

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 :
: FINAL DECISION AND ORDER
KIMBERLY J. LOHMAN, L.P.C., C.S.A.C., I.C.S.,:
RESPONDENT. :

0005782

Division of Legal Services and Compliance Case No. 16 RSA 017

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

Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S.
2658 Oakcrest Circle
Sun Prairie, WI 53590

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

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 Wisconsin Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

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

FINDINGS OF FACT

1. Respondent Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., (dob November 11, 1964) is licensed in the state of Wisconsin to practice professional counseling, having license number 6019-125, first issued on April 4, 2016, and current through February 28, 2019. Respondent is certified in the state of Wisconsin to practice clinical substance abuse counseling, having certificate number 15896-132, first issued on January 21, 2015, and current through February 28, 2019. Respondent is licensed in the state of Wisconsin to practice as an intermediate

clinical supervisor for substance abuse counseling, having license number 15467-134, first issued on February 17, 2017, and current through February 28, 2019.¹

2. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2658 Oakcrest Circle, Sun Prairie, Wisconsin 53590.

3. At all times relevant to this proceeding, Respondent was employed as the director at an outpatient and residential treatment facility (the Facility) located in Baraboo, Wisconsin. The Facility is medically monitored by a licensed physician and certified by the Department of Health Services (DHS) under Wis. Admin. Code ch. DHS 35 and Wis. Admin. Code §§ DHS 75.11, 75.12, and 75.13.

4. Respondent assumed the role of director-designee on August 16, 2015, and assumed the role of director on September 27, 2015. In these roles, Respondent was Social Worker C's supervisor at the Facility.

5. In January 2016, Social Worker C became the clinical supervisor for Respondent as she completed the supervised practice requirement to obtain full licensure in professional counseling.

6. In addition to her duties as director, Respondent also provided counseling to patients with dual diagnoses.

Client A

7. On February 8, 2016, Respondent approved the admission of Client A with dual diagnoses to the Facility. The intake assessment completed by Respondent indicated that Client A suffered from substance abuse disorder, bipolar disorder, schizoaffective disorder, and depression. Client A was also experiencing suicidal ideation.

8. The documented treatment plan contained in the clinical record, prepared by Respondent, did not address suicidality or staff monitoring of the client, though staff was emailed by Respondent on February 8, 2016, to assess for suicidality three (3) times per day.

9. The clinical record for Client A did not include a mental health assessment as required by Wis. Admin. Code § DHS 75.11(6)(b) or indicate that Client A was receiving at least one hour of individual counseling per week as required by Wis. Admin. Code § DHS 75.11(6)(f)1.

¹ Respondent is also licensed in the state of Wisconsin to practice professional counseling in training, having license number 1917-226, first issued on October 16, 2013. This license expired on October 16, 2017, and has not been renewed. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew upon payment of a fee until October 15, 2022. Respondent is certified in the state of Wisconsin to practice as a substance abuse counselor in training, having certificate number 16013-130, first issued on March 24, 2010. This certificate expired on February 28, 2015, and has not been renewed. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew upon payment of a fee until February 27, 2020. Respondent is certified in the state of Wisconsin to practice as a clinical supervisor in training for substance abuse counseling, having certificate number 15616-133, first issued on January 26, 2016, and expired on February 28, 2017. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew upon payment of a fee until February 27, 2022.

10. On May 10, 2016, Respondent was interviewed by the DHS. Respondent acknowledged she did not provide the required one hour of individual counseling per week as required by Wis. Admin. Code § DHS 75.11(6)(f)1 and was not maintaining up-to-date progress notes as required by Wis. Admin. Code § SPS 164.01(2)(t).

Client B

11. On May 3, 2016, Respondent approved the admission of Client B with dual diagnoses to the Facility. Client B was on a mental health commitment order from Dane County, Wisconsin.

12. On May 10, 2016, the physician working with Client B documented an anticipated discharge date of May 17, 2016.

13. On May 10, 2016, an “insurance note” document shows contact with Client B’s insurance provider to reauthorize reimbursement for care between May 10 and May 16, 2016.

14. On May 10, 2016, Client B learned of the intent to discharge her from the program before May 17, 2016, and requested to remain. The request was denied by Respondent.

15. On May 11, 2016, Client B was involuntarily discharged from the residential program.

16. Respondent told Client B’s family that the “state wants [her] out.”

17. Client B’s discharge summary, written by Respondent, stated the reason for discharge as the client needed a “higher level of mental health intervention.”

18. Client B was not referred to a higher level of care that could meet her needs.

19. Client B’s clinical record does not document challenges faced in attempting to meet client’s mental health needs, as required by Wis. Admin. Code § DHS 75.03(16)(a).

20. Respondent acknowledged to DHS staff that she did not provide the required one hour of individual counseling per week as required by Wis. Admin. Code § DHS 75.11(6)(f)1 and was not maintaining up-to-date progress notes as required by Wis. Admin. Code § SPS 164.01(2)(t).

21. 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 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 Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., 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.

3. By the conduct described in the Findings of Fact, Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., engaged in unprofessional conduct as defined by Wis. Admin. Code § SPS 164.01(2)(t), by failing to maintain adequate records relating to services provided a patient in the course of a professional relationship.

4. By the conduct described in the Findings of Fact, Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., engaged in unprofessional conduct as defined by Wis. Admin. Code § SPS 164.01(2)(b), by violating, or aiding and abetting a violation of, any law or rule substantially related to practice as a substance abuse professional, namely Wis. Admin. Code § DHS 75.03(16)(a) and Wis. Admin. Code § DHS 75.11(6)(f)1.

5. By the conduct described in the Findings of Fact, Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., engaged in unprofessional conduct as defined by Wis. Admin. Code § SPS 164.01(2)(i), by making false statements in practice, by telling a client's family the "state wants [her] out," when the client's discharge summary, written by Respondent, stated the client was being discharged because she needed a higher level of mental health intervention.

6. As a result of the above violations, Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., is subject to discipline pursuant to Wis. Stat. § 440.88(6).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., is REPRIMANDED.
3. The licenses to practice substance abuse counseling issued to Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., (certificate number 15896-132 and license number 15467-134) are LIMITED as follows:

Education

- a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete four (4) hours of education on the topic of documentation, four (4) hours of education on the topic of treatment of dual diagnoses clients, and four (4) hours of education on ethics, offered by a provider pre-approved by the Department's designee, including taking and passing any exam offered for the courses.
- b. Respondent shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.

- c. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Section or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
- d. The Department shall remove this limitation from Respondent's license when Respondent has petitioned the Department and has satisfied the Department or its designee that Respondent has successfully completed the preapproved education.

Mentor

- e. Within sixty (60) days from the date of this Order, Respondent shall engage the services of a mentor, subject to approval by the Department or its designee, who is licensed to practice professional counseling or substance abuse counseling in the state of Wisconsin.
- f. The request for approval shall be accompanied by the mentor's current curriculum vitae or other summary of qualifications and a letter from the mentor confirming that he or she has read this Final Decision and Order and agrees to undertake the duties of a mentoring counselor as set out in this Order.
- g. The mentoring counselor shall be actively engaged in the practice of professional counseling or substance abuse counseling and shall not have any personal relationship, past or present, with Respondent that could reasonably be expected to compromise the proposed mentor's ability to render fair and unbiased reports to the Department. The mentoring counselor may be affiliated with SSM Health.
- h. The Department or its designee have the full and final authority to approve or reject a proposed mentor. This decision is based on an exercise of discretion and is not reviewable. The Department or its designee may approve or direct a change in the mentoring counselor for any of the following reasons: the mentoring counselor is unable to carry out the responsibilities set out in this order; the mentoring counselor requests the change; the mentoring counselor concludes that Respondent cannot safely and reliably engage in the practice of professional counseling; or the mentoring counselor fails to meet any requirement of this order.
- i. The mentoring counselor shall observe one (1) individual counseling session per quarter for at least four (4) consecutive quarters between Respondent and a client or clients with dual diagnoses. The mentoring counselor shall have the discretion to choose which counseling sessions to attend, subject to approval by the client involved in the session. The mentoring counselor may choose to observe sessions with one (1) client on

four (4) different occasions, different clients for each session, or any combination thereof.

- j. The mentoring counselor shall evaluate, critique, and provide guidance to Respondent after each counseling session.
- k. If at any time the mentoring counselor concludes that Respondent is incapable of competently counseling clients with dual diagnoses, the mentoring counselor shall notify the Department Monitor in writing within twenty-four (24) hours.
- l. The mentoring counselor shall meet with Respondent at least once quarterly. During each meeting the mentoring counselor shall review ten (10) randomly selected case files, chosen by the mentor, of clients Respondent has seen in the preceding quarter. The mentoring counselor shall offer feedback and direction to Respondent for the purposes of ensuring that Respondent maintains client health care records to a level of minimal competence.
- m. Respondent shall follow the guidance and recommendations of the mentoring counselor.
- n. Whether or not guidance of the mentoring counselor is appropriate and whether Respondent has complied with the guidance shall be in the sole discretion of the Department or its designee. These discretionary determinations are not reviewable.
- o. The mentoring counselor shall file quarterly reports with the Department Monitor at the address below. The reports shall specifically address Respondent's performance during the observed counseling sessions and any deficiencies noticed in the file review, including, but not limited to, missing or incomplete documentation. It is Respondent's responsibility to ensure these reports are submitted when due.
- p. The mentoring counselor shall immediately report, in writing, any unprofessional conduct or suspected violation of this Order to the Department Monitor.
- q. After the timely submission of at least four (4) consecutive favorable quarterly reports and with a written recommendation from the mentor expressly supporting the request, Respondent may petition the Department for modification of this order and/or return to full, unlimited licensure. Whether or not to modify the terms of this Order is in the sole discretion of the Department or its designee and is not reviewable.
- r. Respondent is responsible for all costs associated with the mentoring counselor.

3. Within ninety (90) days from the date of this Order, Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., shall pay COSTS of this matter in the amount of \$769.58.

4. Request for approval of courses, proof of successful course completion 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

5. In the event that Respondent violates any term of this Order, Respondent's licenses (certificate number 15896-132 and license number 15467-134) to practice substance abuse counseling in the state of Wisconsin may, in the discretion of the Department or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Department 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.

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

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

by: Aloysius Rohmeyer
Aloysius Rohmeyer, Chief Counsel
On behalf of the Department

4-2-2018
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KIMBERLY J. LOHMAN, L.P.C., C.S.A.C., I.C.S.,
RESPONDENT.

STIPULATION

0005782

Division of Legal Services and Compliance Case No. 16 RSA 017

Respondent Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S., 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 Thayer Bryant.

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 or Respondent's attorney, 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.



Kimberly J. Lohman, L.P.C., C.S.A.C., I.C.S.

Respondent
2658 Oakcrest Cir.
Sun Prairie, WI 53590
Certificate no. 15896-132
License no. 15467-134

3/8/18
Date


Thayer Bryant, Attorney for Respondent
SSM Health
1808 W. Beltline Highway
Madison, WI 53713

3/8/18
Date


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

3/12/2018
Date