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

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	**FINAL DECISION AND ORDER**
CHERYL K. ROTHERHAM, L.C.S.W. RESPONDENT.	:	0002561

Division of Legal Services and Compliance[2] Case Nos. 08 SOC 11, 09 SOC 28, 09 SOC 41

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

Cheryl K. Rotherham
The Willard Building
804 Willard Drive
Green Bay WI 54304

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

A disciplinary proceeding was commenced in this matter by the filing of a Notice of Hearing and Complaint with the Section on March 8, 2012. On July 24, 2013, the Section delegated authority to make the final decision and order in this matter, to the Administrative Law Judge assigned.

Prior to the hearing on the Complaint, the parties in this matter agreed to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the ALJ. The ALJ has reviewed this Stipulation and considers it acceptable.

Accordingly, the ALJ in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

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[2] The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

FINDINGS OF FACT

1. Respondent Cheryl K. Rotherham, (dob: April 17, 1951) is licensed in the State of Wisconsin as a licensed clinical social worker, having license number 1576-123, first issued on October 27, 1993, and current through February 28, 2013. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is The Willard Building, 804 Willard Drive, Green Bay, WI 54304. During all times relevant to this matter, Respondent provided services to clients at Child and Family Counseling (CFC), Green Bay, Wisconsin.

COUNT I

2. On and between September 4, 2007, and September 17, 2008, Respondent provided counseling services to client DM, a woman born in 1973.

3. During the course of Respondent's therapy, Respondent provided DM with a quantity of Provigil, a schedule IV medication, which had been turned in by another client. The medication was in a pharmacy bottle, with the original patient's name removed. At the time Respondent gave it to DM, it was not labeled for DM, nor did it bear other labeling information specific to DM.

4. During the course of this client's therapy, Respondent provided some sample medications (Invega®, Lamictal®, Lunesta®, Luvox®, Pristiq®, and Requip®) to her. Respondent knew or should have known that nonclinical staff provided sample medications to the client, without assuring that the medication was properly prescribed and supervised by a physician. During this period, the client was taking excessive dosages of individual medications, and taking multiple medications without adequate medical indication. During the course of Respondent's therapy, Respondent failed to chart all medications, including the quantities, provided. Respondent also failed to provide appropriate information on the possible adverse effects of these medications, or the effects of interactions between the client's medications.

5. The client has testified that on at least one occasion during the course of Respondent's therapy, Respondent provided the client with a prescription order for medication, which bore the signature of the psychiatrist associated with Respondent in practice. This prescription had been provided to Respondent, pre-signed in blank, and were then filled out by Respondent, on her own authority, and given to the client to fill at a pharmacy. Respondent denies this. The Section credits the testimony of the client.

6. Following termination of the professional relationship with the client on September 23, 2008, Respondent failed to prevent non-clinical staff from sending additional samples of prescription-only medications, to the client, on September 25, 2008 and October 16, 2008.

COUNT II

7. During an investigation of the therapy provided to client SM, a woman born in 1977, by Respondent and the psychiatrist with whom she is associated in practice, Respondent made the following incorrect statements to the investigator for the Section:

a. Respondent stated that the medication management of the client was complicated by the client's reported inconsistent use of prescribed medication. In fact, the client took all her medications as prescribed, and there is no chart note to the contrary.

b. Respondent stated that the client was last seen therapeutically by Respondent and the psychiatrist with whom she is associated in practice on June 5, 2008. In fact, Respondent last saw the client therapeutically on April 24, 2008, and the psychiatrist last saw her therapeutically on April 9, 2008.

8. The client testified that during the course of her therapy, Respondent was, effectively, prescribing psychotropic medications to the client on her own, including by providing sample medications to her. During this period, the client was overprescribed dosages of individual medications, and prescribed multiple medications without adequate medical indication. Respondent, in effect, prescribed and managed lithium without appropriate monitoring, including appropriate blood tests to assure that the client's lithium levels were appropriate. Respondent denies this. The Section credits the client's testimony.

COUNT III

9. On January 23, 2008, Respondent had an initial office encounter with client AG, a girl born in October, 1991. At the time, the psychiatrist who normally practiced in Respondent's office was on medical leave, and the practice was being "covered" by another psychiatrist, who was there on a very limited basis. Respondent's office notes indicated that her initial clinical impression was that the client was bipolar with suicidal feelings, rule out ADHD; Respondent knew at the time that the client was being prescribed fluoxetine 40 mg for depression, by another physician. Respondent charted that she "collaborated" with the covering psychiatrist, who authorized her to give the client a starter package of Lamictal®. This was furnished to the client by Respondent, from the office's sample supply.

10. AG had two subsequent sessions with Respondent, but at no time saw any other clinician, including any physician, in Respondent's office. Respondent provided the client with samples of Lamictal® throughout the time that Respondent provided counseling services to the client. Other than the initial starter package, the dispensing of this medication was not charted.

11. At no time did Respondent review any possible adverse effects of the medication with AG or her parents, including the effect listed in the black box warning for this medication: disfiguring or life-threatening rash. Respondent did not review, with the client or her parents, the label precaution that treatment with antidepressants is associated with an increased risk of suicidal thinking and behavior in children and adolescents with major depressive disorder and other psychiatric disorders.

COUNT IV

12. For at least the past the past five years, Respondent has been associated in practice with a psychiatrist, with whom she has an intimate relationship. This dual relationship has resulted in his abdicating his medication management role, and has resulted in Respondent performing this function for clients, without adequate training or oversight.

CONCLUSIONS OF LAW

1. The Social Worker Section of the Wisconsin Marriage Family Therapy, and 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. By the conduct described in the Findings of Fact, Cheryl K. Rotherham violated Wis. Admin. Code §§ MPSW 20.02(intro), (1), and (18).

3. As a result of the above violations, Cheryl K. Rotherham is subject to discipline pursuant to Wis. Stat. §§ 457.26(2)(f), (g), and (h).

ORDER

1. The attached Stipulation is accepted.

2. The license to practice as a licensed clinical social worker of Cheryl K. Rotherham (license number 1576-123), is SUSPENDED for 30 days, effective on September 15, 2013.

3. The licensed clinical social worker license issued to Cheryl K. Rotherham (license number 1576-123) is LIMITED as follows: no later than six months from the date of this order, Respondent shall demonstrate satisfactory completion of one of the following, or a substantially equivalent course which has been preapproved by the Section or its designee:

a. Medical Ethics and Professionalism, Case Western Reserve University, Office of Continuing Medical Education.
b. Professional Renewal in Medicine through Ethics (PRiME), University of Medicine and Dentistry of New Jersey.
c. Professional/Problem Based Ethics (ProBE),Competency Assessment Educational Intervention, Denver, Colorado.

4. Continuing education credits from the course shall not be used to satisfy the continuing education requirement for renewal of licensure.

5. The licensed clinical social worker license issued to Cheryl K. Rotherham (license number 1576-123) is LIMITED as follows:

a. Respondent shall not concurrently treat any patient of William Bradford Lyles, M.D.

b. Respondent shall not transfer any medication to any patient, directly or indirectly.

c. Respondent shall not engage in solo practice. Respondent shall practice only in a work setting which shall assure that Respondent's practice is subject to supervision by a clinical social worker, licensed psychologist ,or psychiatrist. 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, and shall promptly answer any questions posed by the Department Monitor, the Section, or its designee, concerning her work setting.

d. 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, currently or in the future.

e. It is Respondent's responsibility to arrange for written reports from her supervisor 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 practice worked during that quarter. If a report indicates unsatisfactory performance, the Section may institute appropriate corrective limitations, in its discretion. Respondent shall have the opportunity to be heard before any such limitation is imposed.

6. Within two years from the date of this Order, Respondent shall pay COSTS of this matter in the amount of $8,000, and shall make minimum payments of $1,000 per quarter.

7. Payment of costs (payable to the Wisconsin Department of Safety and Professional Services), all required written reports, and proof of satisfactory completion of the continuing education shall be sent to the Department Monitor at the address below:

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

8. 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 Section in its discretion 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 submit payment of the costs as ordered, or fails to submit any ordered report as set forth above, or fails to demonstrate satisfactory completion of the ordered continuing education, Respondent's license (no. 1576-123) may, in the discretion of the Section or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs, demonstrated satisfactory completion of the ordered continuing education, and submitted the report.

9. 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: _____ Aug. 12, 2013
Jennifer Nashold, Administrative Law Judge Date

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