

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 :  
 : FINAL DECISION AND ORDER  
MARK S. WEITKUM, :  
RESPONDENT. :  
 :  
 : ORDER 0001056

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[Division of Enforcement Case # 11 RSA 029]

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

Mark S. Weitkum  
3550 Meachem Rd., Apt 18  
Racine, WI 53405

Division of Enforcement  
Department of Safety and Professional Services  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Department of Safety and Professional Services  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms of the attached Stipulation as the final decision of this matter, subject to the approval of the Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Mark S. Weitkum, (D.O.B.: April 06, 1960) is certified as a Wisconsin substance abuse counselor-in-training (certificate # 13705-130), which was first granted on February 28, 2005.
2. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services is 3550 Meachem Road, Apartment 18, Racine, Wisconsin.
3. At all times relevant to this case, Respondent was employed as a substance abuse counselor at Lake County Addictions Treatment Program, located in Waukegan, Illinois.

4. In October of 2010, Respondent began counseling Patient A for an addiction to cocaine. After twelve appointments, Patient A was transferred to a separate inpatient treatment center.

5. In December of 2010, Respondent sent the following text messages to Patient A:

- a) December 11, 2010 at 12:25 AM: "I know sweetheart" (in response to the text message from Patient A on December 11, 2010 at 12:21 AM: "I never wanted to hurt you.");
- b) December 11, 2010 at 12:30 AM: "I love you";
- c) December 12, 2010 at 11:20 PM: "Guess you got tired or busy. Have a good night sweetheart. Love you.";
- d) December 14, 2010 at 5:04 PM: "Bustin' that cute butt of 'yers, hey?"; and
- e) December 14, 2010 at 5:07 PM: "Thinking of you, missing you, sweetheart. I love you, [Patient A]."

6. Between January 2011 and March 2011, Respondent socialized with Patient A on three occasions. During each meeting, Respondent provided Patient A with gifts of money.

7. Respondent's texts, socialization and gifts of money to Patient A deviated from standard practice and minimum standards of a substance abuse counselor.

#### CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction over this matter pursuant to Wis. Stat. § 440.88 and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent's conduct above constitutes a violation of Wis. Admin. Code § RL 164.01(2)(n), and subjects Respondent to discipline pursuant to Wis. Stats. § 440.88(6).

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The certificate of Mark S. Weitkum to practice as a substance abuse counselor-in-training in the State of Wisconsin is INDEFINITELY SUSPENDED for no less than 3 months, from the date of this Order.

- a. Respondent may petition the Department for the termination of the suspension after 3 months under the following terms and conditions:

- i. Respondent shall have, at Respondent's own expense, undergone an assessment by a mental health care provider experienced in evaluating mental health care practitioners with boundary violations;
- ii. The practitioner performing the assessment must not have treated Respondent and shall have been approved by the Department, with the opportunity for the Division of Enforcement to make its recommendation, prior to the evaluation being performed;
- iii. Respondent must provide proof sufficient to convince the Department that Respondent is able to practice with reasonable skill and safety of clients and the public and does not suffer from any condition which prevents him from practicing in that manner;
- iv. If the Department determines to end the suspension, Respondent's certificate shall be limited in a manner to address any concerns the Department 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:
  1. Psychotherapy, at Respondent's expense, by a therapist approved by the Department or its designee, to address specific treatment goals, with periodic reports to the Department by the therapist.
  2. Additional professional education in any identified areas of deficiency.
  3. Restrictions on the nature of practice or practice setting or requirements for supervision of practice, by a professional approved by the Department, with periodic reports to the Department by the supervisor.

b. If Respondent believes that the Department's refusal to end the suspension is inappropriate or that any limitation imposed or maintained by the Department or its designee under paragraph 3d is inappropriate, Respondent may seek a Class I hearing pursuant to Wis. Stat. § 227.01(3)(a), in which the burden shall be on Respondent to show that the Department's or designee's decision is arbitrary or capricious. The suspension or limitations on Respondent's certificate shall remain in effect until there is a final decision in Respondent's favor on the issue.

2. The certificate of Mark S. Weitkum to practice as a substance abuse counselor-in-training in the State of Wisconsin is further LIMITED as follows:

- a. Within ninety (90) days from the date of this Order, Respondent shall obtain and successfully complete a minimum of six (6) hours of education in the areas of counseling ethics and professional boundaries.
  - i. Respondent shall locate and have the Department pre-approve each educational program prior to Respondent completing it.
  - ii. Within 30 days after Respondent has completed each educational program, Respondent shall submit to the Department Monitor proof of his attendance and that he has successfully completed each educational program.
  - iii. Requests for pre-approval of education and proof of successful completion shall be submitted to the Department Monitor at the address below.
  - iv. Respondent is responsible for all costs of compliance with this Order
- b. For a period of two (2) years from the date of the termination of Respondent's suspension, Respondent shall not work with female clients.
  - i. Respondent may petition the Department to have this limitation modified or terminated and shall provide evidence sufficient to the Department that the limitation is no longer necessary.
  - ii. Whether to grant a petition shall be in the discretion of the Department.

3. Respondent shall, within ninety (90) days of the date of this Order, pay costs of this proceeding in the amount of TWO HUNDRED EIGHTY-FIVE DOLLARS (\$285.00) pursuant to Wis. Stat. § 440.22(2). Payment shall be made payable to the Wisconsin Department of Safety and Professional Services.

4. All requests, notifications and payment shall be mailed, faxed or delivered to:


Department Monitor  
Department of Safety and Professional Services  
Division of Enforcement  
1400 East Washington Ave.  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264

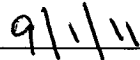
5. Violation of any term or condition of this Order, or of any limitation imposed under paragraph 3d above, may constitute grounds for revocation of Respondent's certificate as a substance abuse counselor-in-training in Wisconsin. Should the Department determine that there is probable cause to believe that Respondent has violated the terms of this Order, or any

limitation imposed above, the Department may order that Respondent's certificate be summarily suspended pending investigation of, and hearing on, the alleged violation.

6. This Order shall become effective upon the date of its signing.

**WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

By   
Michael J. Berndt, General Counsel  
On behalf of the Department

  
Date