

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DENNIS K. SHIRK,  
  
RESPONDENT.

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FINAL DECISION AND ORDER

*ORDER 0000251*

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Division of Enforcement Case # 09 RSA 023

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

Dennis K. Shirk  
8026 S. 85<sup>th</sup> Street  
Franklin, WI 53132

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

Department of Regulation & Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Secretary of the Department of Regulation and Licensing. The Secretary has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Secretary adopts the attached Stipulation and makes the following:

## FINDINGS OF FACT

1. Dennis K. Shirk, Respondent, date of birth August 29, 1946, is certified by the Department of Regulation and Licensing as a clinical substance abuse counselor in the State of Wisconsin, pursuant to certificate number 132-966, which was first granted April 18, 1986<sup>1</sup>.

2. Respondent's last address reported to the Department of Regulation and Licensing (Department) is 8026 S. 85<sup>th</sup> Street, Franklin, WI 53132.

3. Respondent is the Director of and practices as a clinical substance abuse counselor at Parkview Counseling Associates, LLC, located at 9910 W. Layton Avenue, Suite 1, Greenfield, Wisconsin.

4. As a result of an employment-related drug test which tested positive for marijuana, Mr. A was required to see a Department of Transportation (DOT) approved drug counselor for treatment. Mr. A saw Respondent for treatment beginning on April 18, 2009. Mr. A's insurance covered the cost of the first ten (10) sessions. Respondent did not inform Mr. A that his insurance coverage had run out and after several weeks of sessions, Mr. A received a bill in the mail for \$1,200.

5. When Mr. A told Respondent that he could not afford this bill, Respondent told him that he could get assistance through "IMPACT," a program funded by Milwaukee County Behavioral Services. Respondent instructed Mr. A to go to "IMPACT" and claim that he has an alcohol and drug addiction, despite Mr. A not having such an addiction. Once enrolled in the program, "IMPACT" would reimburse Respondent for Mr. A's treatment sessions, which he would use to pay down Mr. A's bill.

6. In order for a counselor to receive reimbursement from "IMPACT," Milwaukee County requires the client to sign a "Milwaukee County Client Sign-In Sheet" for each session the client attends. The counselor is required to sign as a witness to verify the client's attendance at each session. On the top of the form it reads: "This sheet must be completed each time the client shows up for sessions. Only one session box can be signed each time. Any pre-signing of the form is fraudulent." The counselor is required to keep the sign-in sheets on site at the counselor's office.

7. On July 2, 2009, Mr. A went to "IMPACT" and completed an assessment and, as Respondent had instructed, lied to them by telling them he had a drug and alcohol problem. On July 7, Mr. A met with Respondent who had him pre-sign five of the Client Sign-In Sheets claiming that he had attended sessions with Respondent, even though Mr. A had not attended any of those sessions. Mr. A met with Respondent on approximately four more occasions where

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<sup>1</sup> Respondent was originally certified by the Wisconsin Certification Board (WCB) as a substance abuse counselor. In 2006, Wisconsin Act 2005-25 transferred authority for the certification and regulation of substance abuse certificate holders to the Department of Regulation and Licensing and from the Department of Health and Family Services, which had contracted those responsibilities to WCB.

Respondent had him pre-sign additional Client Sign-In Sheets claiming that he had attended both one-on-one and group meetings, many of which were for dates in the future.

8. Respondent filed fourteen (14) claims for treatment sessions with Mr. A between July 7 and August 20, 2009. Mr. A only attended three (3) of the sessions.

9. On August 25, 2009, Mr. A asked Respondent for a letter to release him from his treatment sessions. Respondent told Mr. A that he was not finished with his treatment and said that he would need to take a drug test. After Mr. A completed the drug test, Respondent informed him that he tested positive for marijuana. Mr. A told Respondent that it was impossible because he had not used marijuana since April.

10. Mr. A gave Respondent another \$10 for another drug test which he completed in front of Respondent. The results were negative for marijuana. Respondent also took a drug test in front of Mr. A, the results of which were positive for opiates. This was Respondent's way of showing Mr. A that the test was accurate because he currently uses opiates for leg pains. Respondent could not explain why the results of the test Mr. A took in front of him were negative for marijuana.

11. Respondent refused to discontinue Mr. A's treatment and told Mr. A that he needed to come in on Saturday for a group meeting and another drug test. Respondent then handed Mr. A another stack of Client Sign-In Sheets to sign to indicate he was in treatment with Respondent on days that he was not actually going to be there, for the purpose of paying down his bill. When Mr. A asked Respondent how much he still owed on his bill, Respondent replied by telling him that if he really wanted his bill to be lowered, Mr. A should bring him Dilaudid (hydromorphone) or morphine, which are Schedule II controlled substances.

12. On August 26, 2009, Mr. A reported Respondent to the Greenfield Police Department, alleging that Respondent was fraudulently obtaining federally funded money and that he believed Respondent was extorting Mr. A to stay in the drug program so Respondent could continue to collect the federal funds without even seeing him.

13. On September 3, 2009, in cooperation with the Greenfield Police, Mr. A was equipped with a body wire and went to his appointment with Respondent. During his conversations with Respondent:

a. They discussed how Mr. A could clear up his bill. They talked about morphine pills and Respondent told Mr. A that if he could get him ten (10) Dilaudid pills, he would zero out his bill.

b. They discussed the forms Respondent was having Mr. A sign and how much money Respondent was making. Mr. A offered to sign more forms and asked if he could get his girlfriend to go to "IMPACT" so Respondent could make money off of her claims as well. After Mr. A mentioned how much money Respondent was making and commented on the nice jewelry and car that Respondent had, Respondent stated "I'm going to hell."

c. After discussing the pills and the forms, Respondent stated that he could go to prison and that he could lose his counselor's credential over what they were discussing.

14. On September 4, 2009, Mr. A reported to police that Respondent had just called him asking when he could get the pills, adding that Mr. A should let him know if he needed money to motivate him. Mr. A told Respondent he needed to figure out how he was going to get his mother's pills without her nurse noticing and would get back to him. On September 5, Mr. A reported to police that he had just received a text message from Respondent asking if he was still going to get him the Dilaudid pills. Mr. A was instructed to reply to Respondent telling him he would be able to get him the pills over the next week and would get back to him.

15. On September 10, 2009, Mr. A called Respondent and informed him that his mother's doctor discontinued Dilaudid but prescribed Oxycontin (oxycodone), which is also a Schedule II controlled substance. Without Mr. A offering the Oxycontin, Respondent acknowledged that he knew what it was and stated that he would accept the Oxycontin in place of the Dilaudid. Mr. A asked Respondent if getting him the Oxycontin would take care of his bill. Respondent replied that it would depend on how much he could get him. Respondent then told Mr. A that if he could not get him the pills, he would need to pay him \$1,200 for his bill. Respondent offered to meet Mr. A somewhere for the delivery of the pills. Mr. A told Respondent he would contact him later that evening or the next day regarding the delivery.

16. On September 11, 2009, in cooperation with the Greenfield Police, Mr. A was equipped with a body wire and was provided with a decoy prescription bottle filled with sixty placebo pills of Oxycontin. Mr. A contacted Respondent to see if he was still interested in buying the pain medication. Respondent said that he was and instructed Mr. A to drive to his office at 9901 W. Layton Avenue.

17. The Greenfield police instructed Mr. A to drive to the 6000 block of W. Layton Avenue, where he parked the car, opened the hood and poured water on the ground to make it appear that he had car trouble. Mr. A contacted Respondent and told him that he could not meet him because his car broke down. Respondent told Mr. A that he would come to meet him there.

18. From a location across the street, police observed Respondent arrive, purchase the pills and discuss with Mr. A how much he still owes. Respondent made a phone call and spoke with someone about clearing the balance on Mr. A's account. Mr. A and Respondent discussed the fact that by giving Respondent the pills, it would clear up Mr. A's bill. Respondent also gave Mr. A some cash for more of the pills and said he would pay him the rest later.

19. Following the transaction, Mr. A confirmed to the police that Respondent bought the pills and that he should have them in his pocket. Police subsequently stopped Respondent's vehicle and took him into custody. Among the items recovered during a search of Respondent's vehicle were:

- a. The decoy prescription bottle of the placebo Oxycontin.
- b. An envelope containing an agreement receipt saying that Mr. A's bill would be cleared to a zero balance based on the delivery of the Oxycontin to

Respondent; that Mr. A was paid \$200 and that Respondent was going to pay him another \$600 for the extra Oxycontin he had picked up.

c. On the envelope was written "\$20 each" which likely referred to the cost of each pill: Respondent accepted twenty (20) pills as payment to clear Mr. A's bill. There were forty (40) extra pills in the bottle. Respondent paid Mr. A \$200 and still owed him \$600.

d. Also on the envelope was written "25 refill." This likely referred to the earlier conversation between Respondent and Mr. A when Respondent said he would pay \$25 for each of the pills if he was able to buy the refills from Mr. A.

#### CONCLUSIONS OF LAW

1. The Secretary of the Wisconsin Department of Regulation and Licensing has jurisdiction to act in this matter, pursuant to Wis. Stat. § 440.88(6), and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stat. § 227.44(5).

2. The conduct described in paragraphs 6-21 above constitutes a violation of Wis. Admin. Code § RL 164.01(2)(b), (i), (n), (o), (p), and (v), and subjects Respondent to discipline pursuant to Wis. Stat. § 440.88(6).

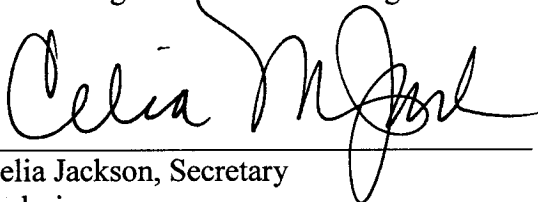
#### ORDER

#### IT IS ORDERED:

1. The stipulation of the parties is approved.
2. The Secretary accepts the surrender of Dennis K. Shirk's clinical substance abuse counselor certificate pursuant to Wis. Stat. § 440.08. In the event that Respondent attempts to renew his Wisconsin credential in the future, the Secretary or her designee may enter an order denying such application, in her discretion, without further notice or hearing.
3. This Order shall become effective upon the date of its signing.

Department of Regulation and Licensing

By:

  
Celia Jackson, Secretary  
or designee

6-8-10  
Date