

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
DONNA L. HARDER,	:	
RESPONDENT.	:	ORDER 0001923

[Division of Enforcement Case #11 CPC 013]

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

Donna L. Harder
9830 W. Howard Ave.
Milwaukee, WI 53228

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

Professional Counselor Section
Marriage and Family Therapy, Professional Counseling
And Social Work Examining Board
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708

PROCEDURAL HISTORY

The Division of Enforcement filed the complaint that became DHA case #SPS-11-0073 on August 18, 2011. Administrative Law Judge Jennifer E. Nashold was assigned to the case. Respondent Donna L. Harder timely filed an Answer. The parties reached a resolution and presented it to the Professional Counselor Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board (Section) for its consideration. The Section considers the resolution acceptable, and makes the following:

FINDINGS OF FACT

1. Donna L. Harder, L.P.C., ("Respondent") was born on June 22, 1957 and is licensed to practice as a professional counselor in the State of Wisconsin (license #205-125). This license was first granted on June 30, 1993.

2. Respondent's most recent address on file with the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board is 9830 West Howard Avenue, Milwaukee, Wisconsin.

3. At all times relevant to this proceeding, Respondent was working within her capacity as a professional counselor at the Milwaukee County Department of Human Services, Behavioral Health Division, located in Milwaukee, Wisconsin. Respondent's job title was Targeted Case Management (TCM) Program Coordinator and her duties included counseling clients with a history of mental health issues.

4. Wisconsin Admin. Code § MPSW 20.02(18) requires maintenance of adequate records relating to services provided a client in the course of a professional relationship. Records relating to services provided include assessment, diagnosis, treatment plan, progress notes, and discharge summary. Records are required to be prepared in a timely fashion, generally no more than one week following client contact. On March 19, 2007, Respondent was informed by her immediate supervisor that all entries of service must be entered into client records on the same day of treatment or at least within 24 hours.

5. On March 25, 2011, the Behavioral Health Division (BHD) began an investigation of Respondent. The County Department of Audit assisted the investigation and requested to review ten of Respondent's clients' files.

6. Respondent could not produce any part of three of the ten files she was requested to produce for review.

7. Of the seven client files Respondent produced, one was devoid of any notes from Respondent's treatment of her client since the client was transferred to Respondent's care in June 2010.

8. Of the seven client files Respondent produced, one was devoid of any notes from Respondent's treatment of her client since the client's admission into Respondent's care in March 2001. Some notes of this client's treatment were provided later by Respondent on loose notes, dated between March 19, 2001 and February 15, 2011. For the period of January 1, 2006 to November 30, 2010 alone, Respondent documented 172 service dates that were unsupported by treatment notes.

9. Of the five client files with Respondent's notes of treatment, Respondent's last entry for each file dated between 2006 and 2010. Respondent also provided incomplete loose notes for four of these clients, dated between March 19, 2001 and March 23, 2011. All five

clients are current clients; the four clients with loose treatment notes had been seen by Respondent within a month of the request to produce her records.

10. Respondent's Service Activity Logs showed that between 2006 and 2010, Respondent logged 295 service dates that were unsupported by treatment documentation.

11. On March 31, 2011, it was discovered that Respondent is a beneficiary of Client X's life insurance policy. The insurance application was dated June 1, 2005. Respondent did not inform her supervisor of her status as a beneficiary of a client's life insurance policy.

12. Being a beneficiary of Client X's life insurance may impair Respondent's objectivity in treating Client X, and may create a conflict between Client X's mental health interests and Respondent's financial interests.

13. On April 7, 2011, BHD contacted Client X, stating that BHD found the insurance policy. Client X acknowledged that she was aware that Respondent was a beneficiary and stated that "It is my life insurance and I can list any friend that I want to."

14. During BHD's investigation of Respondent, a receipt was found for a purchase of cosmetic products from Client B, an Avon Products, Inc. representative.

15. During BHD's investigation of Respondent, four Incident/Risk Management Reports submitted by various case managers were found, dated February 12, 2004, March 10, 2006, November 23, 2009 and October 21, 2010. Respondent failed to record a management review of any of the reports and failed to submit the reports to her supervisor. BHD Central Quality Assurance Department has no record of the four incidents being reported. One report involved an allegation of rape of a BHD client on the property of a BHD Targeted Case Management community provider.

16. During BHD's investigation of Respondent, a death certificate was found for Client C, who died on February 9, 2010. Respondent failed to notify BHD administration of Client C's death or provide Client C's record to BHD.

17. Respondent is required by BHD Policy to file an Incident/Risk Management Report for all deaths of clients. Further, Respondent is required by BHD Policy to notify the program administrator or the administrator on call immediately upon receipt of an Incident/Risk Management Report.

18. During BHD's investigation of Respondent, a total of 117 filled bottles of medication and three paper bags with various loose pills were found in Respondent's office. The medications were prescribed to various clients and included psychotropic and narcotic medications. The medications were scattered, unsecured, throughout Respondent's office.

19. Respondent is required by BHD Policy to store medication safely, securely, and properly. Controlled substances must be stored in compliance with federal and state regulations.

20. During BHD's investigation of Respondent, an un-cashed check from Blue Cross Blue Shield, dated February 21, 2002, was located. The check was made out to Milwaukee County BHD, in the amount of \$4,257.90, for services rendered. The check was not forwarded to BHD, resulting in loss of revenue.

21. Respondent is required by BHD policy to forward payments to BHD to the appropriate administration for processing.

22. During BHD's investigation of Respondent, numerous boxes of blank checks and duplicate check copies were located. The checks were from various financial institutions of both Respondent's TCM clients and other individuals. The Social Security Administration confirmed on April 1, 2011 that Respondent does not currently have a payee relationship with any individual.

23. During BHD's investigation of Respondent, Respondent removed packages of checks for three individuals. Respondent claimed that she was the designated payee for these individuals and that none of the individuals were county clients. It was subsequently learned that one individual, Client A, had been in fact a county client, discharged in 2009, and that Client A did not have a consumer financial file on record. Further, the Social Security Administration confirmed that Respondent did not have a payee relationship with any of these three individuals.

24. BHD Policy allows a case manager to act as a representative payee for his or her client if the client is unable to manage their financial responsibilities and if a payee relationship is established through one of two methods: (1) enrollment in financial management services through the Social Security Administration or other legally mandated benefits program, or (2) the client signs a voluntary Authorization for Management of Financial Affairs form, which will be kept in a newly created consumer financial file.

25. During BHD's investigation of Respondent, numerous checks from Client A, made out to Respondent without corresponding receipts, were found. Multiple checks were in excess of \$500.00.

26. Respondent neither admits nor denies the allegations, but agrees that the facts as set forth above are legally sufficient to support the Conclusions of Law and Order below. In the interest of resolving this matter without further expense or hearing, and for the purposes of the resolution of the case before the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board only, Respondent agrees to entry of this Final Decision and Order.

CONCLUSIONS OF LAW

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

2. Respondent, by engaging in the conduct set forth in paragraphs 6-10, has failed to maintain adequate records relating to services provided to a client, which constitutes unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(18) and subjects Respondent to discipline pursuant to Wis. Stat. § 457.26(2)(f).

3. Respondent, by engaging in the conduct set forth in paragraph 11, has failed to avoid dual relationships or relationships that may impair one's objectivity or create a conflict of interest, to wit, Respondent was a life insurance beneficiary of an individual she treated, which constitutes unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(13) and subjects Respondent to discipline pursuant to Wis. Stat. § 457.26(2)(f).

4. Respondent, by engaging in the conduct set forth in paragraph 14, has failed to avoid dual relationships or relationships that may impair one's objectivity or create a conflict of interest, to wit, Respondent formed a secondary business relationship with an individual she treated, which constitutes unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(13) and subjects Respondent to discipline pursuant to Wis. Stat. § 457.26(2)(f).

5. Respondent, by engaging in the conduct set forth in paragraphs 15, 16, 18, 20, 22, 23 and 25, has demonstrated a pattern of negligence that she knew or should have known failed to comply with the standards of practice, which constitutes unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(22) and subjects Respondent to discipline pursuant to Wis. Stat. § 457.26(2)(f).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Section accepts the resignation and surrender of Respondent's license and all rights and privileges attendant to the license.

IT IS FURTHER ORDERED that:

2. Within fourteen (14) days of the date of this Order, Respondent shall mail or physically deliver all indicia of licensure to the Department Monitor at the address below.

3. Within ninety (90) days from the date of this Order, Respondent shall pay costs of this proceeding in the amount of EIGHT HUNDRED FIFTY DOLLARS (\$850.00). Payment shall be made payable to the Wisconsin Department of Safety and Professional Services and mailed to:

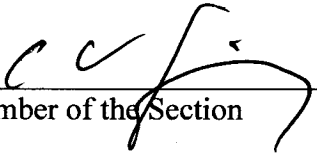
Department Monitor
Division of Enforcement
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817

Fax (608) 266-2264

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

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

By:


A member of the Section


Date