

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DENISE J. EBERHART,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:
: **0003523**

Division of Legal Services and Compliance Case No. 14 RSA 030

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

Denise J. Eberhart
351 N. Westhaven Dr., Apt. A103
Oshkosh, WI 54904

Wisconsin Department of Safety and Professional Services
P.O. Box 8368
Madison, WI 53708-8368

Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 Wisconsin 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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Denise J. Eberhart, substance abuse counselor-in training, (dob December 21, 1962) is certified in the state of Wisconsin to practice substance abuse counseling, having certification number 16663-130, first issued on July 16, 2012 and current through February 28, 2015. Respondent's most recent address on file with the Department is 351 North Westhaven Drive, Apartment A103, Oshkosh, Wisconsin 54904.

2. Respondent has a history of alcohol addiction, and received treatment for her addiction in 2003 and in 2013.

3. Respondent admits that in 2013 her use of alcohol caused her to call in sick to work.
4. Respondent admits that she also relapsed in May and June of 2014.
5. Respondent is currently sober and is attending eight Alcoholics Anonymous meetings every week.
6. Respondent is no longer employed as a substance abuse counselor and has no plans to practice counseling in the future.
7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction to act in this matter pursuant to Wis. Stat. § 440.88, 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, Respondent Denise J. Eberhart, engaged in unprofessional conduct as defined in Wis. Admin. Code § SPS 164.01(2)(h), by using alcohol or any drug to an extent that such use impairs the ability of the substance abuse professional to safely or reliably practice.
3. As a result of the violations noted in the Conclusions of Law, Respondent Denise J. Eberhart, is subject to discipline pursuant to Wis. Stat. § 440.88(6).

ORDER


1. The attached Stipulation is accepted.
2. The SURRENDER of the certificate and privilege of Denise J. Eberhart, substance abuse counselor-in training, (certificate no. 16663-130) to practice substance abuse counseling in the state of Wisconsin is hereby accepted.
3. In the event that Respondent petitions the Department for recertification as a substance abuse counselor in the future, the Department may enter an order denying such petition without further notice or hearing. Whether to grant recertification and whether to impose any limitations or restrictions on any certificate granted shall be in the discretion of the Department.
4. Before Respondent may petition for recertification, she shall pay COSTS of this matter in the amount of \$150.00.

5. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent by Respondent 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 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

By: 
Michael J. Bergt, Chief Counsel
On Behalf of the Department

10/16/14
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DENISE J. EBERHART,
RESPONDENT.

:
:
: STIPULATION
:
:

0003523

Division of Legal Services and Compliance Case No. 14 RSA 030

Respondent Denise J. Eberhart, and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Department of Safety and Professional Services (Department). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Order, if adopted in the form as attached.

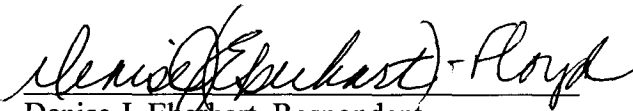
5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the

Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance may appear before the Department, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

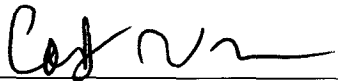
7. Respondent is informed that should the Department adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending that the Department adopt this Stipulation and issue the attached Final Decision and Order.



Denise J. Elberhart, Respondent
351 N. Westhaven Dr., Apt. A103
Oshkosh, WI 54904
License no. 16663-130

9/22/14
Date



Cody W. Wagner, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

9/23/14
Date