

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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BEFORE THE PROFESSIONAL COUNSELOR SECTION  
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING  
AND SOCIAL WORK EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : LS0312171CPC  
MARK C. BURNS, L.P.C., :  
RESPONDENT. :

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FINAL DECISION AND ORDER

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

Mark C. Burns, L.P.C.  
N49W16075 Graysland Drive N  
Menomonee Falls, WI 53051

Professional Counselor Section  
Marriage and Family Therapy, Professional Counseling  
and Social Work Examining Board  
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 Professional Counselor 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. Mark C. Burns, L.P.C., Respondent, date of birth December 7, 1958, is licensed by the Professional Counselor Section as a professional counselor in the state of Wisconsin pursuant to license number 326, which was first granted July 21, 1993. (Prior to a statutory change effective 11/01/02, Respondent's credential was a certificate as a professional counselor.)

2. Respondent was granted certification pursuant to the grandparenting provisions of 1991 Wisconsin Act 160, § 21(2)(f) and, for this reason, did not take the examination otherwise required for certification.

3. Respondent's last address reported to the Department of Regulation and Licensing is N49W16075 Graysland Drive N, Menomonee Falls, WI 53051.

4. At the time of the following events, Respondent was providing psychotherapy and professional counseling services to clients at New Life Resources in Waukesha, Wisconsin.

5. On October 22, 1991, Ms. A, who was then 26 years of age, first met Respondent when she and her spouse began seeing Respondent for couples counseling. Ms. A had 33 sessions with Respondent and treatment ended on July 16, 2002.

6. On September 13, 1996, Ms. A returned to Respondent for treatment, which consisted of 159 additional sessions until she was discharged from treatment on October 31, 2000.

During treatment, Ms. A disclosed her belief that she had been sexually abused as a child.

At the last session, Respondent noted that Ms. A would continue in a support group for recovery from abuse and was continuing to receive psychiatric medications from a psychiatrist.

7. At the last treatment session, Ms. A told Respondent she was falling in love with him. Respondent said he had feelings for her as well but that they could not act on their feelings until the professional relationship had ended.

8. Within a few days following termination of therapy, Ms. A and Respondent met at the Lake Michigan lakefront where they walked holding hands and hugged.

9. Within a few more days, Respondent came to Ms. A's apartment to help her with her computer. Respondent

seemed to reject Ms. A's attempts to have physical contact, but continued to meet with her. Within a few months of the termination of therapy, on several occasions, Ms. A and Respondent disrobed and had sexual contact with each other that included orgasm. This happened on several occasions.

### CONCLUSIONS OF LAW

1. The Professional Counselor Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board has jurisdiction over this matter pursuant to § 457.26(2), Stats.
2. The Professional Counselor Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.
3. Respondent's conduct with Ms. A, as set out above, constitutes engaging in sexual contact and sexual conduct with a client within 2 years after termination of professional services and subjects Respondent to discipline pursuant to § 457.26(2)(h), Stats., and Wis. Adm. Code § MPSW 20.02(11).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The license of Mark C. Burns, L.P.C., to practice as a professional counselor in the State of Wisconsin is hereby SUSPENDED for a period of at least two years, effective immediately.
2. Respondent may petition the Section for the termination of the suspension, after two years, under the following terms and conditions:
  - a. Respondent shall, at Respondent's own expense, have undergone an assessment by a mental health care provider experienced in assessing mental health care providers who have become involved sexually with patients or clients, who has not treated Respondent.
  - b. The practitioner performing the assessment must have been approved by the Section, with an opportunity for the Division of Enforcement to make its recommendation, prior to the evaluation being performed.
  - c. Respondent must provide proof sufficient to the Section that Respondent can practice with reasonable skill and safety of clients and public.
  - d. If the Section determines to end the suspension, Respondent's license shall be limited 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:
    - i. 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.

ii. Additional professional education in any identified areas of deficiency.

iii. Restrictions on the nature of 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.

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

3. Any request for approval of an evaluator, therapist, supervisor or educational program required by this Order shall be mailed or delivered to:

### **Department Monitor**

Department of Regulation and Licensing

Division of Enforcement

1400 East Washington Ave.

P.O. Box 8935

Madison, WI 53708-8935

Fax: (608) 266-2264

Telephone: (608) 267-3817

4. If Respondent believes that the Section's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Section under paragraph 2d 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 license 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 2d above, may constitute grounds for revocation of Respondent's license as a professional counselor 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 2d above, the Section may order that Respondent's license 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 17<sup>th</sup> day of December, 2003.

Susan Putra, L.P.C.

Chair

Professional Counselor Section