

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

DIANA L. ANDERSON,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0005087

Division of Legal Services and Compliance Case No. 16 RSA 009

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

Diana L. Anderson
17880 W. National Avenue
New Berlin, WI 53146

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 Diana L. Anderson (dob June 25, 1972) is certified in the state of Wisconsin as a substance abuse counselor-in training (SAC-IT), having certificate number 17547-130, first granted on July 27, 2015 and current through February 28, 2017. Respondent's most recent address on file with the Department is 17880 West National Avenue, New Berlin, Wisconsin 53146.

2. At all times relevant to this proceeding, Respondent was employed as a counselor by a community services organization and working at a correctional center (the Center) located in Milwaukee, Wisconsin.

3. Inmate A and Inmate B were inmates at the Center and were each on Respondent's caseload at different times.

4. The Center received information that Respondent was in a romantic relationship with one or more inmates and conducted an investigation.

5. The investigation into Respondent's relationship with Inmate A revealed the following:

- a. Between February 15, 2016, and April 1, 2016, 265 phone calls between Inmate A and Respondent were made.
- b. Between March 2, 2016, and March 27, 2016, 16 personal emails were exchanged between Respondent and Inmate A.
- c. Between February 29, 2016, and March 24, 2016, Respondent engaged in discussions of explicit sexual nature with Inmate A.
- d. Respondent implied that she could get drugs for Inmate A when he was released.

6. The Center conducted an investigation into Respondent's relationship with Inmate B which revealed the following:

- a. Between July 15, 2015, and August 30, 2015, 207 phone calls between Respondent and Inmate B were made.
- b. Between June 28, 2015, and August 30, 2015, Respondent and Inmate B exchanged approximately 215 emails.
- c. Respondent arranged legal assistance for Inmate B.

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, Diana L. Anderson engaged in unprofessional conduct as defined by Wis. Admin. Code § SPS 164.01(2)(m), by engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a patient.

3. By the conduct described in the Findings of Fact, Diana L. Anderson engaged in unprofessional conduct as defined by Wis. Admin. Code § SPS 164.01(2)(n), by failing to avoid dual relationships or relationships that may impair the substance abuse professional's objectivity or create a conflict of interest.

4. As a result of the violations noted in the Conclusions of Law, Respondent Diana L. Anderson, is subject to discipline pursuant to Wis. Stat. § 440.88(6).

ORDER

1. The attached Stipulation is accepted.

2. The certificate to practice as a substance abuse counselor-in training in the state of Wisconsin issued to Diana L. Anderson (certificate # 17547-130) is SUSPENDED for a period of at least two (2) years. This suspension is retroactive to May 18, 2016.

3. Respondent shall not engage in any practice as a substance abuse counselor while her credentials to do so are suspended.

4. After two years from May 18, 2016, Respondent may petition the Department to terminate the suspension upon proof satisfactory to the Department or its designee of the following:

a. Respondent shall successfully complete six (6) hours of education on the subject of professional boundaries and three (3) hours of education on the subject of ethics. The course(s) must be pre-approved by the Department's designee. Successful completion requires that Respondent take and pass any exam offered for the course(s). Courses taken without preapproval may NOT be used to satisfy the remedial education requirements of this Order.

i. Before filing any petition to terminate the suspension set out in paragraph 2 of this order, Respondent shall submit proof of successful completion of the remedial education in the form of verification from the institution or organization that provided the education.

ii. None of the remedial education completed pursuant to this requirement may be used to satisfy any education requirements that have been or may be instituted by the Department.

b. Respondent has paid the Division's costs in investigating this matter.

- c. Within the three months immediately preceding the petition to terminate the suspension, Respondent shall have undergone a fitness to practice examination, as follows:
- i. Respondent shall have, at her own expense, undergone a fitness to practice evaluation with a pre-approved psychiatrist or psychologist experienced in evaluating mental health professionals' fitness for duty:
 - ii. The provider performing the evaluation must not have treated Respondent and shall have been approved by the Department or its designee, with the opportunity for the Division of Legal Services and Compliance to make its recommendation, prior to the evaluation being performed; and
 - iii. Within fifteen (15) days of the completion of the assessment, a written report regarding the results of the assessment shall be submitted to the Monitor at the address below. The report shall address whether Respondent suffers from any condition(s) that may interfere with her ability to practice safely and, if so, shall provide any recommended limitations for safe practice.
 - iv. Prior to evaluation, Respondent shall provide a copy of this Final Decision and Order to the health care provider.
 - v. Respondent shall execute necessary documents authorizing the Division to obtain records of evaluation, and to discuss Respondent and her case with the evaluator. Respondent shall execute all releases necessary to permit disclosure of the final evaluation report to the Department or its designee. Certified copies of the final evaluation report shall be admissible in any future proceeding before the Department.
 - vi. Respondent shall identify and provide the evaluator with authorizations to communicate with all physicians, mental health professionals, and facilities at which Respondent has been treated or evaluated.
 - vii. Respondent shall comply with any and all reasonable requests by the evaluator for purposes of scheduling and completing the evaluation, including additional testing the examiner deems helpful. Any lack of reasonable and timely cooperation, as determined by the examiner, may constitute a violation of an order of the Department.

- viii. Respondent is responsible for timely payment of the costs of the examination. Payment shall be made directly to the evaluator.
- ix. Respondent must provide proof sufficient to convince the Department that Respondent is able to practice with reasonable skill and safety of patients and the public and does not suffer from any condition which prevents Respondent from practicing in that manner.
- x. If the Department determines that Respondent is fit to practice, the Department may nonetheless limit Respondent's license in a manner to address any concerns the Department has as a result of the conduct set out in the Findings of Fact and to address any recommendations resulting from the assessment, including, but not limited to:
 - 1. Psychotherapy, at Respondent's expense, by a therapist approved by the Department or its designee, to address specific treatment goals, with periodic reports to the Department by the therapist.
 - 2. Additional professional education in any identified areas of deficiency.
 - 3. Restrictions on the nature of practice or practice setting or requirements for supervision of practice by a professional approved by the Department or its designee, with periodic reports to the Department by the supervisor.
- d. The suspension shall be terminated if the fitness to practice evaluation indicates to the satisfaction of the Department or its designee that Respondent does not then suffer from any illness or condition that renders her unable or unwilling to safely and reliably engage in the practice of substance abuse counseling. The Department's decision is discretionary and is not subject to review.
- e. Upon reviewing the report of the fitness to practice evaluation, if the Department or its designee decides to terminate the suspension, the Department or its designee may impose whatever conditions the Department or its designee deems necessary to require Respondent to comply with recommendations of the evaluator.

5. Upon the Board's grant of Respondent's petition to terminate the suspension of Respondent's license, the Respondent's license shall be limited as follows:

- a. Respondent shall provide her employer with a copy of this Order before engaging in any counseling employment.
- b. For a period of at least two (2) years while working at least half-time as a counselor, Respondent shall work only under direct supervision, and only in a work setting pre-approved by the Board. Respondent shall not work in a correctional setting.
- c. For a period of at least two (2) years while working at least half-time as a counselor, Respondent shall arrange for her employer(s) to send to the Department Monitor quarterly reports, reporting the terms and conditions of Respondent's employment and evaluating her work performance.
- d. Respondent shall notify the Department Monitor of any change of counseling employment during the time in which the Order is in effect. Notification shall occur within fifteen (15) days of a change of employment and shall include an explanation of the reasons for the change.
- e. After two (2) years of working at least half-time as a counselor, Respondent may petition the board for the modification or termination of the limitation. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit.

6. The suspension set out in paragraph 2 of this Order shall not be terminated until Respondent pays COSTS of this matter in the amount of \$2125.00.


7. Requests for approval of education courses, approval of the evaluator, the report of fitness to practice, quarterly evaluation reports, completion certificates, and payment of costs (made payable to the Wisconsin of Safety and Professional Services) shall be sent by Respondent to the Monitor at the address below:

Monitor
Division of Legal Services and Compliance
of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
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 certificate. The Department in its discretion may in the alternative extend Respondent's suspension if or impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

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

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

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

12/16/16
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DIANA L. ANDERSON,
RESPONDENT.

:
:
: STIPULATION
:
:

0005087

Division of Legal Services and Compliance Case No. 16 RSA 009

Respondent Diana L. Anderson, 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.


Diana L. Anderson, Respondent
17880 W. National Avenue
New Berlin, WI 53146
WI License # 17547-130

12/1/14
Date


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

12/12/16
Date