 years and ordered to pay \$4,589.00 in restitution. Respondent was also ordered to perform 40 hours of community service.

9. Unemployment Compensation-Fraud to Obtain Benefits, § 108.24(1), Stats., is an offense the circumstances of which substantially relate to Respondent's practice of social work under her certificate.

COUNT III

10. In November 2000, Respondent submitted an application for certification as an independent clinical social worker (ICSW). On her application, Respondent answered "yes" to the question "Have you ever been convicted of a misdemeanor or felony?" and provided documentation regarding only the November 5, 1999 conviction for unemployment compensation fraud, referred to in Counts I and II, above.

11. In fact, Respondent had been convicted of public assistance fraud on November 14, 1983. Respondent did not report her 1983 conviction for public assistance fraud on her November 2000 ICSW application.

12. The history of the November 14, 1983 conviction is:

a. On November 4, 1983, Respondent was charged in Milwaukee County Wisconsin Circuit Court case number 2-311977 with one count of violating § 49.12(9) & (1), Stats., Failure to Report Change in Circumstances. The complaint alleged that, between August 15, 1981 and May 31, 1983, Respondent did not notify the Milwaukee County Department of Social Services (DSS) that her minor son was no longer residing with her and that Respondent knowingly received public assistance for her minor son during that period.

b. During the period of September 1, 1981 through May 31, 1983, Respondent received \$10,474.10 in public assistance from DSS. Because Respondent's minor son was not residing in her same household, Respondent was eligible for only \$8,382.94 in public assistance. Respondent received a fraudulent overgrant in the sum of \$2,091.16.

c. On November 14, 1983, Respondent was convicted in Milwaukee County Wisconsin Circuit Court case number 2-311977 of violating § 49.12(9) & (1), Stats., Failure to Report Change in Circumstances, a misdemeanor. Sentence was withheld and Respondent was placed on probation for 24 months and ordered to pay a \$20.00 victim/witness surcharge and \$2,091.00 in restitution.

13. When the Department's Conviction Coordinator asked Respondent why she failed to report the 1983 conviction on her November 2000 ICSW application, Respondent responded that she did not report the conviction because it was approximately 20 years old and Respondent did not feel it was relevant at this time.

COUNT IV

14. At various times while Respondent held a current basic social worker certificate, Respondent worked at jobs where she performed psychotherapy. Those positions were:

- a. From December 1997 to July 1998, Respondent was employed as a Psychiatric Social Worker at the Milwaukee County Child & Adolescent Treatment Center (CATC) in Milwaukee, Wisconsin. Respondent's duties included performing individual and group therapy with children and adolescents as well as clinical case management in a multi-disciplinary day treatment setting.
- b. From March 1999 to April 1999, Respondent was employed as a therapist at Ivanoff & Ivanoff Consulting Psychologists in Milwaukee, Wisconsin. Respondent's duties included providing individual and group therapy with children, adolescents and adults as well as clinical case management.
- c. From September 1999 to at least October 2000, Respondent was employed as a therapist at Life-Span Psychological Services in Elm Grove, Wisconsin. Respondent's duties included performing individual, group and family therapy with adolescents and adults.

15. § SFC 6.01, Wis. Adm. Code, prohibits certified social workers from engaging in psychotherapeutic activities.

COUNT V

16. During her employment with CATC, Respondent worked at Douglas Day Treatment in Milwaukee, Wisconsin. In approximately July 1998, the following occurred:

- a. A 14-year-old male student who had been defiant and disruptive from the beginning of a school session had been redirected repeatedly and warned about his behavior by Respondent and other staff.
- b. At the end of the session, the student began kicking and karate chopping at another student and refused to stop.
- c. Because of the student's continued behavior, Respondent began deducting units from the student's weekly score.
- d. The student became verbally abusive and threatened to kill Respondent. The student pushed Respondent against the wall and kicked at her.
- e. While another staff person attempted to calm the student, the student pushed past the staff person, charged Respondent and kicked her hard on her right knee. Respondent reacted by kicking the student.

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 having violated a law, the circumstances of which substantially relate to the practice under her credential, as set out above, has engaged in unprofessional conduct as defined by § SFC 20.02(2), Wis. Adm. Code, and is subject to discipline pursuant to § 457.26(2)(f), Stats. (Count I)
4. Respondent, by having been convicted of offenses, the circumstances of which substantially relate to the practice of social work, as set out above, is subject to discipline pursuant to § 457.26(2)(b), Stats. (Count II)
5. Respondent, by failing to report her 1983 conviction for public assistance fraud on her application for certification as an independent clinical social worker, as set out above, has committed unprofessional conduct as defined by § SFC 20.02(4), Wis. Adm. Code, and is subject to discipline pursuant to § 457.26(2)(a), Stats. (Count III)
6. Respondent, by engaging in psychotherapy while holding a certificate as a social worker has performed social work services in violation of § SFC 6.01, Wis. Adm. Code, a rule promulgated under § 457.03(2), Stats., and is subject to discipline pursuant to § 457.26(2)(g)&(h), Stats. (Count IV)
7. Respondent, by engaging in the conduct as set out in Finding of Fact 16 above, has engaged in unprofessional conduct as defined by § SFC 20.02(22), Wis. Adm. Code, and is subject to discipline pursuant to § 457.26(2)(f), Stats. (Count V)

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED;

1. Virgil C. Joiner's right to renew her certificate to practice as a social worker in the state of Wisconsin is hereby suspended for a minimum of two years, effective immediately.
2. The suspension of Respondent's right to renew her certificate shall end after the two year period, upon Respondent providing proof sufficient to the Board that she has met all requirements then in effect for original certification as a social worker.
3. Upon compliance with the requirement in the preceding paragraph, Respondent shall be allowed to renew her social worker certificate, and the certificate shall be limited for two years, as follows:
 - a. If Respondent is or becomes employed in a position in which she uses the title "social worker," Respondent shall provide a copy of this final decision and order to that employer, prior to her first day in that position.
 - b. Respondent shall not be employed in a position in which she uses the title "social worker," if the position includes handling of client's funds.
 - c. Within ten days of commencing employment in any position in which she uses the title "social worker," Respondent shall provide written notice to the Section which includes: the name and address of the employer, the name and telephone number of her immediate supervisor and a copy of her position or job description.
4. If Respondent believes that any refusal by the Section to end the suspension after two years or to remove any limitation which has been in effect for two years 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 suspension or limitations on Respondent's certificate shall remain in effect until there is a final decision in Respondent's favor on the issue.
5. Any evidence of compliance with the requirements to terminate the suspension, and any notices required to be made to the Section shall be mailed, faxed 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

6. 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 certificate as a 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 certificate 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 16th day of April, 2002.

Douglas Knight

Chairperson

Social Worker Section