

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

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

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
MARIKATHRYN NOOE, L.P.C., : LS 0607141 CPC
RESPONDENT. :

[Division of Enforcement Case # 03 CPC 011]

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

Marikathryn Nooe, L.P.C.
1244 C Midway Road
Menasha, WI 54952

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

Professional Counselor 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 July 14, 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 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. Marikathryn Nooe, L.P.C., Respondent, date of birth April 13, 1958, is licensed by the Professional Counselor Section as a professional counselor in the state of Wisconsin pursuant to license number 3260, which was first granted February 4, 2003.

2. Respondent's last address reported to the Department of Regulation and Licensing is 1244 C Midway Road, Menasha, WI 54952.

3. In May of 1999, Respondent became employed in the Oshkosh office of REACH Counseling Service (REACH), an outpatient psychotherapy clinic certified by the Department of Health and Family Services, Division of Supportive Living, Bureau of Quality Assurance, Program Certification Unit (DHFS).

a. Respondent was a psychotherapist and the Coordinator of REACH's Sexual Abuse Treatment Program (SATP), a comprehensive treatment program for sexual offenders, victims and affected family members.

b. Respondent performed assessments of sexual offenders to determine if the offender was appropriate for treatment at REACH. REACH did not perform evaluations of sexual offenders for use in the courts and the treatment assessments were generally performed after sentencing in any criminal proceedings had taken place.

c. When first working at REACH, Respondent was practicing under the supervision necessary to acquire the 3000 hours of supervised psychotherapy practice required by DHFS to meet their standards to be qualified as an approved provider of mental health psychotherapy services and for third party payment in outpatient clinics, pursuant to Wis. Adm. Code HFS § 61.96(3). On November 14, 2000, DHFS notified Respondent she had met their standard to practice as a mental health professional in certified clinics.

4. On June 28, 2000, Respondent had an assessment session with Ms. A, who was then 16 years of age.

a. Ms. A was referred by her mother after Ms. A disclosed that Mr. B, a neighbor about 40 years of age for whom Ms. A provided child care, had been having sexual contact and intercourse with Ms. A since she was 14. Mr. B had recently been charged with 3 counts of 2nd degree sexual assault of a child based on his conduct with Ms. A.

b. Respondent noted that Ms. A had mixed feelings regarding her victimization and that her abuser was extremely controlling and manipulative and did extensive grooming of Ms. A. The diagnoses were: adjustment disorder acute, with depressed mood; sexual abuse of a child. Posttraumatic stress disorder was to be ruled out.

c. The treatment plan was to encourage Ms. A to talk about and journal her thoughts and feelings related to the sexual abuse. It was also to discuss and process Ms. A's anxiety about the criminal proceedings pending against Mr. B.

5. Respondent provided Ms. A with treatment at 14 sessions from June 28, 2000 through January 3, 2001. Treatment focused on Ms. A's feelings about the abuse, the abuser and the criminal proceeding. Respondent knew the name of Ms. A's sexual abuser. After January 3, 2001, Respondent continued to provide treatment to Ms. A for 10 additional sessions, the last of which was on June 22, 2001.

6. On November 14, 2000, pursuant to a plea agreement, Mr. B entered a plea of guilty/no contest on one count of 2nd degree sexual assault of a child and the other two counts were dismissed but read in for sentencing. As part of the agreement, the district attorney agreed to recommend a sentence of one year in jail with Huber privileges and sex offender treatment. The judge ordered that a presentence investigation be done and set sentencing for January 11, 2001.

7. Although the probation and parole agent assigned to perform the presentence investigation was experienced, he had limited experience in performing presentence investigations of sex offenders. He began the process of the presentence on November 20, 2000 and met with Mr. B on December 5, 2000. On December 5, 2000, the agent had Mr. B sign a Confidential Information Release Authorization, which authorized REACH to release to the agent records of "assessment + o treatment diagnosis" for the purpose of "court ordered presentence investigation." That release was ultimately provided to REACH.

8. On December 6, 2000, Respondent had a session with Ms. A's parents.

a. The parents told her they had mixed feelings about the plea bargain. They had not wanted Ms. A to have to testify but were concerned that Mr. B would not be punished enough with the recommended sentence.

b. They said they had learned that Mr. B would be sent to REACH for an assessment. They said they had been in touch with probation and parole agent performing the presentence investigation and learned he did not have experience with sex offenders and wanted to have Mr. B assessed by REACH to determine suitability of treatment so he would have that information when writing his report before sentencing.

c. Respondent told the parents that REACH did not typically do pre-sentence assessments because offenders might use being in treatment as a way to obtain a reduced sentence. The parents asked that REACH do the assessment before sentencing so the agent could have the necessary information to make an adequate recommendation.

d. Respondent told the parents that she would have to check with her supervisor and would then give them a decision. Later in the day, Respondent spoke with her supervisor, a licensed clinical social worker who was REACH's director, who approved REACH performing the assessment before sentencing. Respondent then called and told the parents that REACH would do the assessment before sentencing.

9. At that time, Respondent was the professional in REACH's Oshkosh office who was performing assessments of adult sex offenders. Respondent also asked her supervisor if supervisor would perform the assessment of Mr. B, a

Respondent was treating his victim. Because REACH's assessments were not done for court purposes, the professionals at REACH were not familiar with the issues of conflicts of interest in the forensic area. Respondent's supervisor said that it would be okay for Respondent to do the assessment, but also said this should be discussed at staffing with the other members of the team. It was then discussed at staffing with the treatment team and the consensus was that it was appropriate for Respondent to perform the assessment.

10. During their January 3, 2001 treatment session, Ms. A read to Respondent the victim's impact statement Ms. A had prepared to read at Mr. B's sentencing. Also on January 3, 2001, Respondent met with Mr. B for his assessment session. Mr. B did not know that Respondent was providing treatment to Ms. A, his victim. Because Respondent did not have a written release from Ms. A and her parents, Respondent did not disclose to Mr. B that she was treating Ms. A.

11. Respondent prepared a five page progress note of the assessment session, which was consistent with the format and content of an assessment progress note prepared after sentencing. Respondent faxed the note to the probation and parole agent on January 5, 2001. The agent made references to Respondent's note in his presentence investigation report and attached a copy to the report when he filed it with the court. Respondent knew that the agent would use her assessment progress note in writing his presentence investigation report, but did not know that it would be attached to the report and shared with the court.

12. The presentence investigation report recommended probation for at least five years and as conditions of probation: one year in the county jail; responsibility for the costs of counseling for the victim and her family; and successful completion of sex offender treatment. On January 21, 2001, the sentencing judge did not follow the recommendations of the district attorney or the presentence investigation report. Instead, he sentenced Mr. B to ten years in prison. In doing so, the judge made several references to specific portions of Respondent's assessment progress note and quoted extensively from it. The judge did not know that Respondent had been treating Ms. A.

13. After commencing his prison sentence, Mr. B first became aware that Respondent provided therapy to Ms. A prior to, and at the time, she conducted her assessment of him. He began an appeal of his sentence contending this was a conflict of interest which violated his right to due process. On June 11, 2003, the Court of Appeals issued a decision which agreed with Mr. B's position and ordered that Mr. B's case be remanded to the circuit court for re-sentencing. The decision was based on Respondent having a conflict of interest by both providing treatment to Ms. A and conducting an assessment of Mr. B and on Respondent's report of the assessment having been used by the court in sentencing Mr. B.

14. The re-sentencing process caused Ms. A and her family additional emotional distress and on September 30, 2003, Mr. B was re-sentenced to four years in prison with credit for 991 days already served.

15. Respondent had an ongoing therapeutic relationship with Ms. A in which she was treating Ms. A for the effects caused by Mr. B's conduct. Although Respondent consulted her supervisor and the treatment team and was given approval to perform the assessment, by performing the assessment of Mr. B, which related to the same conduct, Respondent failed to avoid a relationship which created a conflict of interest and which could impair her objectivity in performing the assessment. There is no evidence that the conflict had any actual impact on the assessment itself.

CONCLUSIONS OF LAW

1. The Professional Counselor 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 of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by failing to avoid a dual relationship or relationship that may impair Respondent's objectivity or create a conflict of interest, has violated Wis. Admin. Code § MPSW 20.02(13), and is subject to discipline pursuant to Wis. Stat. § 457.26(2)(f).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Marikathryn Nooe, L.P.C., is REPRIMANDED for the above conduct.

2. Respondent shall, by November 30, 2007, pay to the Department of Regulation and Licensing the costs of this proceeding in the amount of \$1,025.00 pursuant to Wis. Stat. § 440.22(2).

3. Respondent's license is LIMITED as follows:

a. Respondent shall satisfactorily complete a total of 3 hours of continuing education approved by the Section or its designee, on the subjects of boundaries and ethics, within 90 days of the date of this Order.

b. Upon Respondent providing proof sufficient to the Section, or its designee, that she has completed the education, the Section shall issue an Order removing this limitation of Respondent's license.

c. Respondent is prohibited from applying any of the 3 hours completed to satisfy the terms of this Order toward satisfaction of the continuing education required during the July 1, 2005 through June 30, 2007 or July 1, 2007 through February 28, 2009 registration bienniums.

4. All payments, requests and evidence of completion of the education required by this Order 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
Fax: (608) 266-2264
Telephone: (608) 267-3817

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Section in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event that Respondent fails to pay costs as ordered or fails to comply with the ordered continuing education, Respondent's license SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

6. This Order is effective on the date of its signing.

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

By: Susan M. Putra
A Member of the Section

4/30/07
Date

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

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: STIPULATION
MARIKATHRYN NOOE, L.P.C., : LS 0607141 CPC
RESPONDENT. :

[Division of Enforcement Case # 03 CPC 011]

It is hereby stipulated and agreed, by and between Marikathryn Nooe, L.P.C., Respondent; Gregory Gill, Jr., of Gill & Gill, S.C.; attorneys for 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 03 CPC 011). 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. 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 Respondent or her attorney, 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.

7. 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.

8. The Division of Enforcement joins Respondent in recommending that the Section adopt this Stipulation and issue the attached Final Decision and Order.

Marikathryn Nooe, L.P.C..

Respondent

1244 C Midway Road

Menasha, WI 54952

Date

Gregory Gill, Jr.

Gill & Gill, S.C.

Attorneys for Respondent

128 N. Durkee Street

Appleton, WI 54911

Date

John R. Zwieg

Attorney for Complainant

Division of Enforcement

Department of Regulation and Licensing

P.O. Box 8935

Madison, WI 53708-8935

Date