

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	DHA case SPS 12-0015
	:	FINAL DECISION AND ORDER
MARIO W. EINSMAN,	:	
RESPONDENT.	:	ORDER 0002066

Division of Enforcement Case # 10 SOC 006

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

Mario W. Einsman
307 West 8th Street
Winona, MN 55987

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

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

PROCEDURAL HISTORY

The Division of Enforcement filed a formal complaint in this matter on February 22, 2012. Respondent Mario Einsman, by his attorney Patrick H. Elliott, filed an answer on March 5, 2012. Administrative Law Judge Jennifer Nashold presided at prehearing conferences on March 26, May 16, and June 20, 2012. 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 Social Worker Section of the Marriage and Family Therapy, Professional Counseling, and Social Worker Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Mario W. Einsman (D.O.B.: May 8, 1946) is licensed as a social worker in the state of Wisconsin (license # 4231 - 123). This license was first granted on October 30, 1995.
2. Respondent's most recent address on file with the Social Worker Section is 307 W. 8th Street, Winona, Minnesota.
3. Patient A. was a child born on March 11, 1993, a resident of LaCrosse County, Wisconsin at all times relevant to this proceeding.
4. While Respondent was working as a social worker at Winona Counseling Clinic/Associates in Counseling, he saw Patient A. twenty-nine times between May 20, 2004 and November 11, 2007.
5. While Respondent was working as a social worker at Associates in Counseling in La Crosse, Wisconsin, he saw Patient A. two times in 2008.
6. On October 2, 2009, Patient A. was seen by Jeffrey K. Buikema, a professional counselor and marriage and family therapist, for an initial session. Patient A. disclosed a history of abuse and sexual abuse during childhood. Patient A. and Patient A.'s mother told Buikema that Patient A. had been in treatment with Respondent, that he had been told of the abuse and sexual abuse, and that neither Patient A. nor Patient A.'s mother knew whether Respondent had reported it as required by law.
7. Respondent confirms that Patient A. reported the abuse and sexual abuse to him, and he asserts that he telephoned LaCrosse County Human Services and inquired about how to make a report of possible sexual abuse of a child, and that he was told that he could report it, but he was also told that "the occurrence was past the statute of limitation."

8. LaCrosse County Human Services Department does not have any record that Respondent reported Patient A.'s report of abuse and sexual abuse to La Crosse County.

9. The duty to report sexual or physical abuse of a child is not dependent on a statute of limitations.

CONCLUSIONS OF LAW

1. The Wisconsin Social Worker Section of the Marriage and Family Therapy, Professional Counseling, and Social Worker 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 failing to report the sexual abuse of a minor, as described above, has committed unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license previously issued to Mario W. Einsman, (License No. 4231-123) is hereby **SUSPENDED** for a period of one month.

IT IS FURTHER ORDERED that:

2. Respondent shall, within ninety (90) days of the date for this Order, pay costs of this proceeding in the amount of One Thousand Six Hundred Fifty (\$1,650.00) Dollars. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, 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

3. 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 Board

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 Respondent fails to timely pay costs as ordered, Respondent's license to practice as a clinical social worker, license #4231-123, SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

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

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

By: Eire Alon
A Member of the Board EW

9/19/12
Date