

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE MARRIAGE AND FAMILY THERAPIST SECTION  
MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING  
AND SOCIAL WORK EXAMINING BOARD

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : LS0408031MFT  
JOHN D. GIFFIN, L.M.F.T., :  
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:

John D. Giffin, L.M.F.T.  
1633 N. Prospect Avenue, Unit 14F  
Milwaukee, WI 53202

Marriage and Family Therapist 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 Marriage and Family Therapist 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. John D. Giffin, L.M.F.T., Respondent, date of birth February 23, 1951, is licensed by the Marriage and Family Therapist Section as a marriage and family therapist in the state of Wisconsin pursuant to license number 432, which was first granted July 28, 1995. (Prior to a statutory change effective 11/01/02, Respondent's credential was a certificate as a marriage and family therapist.)

2. Respondent received a master's degree from the University of Wisconsin-Milwaukee on May 18, 1980 and was granted certification pursuant to the grandparenting provisions of 1991 Wisconsin Act 160, § 21(2)(e). For this reason, Respondent did not take the examination otherwise required for certification.

3. Respondent's last address reported to the Department of Regulation and Licensing is 1633 N. Prospect Avenue, Unit 14F, Milwaukee, WI 53202.

4. During the events of this matter, Respondent was employed as a marriage and family therapist, with the title Senior Psychotherapist, in the Outpatient Behavioral Health Clinic at Aurora Sinai Medical Center (ASMC) in Milwaukee, Wisconsin.

5. Respondent provided individual psychotherapy to Ms. A at ASMC from 2001 to January 2004. During the

summer of 2003, Respondent engaged in inappropriate sexual comments and conduct during Ms. A's psychotherapy sessions, including:

Initially telling her "you're pretty" and "you're sexy."

Subsequently making statements such as "I want to fuck you but I can't fuck you."

Telling Ms. A that he masturbates frequently during the day.

On three different occasions, rubbing his penis through his clothing until he had an erection apparent to Ms. A.

At the end of one session, as Ms. A was leaving, kissing her on the lips as she walked past him.

6. In January 2004, during their last psychotherapy session, Respondent disrobed to the point that his penis was out of his pants and began masturbating in front of Ms. A.

7. As a result of these events, Respondent was charged in Milwaukee County Wisconsin Circuit Court case number 2004CM002415 with one count of Lewd and Lascivious Behavior (Indecent Exposure), a Class A Misdemeanor, in violation of § 944.20(1)(b), Stats. That proceeding was pending at the time the attached stipulation was signed, but was scheduled for a projected plea to be entered in that matter on June 8, 2004.

8. Lewd and Lascivious Behavior (Indecent Exposure), a violation of § 944.20(1)(b), Stats., is an offense the circumstances of which substantially relate to Respondent's practice of marriage and family therapy under his license.

### CONCLUSIONS OF LAW

1. The Marriage and Family Therapist Section of the Wisconsin Marriage and Family Therapy, Professional Counseling and Social Work Examining Board has jurisdiction over this matter pursuant to § 457.26(2), Stats., and has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

2. Respondent, by engaging in sexual conduct with a client as set out above, has committed unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(11), and is subject to discipline pursuant to § 457.26(2)(f), Stats.

3. Respondent, by having violated a law, the circumstances of which substantially relate to the practice under his credential, has engaged in unprofessional conduct as defined by Wis. Admin. Code § SFC 20.02(2) and is subject to discipline pursuant to § 457.26(2)(f), Stats.

### ORDER

1. The license of John D. Giffin, L.M.F.T., Respondent, to practice as a marriage and family therapist in the state of Wisconsin is hereby **SUSPENDED** for an indefinite period of time to be no less than two years, effective immediately.

2. Respondent may petition the Marriage and Family Therapist Section for the termination of the suspension, after two years, under the following terms and conditions:

a. Respondent shall have taken and passed all examinations then required by § 457.10(4), Stats., for original licensure as a marriage and family therapist.

b. Respondent shall have, at Respondent's own expense, undergone an assessment by a mental health care provider experienced in assessing sexual offenders.

c. The practitioner performing the assessment must not have treated Respondent and shall have been approved by the Section, with an opportunity for the Division of Enforcement to make its recommendation, prior to the evaluation being performed.

d. Respondent must provide proof sufficient to the Section that Respondent is able to practice with reasonable skill and safety of clients and public and does not suffer from any condition which prevents him from practicing in that manner.

e. 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.

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

3. 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 2e 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.

4. Respondent shall, within 90 days of the date of this Order, pay to the Department of Regulation and Licensing costs of this proceeding in the amount of \$235.00 pursuant to § 440.22(2), Stats.

5. All requests, notifications and payment shall be mailed, faxed 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  
Telephone (608) 267-3817  
Fax (608) 266-2264

6. Violation of any term or condition of this Order, or of any limitation imposed under paragraph 2e above, may constitute grounds for revocation of Respondent's license as a marriage and family therapist 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 2e above, the Section may order that Respondent's license be summarily suspended pending investigation of and hearing on the alleged violation.

7. Respondent's alleged conduct, which is the basis for the criminal charge against Respondent in Milwaukee County Wisconsin Circuit Court case number 2004CM002415, has been considered in the discipline ordered in this matter. The resolution of the criminal charge, whatever it may be, shall not be the basis for either the imposition of any additional discipline or the modification of the discipline ordered herein.

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 3<sup>rd</sup> day of August, 2004.

Linda Schwallie, L.M.F.T.

Chairperson

Marriage and Family Therapist Section