

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

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
ROBERTA LYNN FAGAN, L.M.F.T., : LS 0605011MFT
RESPONDENT. :

[Division of Enforcement Case # 05 MFT 004]

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Roberta Lynn Fagan, L.M.F.T.
626 Two Rivers Drive
Mukwonago, WI 53149

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
PO Box 8935
Madison, WI 53708-8935

Marriage and Family Therapist Section
Marriage and Family Therapy, Professional Counseling
and Social Work Examining Board
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The Notice of Hearing and Complaint were filed in this matter on May 1, 2006. Prior to the hearing on the formal complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final decision of 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. Roberta Lynn Fagan, L.M.F.T., Respondent, date of birth May 9, 1959, is licensed by the Marriage and Family Therapist Section as a marriage and family therapist in the state of Wisconsin pursuant to license number 95, which was first granted September 28, 1993. (Prior to a statutory change effective November 1, 2002, Respondent's credential was a certificate as a marriage and family therapist.)

2. Respondent was granted her credential pursuant to the grandparenting provisions of 1991 Act 160, §21(2)(e). Respondent received a master's degree in social work from the University of Wisconsin-Milwaukee on December 21, 1986.

3. Respondent's last address reported to the Department of Regulation and Licensing is 626 Two Rivers Drive, Mukwonago, WI 53149.

4. On June 27, 2002, Respondent began providing professional services as a marriage and family therapist to Ms. at Covenant Behavioral Health in Milwaukee, Wisconsin. After two sessions addressing Ms. A's depression, anxiety and marital issues, Respondent had three couples sessions in July and August with Ms. A and her husband Mr. B addressing marital issues.

5. From May 26, 2004 to July 30, 2004, Respondent provided professional services as a marriage and family therapist to Mr. B at Covenant Behavioral Health. During those six sessions, the issues being addressed were his marital difficulties and whether he should stay in his marriage.

6. In January 2005, Ms. A filed for divorce from Mr. B. In February 2005, Mr. B called Respondent at her new practice location and invited her to dinner. Respondent and Mr. B began seeing each other socially in February 2005, and developed a romantic and sexual relationship. They plan to marry.

7. Respondent has advised the Section that she does not intend to continue practicing as a marriage and family therapist and has tendered the surrender of her marriage and family therapist 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 Wis. Stat. § 457.26(2) and has authority to enter into this stipulated resolution pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in sexual conduct with a former client within 2 years of termination of professional services, has committed unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(11), and is subject to discipline pursuant to Wis. Stat. § 457.26(2)(f).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The SURRENDER by Roberta Lynn Fagan, L.M.F.T., Respondent, of her license to practice as a marriage and family therapist in the state of Wisconsin is hereby ACCEPTED.

2. 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 \$1,016.00 pursuant to Wis. Stat. § 440.22(2).

3. Payment 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
Telephone (608) 267-3817
Fax (608) 266-2264

4. This Order is effective on the date it is signed.

Marriage and Family Therapist Section
Wisconsin Marriage and Family Therapy,
Professional Counseling and Social Work Examining Board

By: Bruce Kuehl
A Member of the Section

7/31/06
Date

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

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : STIPULATION
ROBERTA LYNN FAGAN, L.M.F.T., : LS 0605011 MFT
RESPONDENT. :

[Division of Enforcement Case # 05 MFT 004]

It is hereby stipulated and agreed, by and between Roberta Lynn Fagan, L.M.F.T., Respondent; and John R. Zwieg attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending disciplinary proceeding against Respondent's licensure by the Division of Enforcement (file 05 MFT 004). Respondent consents to the resolution of this matter by stipulation and without a hearing.
2. Respondent understands that by signing this Stipulation, she voluntarily and knowingly waives her rights, including the right to a hearing on the allegations against her, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.
3. Respondent has obtained advice of legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Section. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Section's Order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Section, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Section, the parties agree not to contend that the Section has been prejudiced or biased in any manner by the consideration of this attempted resolution.
6. Attached to this Stipulation are Respondent's current wall and wallet registration certificates. If the Section does not accept this Stipulation, Respondent's certificates shall be returned to Respondent with a notice of the Section's decision not to accept the Stipulation.
7. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Section ever assigned as a case advisor in this investigation may appear before the Section in open or closed session, without the presence of the Respondent or her attorney, if any, for purposes of speaking in support of this agreement and answering questions that any member of the Section may have in connection with the Section's deliberations on the Stipulation. Additionally, any such case advisor may vote on whether the Section should accept this Stipulation and issue the attached Final Decision and Order.
8. Respondent is informed that should the Section adopt this Stipulation, the Section's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.
9. The Division of Enforcement joins Respondent in recommending the Section adopt this Stipulation and issue the

attached Final Decision and Order.

Roberta Lynn Fagan, L.M.F.T.
Respondent
626 Two Rivers Drive
Mukwonago, WI 53149

Date

Randal N. Arnold
Hinshaw & Culbertson
Attorneys for Respondent
100 E. Wisconsin Ave. Ste. 2600
Milwaukee, WI 53202-4115

Date

John R. Zwieg
Attorney for Complainant
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935

Date

[05 MFT 004: Costs \$1,016.00]