

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
ANNA M. NICCOLAI, :
RESPONDENT. :

0005606

Division of Legal Services and Compliance Case No. 16 SOC 038

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

Anna M. Niccolai
1428 Glenn Pl., Apt. 1
Eau Claire, WI 54703

Social Worker Section of the Wisconsin Marriage and Family Therapy, Professional
Counseling, and Social Work Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
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 Social Worker Section of the Wisconsin 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.

FINDINGS OF FACT

1. Respondent Anna M. Niccolai (DOB June 24, 1979) is certified in the state of Wisconsin to practice social work, having certificate number 11884-120, first granted on March 17, 2015, and current through February 28, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1428 Glenn Place, Apartment 1, Eau Claire, Wisconsin 54703.

2. Respondent was employed as a social worker at correctional institution (Institution), located in Black River Falls, Wisconsin, in May and June 2016. Respondent resigned from this position effective June 23, 2016.

3. On or about May through June 2016, the Respondent purchased and provided Inmate A with a pair of shoes and a Father's Day card, as well as other items of personal nature.

4. On or about May through June 2016, Respondent wrote and provided Inmate A with multiple personal letters, and received from Inmate A the same.

5. On October 5, 2015, in Jackson County Circuit Court case number 2016CF198, Respondent was charged with one (1) count of second degree sexual assault by correctional staff, in violation of Wis. Stat. § 940.225(2)(h), a felony; and one (1) count of delivering illegal articles to an inmate, in violation of Wis. Stat. § 302.095(2), a felony.

6. On May 15, 2017, Respondent pled no contest to one (1) count of fourth degree sexual assault, in violation of Wis. Stat. § 940.225(3m), a misdemeanor, and to one (1) count of delivering illegal articles to an inmate, in violation of Wis. Stats. § 302.095(2), a felony.

7. The court withheld sentencing and placed Respondent on probation for a period of three (3) years. Terms of probation included 120 days of conditional jail time to begin June 15, 2017, a letter of apology to the Institution's warden and staff, compliance with treatment, evaluations, and programming deemed appropriate by the probation agent, and full-time employment. Additional conditions included no contact, directly or indirectly, either personally, by mail, telephone, or through any other person, or by any other means, with Inmate A.

8. On May 23, 2017, Inmate A was questioned about a package he received; Inmate A admitted that Respondent had sent the package containing stamps, envelopes, cigarettes, and paper, using a different name and address.

9. The package contained a receipt for the purchase of the stamps. Review of the security footage from the location for the time and date specified on the receipt showed Respondent purchasing the stamps.

10. Following Respondent's convictions, Respondent continued to contact Inmate A via telephone calls.

11. On July 25, 2017, a court review hearing was held, at the request of Respondent's probation agent, to decide whether Respondent violated the no contact with Inmate A probation limitation. Respondent's probation agent requested that the Court impose more jail time, in addition to the 120 days Respondent was currently sentenced to serve.

12. The court ordered Respondent to serve an additional 120 days of jail time, to be served consecutive to the original conditional jail time Respondent was currently serving, as a result of contacting and staying in contact with Inmate A in violation of the terms of her probation.

13. The convictions, and circumstances thereof, as detailed above, substantially relate to the practice of social work.

CONCLUSIONS OF LAW

1. The Social Worker Section of the Wisconsin 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. By the conduct described in the Findings of Fact, Anna M. Niccolai engaged in unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(2), by violating a law of any jurisdiction, the circumstance of which substantially relate to the practice under the credential,

3. By the conduct described in the Findings of Fact, Anna M. Niccolai engaged in unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(11), by engaging in sexual conduct, or any other behavior with a client which could reasonably be construed as seductive.

4. As a result of the above violations, Anna M. Niccolai is subject to discipline pursuant to Wis. Stat. § 457.26(2)(f).

ORDER

1. The attached Stipulation is accepted.

2. The certificate of Anna M. Niccolai (certificate number 11884-120), to practice social work in the state of Wisconsin is **SUSPENDED** for a minimum of two (2) years from the date of this Order.

3. No earlier than two (2) years from the date of this Order, Respondent may petition the Section to terminate the suspension upon presenting proof satisfactory to the Section or its designee of the following:

- a. Respondent has paid the Division of Legal Service's costs in investigating this matter.
- b. Within the three (3) months immediately preceding the petition to terminate the suspension, Respondent shall undergo an evaluation by a mental health care professional (Evaluator) who is competent to determine whether or not the Respondent is able to practice social work with reasonable skill and safety to patients. The Evaluator must be preapproved by the Section's Designee. Such approval is within the sole discretion of the Section's Designee.

- i. Within thirty (30) days of the completion of the evaluation, a written report, authored by the Evaluator, regarding the results shall be submitted to the Department Monitor.
- ii. In the written report, the Evaluator shall clearly identify whether or not the Respondent is fit to practice social work. Such identification shall include a detailed and thorough explanation for the Evaluator's professional opinion, and shall include a detailed summary of how the Evaluator arrived at his/her opinion and what tools or tests the Evaluator employed to arrive at his/her opinion. The written report shall evidence that the Evaluator considered the facts of this Order and their bearing on the Respondent's ability to practice social work with reasonable skill and safety.
- iii. The Evaluator shall identify restrictions on the nature of practice or practice setting or requirements for supervision of practice, if any, which are necessary to render Respondent able to practice social work with reasonable skill and safety.
- iv. The Evaluator shall identify specific mental health treatment goals, if any, which must be met before Respondent is able to practice social work with reasonable skill and safety.
- v. The Evaluator's opinions and conclusions must be rendered to a degree of reasonable professional certainty.
- vi. Respondent must provide the evaluator with a copy of this Order prior to the evaluation.
- vii. Respondent shall authorize release directly to the Evaluator of records of mental health evaluations, diagnosis, treatment and treatment summaries that Respondent has undergone and such other records that the evaluator determines are necessary to a competent evaluation.
- viii. Respondent is responsible for the costs associated with the evaluation.
- ix. Respondent shall authorize the Evaluator to discuss the results of the evaluation with the Section or its designee.
- x. If the Evaluator determines that Respondent is fit to practice, the Section may nonetheless limit Respondent's license (certificate number 11884-120) in a manner to address any concerns the Section 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 Section, or its designee, to address specific treatment goals, with periodic reports to the Section 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 Section, with periodic reports to the Section by the supervisor.
- c. The suspension shall be terminated if the fitness to practice evaluation indicates to the satisfaction of the Section 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 social work.
- d. Upon review of the report of the fitness to practice evaluation, if the Section decides to terminate the suspension, the Section may impose whatever conditions the Section or its designee deems necessary to require Respondent to comply with recommendations the of the evaluator.
4. Before the Section or its designee will consider any petition to terminate the suspension of Respondent's certificate, Respondent shall first pay COSTS of this matter in the amount of \$1,326.00.
5. Request for preapproval of the fitness to practice evaluator, reports from the fitness to practice evaluator, petition(s) for termination of the suspension, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be 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. In the event that Respondent violates any term of this Order, Respondent's certificate (no. 11884-120) to practice social work in the state of Wisconsin 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 the Order. The Section may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

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

by: 
A Member of the Section

1/30/18
Date

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

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ANNA M. NICCOLAI,
RESPONDENT.

:
:
:
:
:

STIPULATION

0005606

Division of Legal Services and Compliance Case No. 16 SOC 038

Respondent Anna M. Niccolai 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. Respondent is represented by Attorney Mario Mendoza.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Social Worker Section of the Wisconsin Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board (Section). 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 Section's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Section, 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 Section, the parties agree not to contend that the Section 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 and any member of the Section ever assigned as an advisor in this investigation may appear before the Section in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Section may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Section should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Section adopt this Stipulation, the Section'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 the Section adopt this Stipulation and issue the attached Final Decision and Order.



Anna Niccolai, Respondent
1428 Glenn Place, Unit 1
Eau Claire, WI 54703
License no. 11884-120

12-11-17

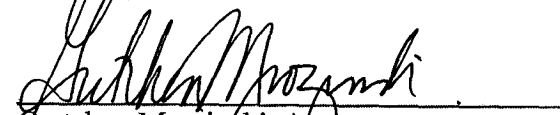
Date



Mario Mendoza, Attorney for Respondent
Murphy Desmond
33 E Main Street, Suite 500
PO Box 2038
Madison, WI 53701

12-15-17

Date



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

12-21-17

Date