

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

CYNTHIA L. WEISS,  
RESPONDENT.

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**FINAL DECISION AND ORDER**

**ORDER 0002379**

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Division of Legal Services and Compliance<sup>1</sup> Case No. 11 SOC 060

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

Cynthia L. Weiss  
3429 N. 11<sup>th</sup> St., #2  
Sheboygan, WI 53083

Social Worker Section  
Marriage & Family Therapy, Professional Counseling & Social Work Examining  
Board  
P.O. Box 8935  
Madison, WI 53708-8935

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 8935  
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Social Worker Section of the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board (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, Conclusions of Law and Order.

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<sup>1</sup> The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

## FINDINGS OF FACT

1. Respondent Cynthia Lynn Weiss, (dob: November 14, 1966) is licensed in the State of Wisconsin as a Licensed Clinical Social Worker, having license number 123-3891, first issued on June 30, 1995 and current through February 28, 2013. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1709 Patricia Circle, Sheboygan, Wisconsin 53083.
2. Respondent has been diagnosed, and is being treated, for anxiety, depression, alcohol and benzodiazepine dependence, a seizure disorder, and Guillain-Barré syndrome. Her substance dependence is in remission; Respondent represents to the Board that since August 2011, she has not consumed beverage alcohol, nor unprescribed benzodiazepines, nor prescribed benzodiazepines in an unprescribed manner or amount.
3. While employed as a social worker by the Sheboygan County Department of Health and Human Services, Respondent's performance was impaired in 2010 and 2011 by her illnesses, or the appropriate treatment for them, to such an extent that she was unable to complete the necessary paperwork in a timely manner, maintain required contact with clients, take timely action with respect to client needs, follow through on plans made for the benefit of clients, or file documents in client files in a timely manner. Respondent also frequently required naps during working hours.

## CONCLUSIONS OF LAW

1. The Social Worker Section of the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 457.26, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. The conduct described in the Findings of Fact, falls within the definition set forth in Wisconsin Administrative Code § MPSW 20.02(9).
3. As a result of the above conduct, Cynthia L. Weiss is subject to discipline pursuant to Wis. Stat. § 457.26(2)(e) and (f).

## ORDER

The attached Stipulation is accepted.

## SUSPENSION

- A.1. The license of Cynthia L. Weiss, LCSW, to practice as a clinical social worker in the State of Wisconsin is SUSPENDED for an indefinite period.
- A.2. Respondent shall mail or physically deliver all indicia of Wisconsin clinical social worker licensure to the Department Monitor within 14 days of the effective date of this order. Limited credentials can be printed from the Department of Safety and Professional Services website at <http://dsps.wi.gov/index.htm>.

- A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active clinical social work for every year the suspension is stayed, the Section may grant a petition by the Respondent under paragraph D.6. for return of full Wisconsin licensure. The Section may, on its own motion or at the request of the Department Monitor, grant full Wisconsin licensure at any time.

#### STAY OF SUSPENSION

- B.1. The suspension of Respondent's Wisconsin clinical social worker license may be stayed upon Respondent petitioning the Section and providing proof, which is determined by the Section or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order.
- B.2. The Section or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. A substantial violation includes, but is not limited to, a positive drug or alcohol screen. A repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Section may, in conjunction with any removal of any stay, prohibit the Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
- (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services pursuant to Wis. Stat. § 440.11; or
  - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Section or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Section or its designee.
- B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

#### CONDITIONS AND LIMITATIONS

##### Treatment Required

- C.1. Respondent shall enter into, and shall continue, drug and alcohol treatment with a treater acceptable to the Section or its designee ("Treater"). Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater. Treatment shall include components to address respondent's anxiety and depression, and any other mental health condition with which she is diagnosed.

- C.2. Respondent shall immediately provide Treater with a copy of this Final Decision and Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation and treatment as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as required by this Order, Respondent shall immediately seek approval of a successor Treater by the Section or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the Section or its designee, after receiving a petition for modification as required by D.4., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in drug and alcohol treatment. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

#### Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Section, its designee, and any employee of the Department of Safety and Professional Services, Division of Legal Services and Compliance to: (a) obtain all specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation with Treater and treatment facilities and personnel, laboratories and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

#### AA/NA Meetings

- C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholics Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Respondent at such meetings shall be verified and reported quarterly to Treater and the Department Monitor.

#### Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign

a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, Treater and the Section or its designee. Copies of these releases shall immediately be filed with the Department Monitor.

- C.10. Respondent shall abstain from all use of over-the-counter medications or other substances (including but not limited to natural substances such as poppy seeds) which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation. It is Respondent's responsibility to educate himself or herself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.
- C.11. Respondent shall report to Treater and the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.
- C.12. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph C.11.

#### Drug and Alcohol Screens

- C.13. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department ("Approved Program").
- C.14. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
  - (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
  - (b.) Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.15. The Approved Program shall require the testing of specimens at a frequency of not less than 49 times per year, for the first year of this Order. After the first year, Respondent may petition the Section on an annual basis for a modification of the frequency of tests. The Section may adjust the frequency of testing on its own initiative at any time.

- C.16. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Section or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
- C.17. In addition to any requirement of the Approved Program, the Section or its designee may require Respondent to do any or all of the following: (a) submit additional specimens; (b) furnish any specimen in a directly witnessed manner; or (c) submit specimens on a more frequent basis.
- C.18. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- C.19. The Approved Program shall submit information and reports to the Department Monitor as directed.

Practice Limitations

- C.20. [Omitted]
- C.21. Respondent shall practice only under the direct supervision of a licensed clinical social worker or other licensed mental health care professional approved by the Section or its designee.
- C.22. Respondent shall practice only in a work setting pre-approved by the Section or its designee.
- C.23. [Omitted]
- C.24. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel at all settings where Respondent works as a social worker or care giver or provides health care, currently or in the future.
- C.25. It is Respondent's responsibility to arrange for written reports from supervisors to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active clinical social work practice worked during that quarter. If a report indicates poor performance, the Section may institute appropriate corrective limitations, or may revoke a stay of the suspension, in its discretion.
- C.26. Respondent shall report to the Section any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

## MISCELLANEOUS

### Department Monitor

- D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 8935, Madison, WI 53708-8935  
Telephone (608) 267-3817; Fax (608) 266-2264  
[DSPSMonitoring@wisconsin.gov](mailto:DSPSMonitoring@wisconsin.gov)

### Required Reporting by Respondent

- D.2. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of the Treater, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent.
- D.3. Every three (3) months the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

### Change of Treater or Approved Program by Section

- D.4. If the Section or its designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Section or its designee may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

### Petitions for Modification of Limitations or Termination of Order

- D.5. Respondent may petition the Section on an annual basis for modification of the terms of this Order, however no such petition for modification shall occur earlier than one year from the date of the initial stay of the suspension. Any petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.
- D.6. Respondent may petition the Section for termination of this Order anytime after five years from the date of the initial stay of the suspension. However, no petition for termination shall be considered without a showing of continuous, successful compliance with the terms of the Order, for at least five years.



Costs of Compliance

- D.7. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

- D.8. Respondent shall pay costs of \$1300 to the Department of Safety and Professional Services, within one year of this Order. Payment should be directed to the attention of the Department Monitor at the address in paragraph D.1., above. In the event Respondent fails to timely submit any payment of costs, the Respondent's license (#123-3891) may, in the discretion of the Section or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

Additional Discipline

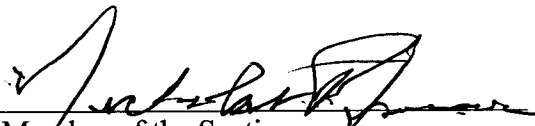
- D.9. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 457.26(2).

Effective Date

- D.10. This Order is effective on the date of its signing.

WISCONSIN SOCIAL WORKER SECTION OF THE MARRIAGE & FAMILY  
THERAPY, PROFESSIONAL COUNSELING & SOCIAL WORK EXAMINING  
BOARD

by:

  
A Member of the Section

Date

7-28-13

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