

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LISA R. HERGERT, L.P.C.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0006902

Division of Legal Services and Compliance Case No. 20 CPC 008

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

Lisa R. Hergert, L.P.C.
Marshfield, WI 54449

Professional Counselor 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 Professional Counselor 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 Lisa R. Hergert, L.P.C. (DOB xx-xx-1964) is licensed in the state of Wisconsin to practice professional counseling, having license number 3557-125, first issued on March 9, 2005, and current through February 28, 2021. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Marshfield, Wisconsin 54449.

2. At all times relevant to this proceeding, Respondent was self-employed as a professional counselor at a clinic, located in Marshfield, Wisconsin.

3. On January 27, 2020, during a session with a client, and subsequent to Respondent's request for police assistance, Respondent was witnessed to be exhibiting signs of drug and/or alcohol impairment.

4. That day, Respondent had been feeling ill. She took an unprescribed medication¹ that had been provided by a colleague. Respondent did not know that the medication contained a narcotic.

5. Believing that her final client of the day was a no-show, she took a second dose of the medication with a mixture of coffee and alcohol.

6. The client arrived and Respondent proceeded with the session.

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Professional Counselor 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(2), 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, Lisa R. Hergert, L.P.C., engaged in unprofessional conduct as defined by Wis. Admin. Code § MSPW 20.02(9) by practicing or attempting to practice while the credential holder is impaired due to the utilization of alcohol or other drugs.

3. As a result of the above violations, Lisa R. Hergert, L.P.C., is subject to discipline pursuant to Wis. Stat. § 457.26(2)(f).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Lisa R. Hergert, L.P.C., is REPRIMANDED.

3. The license to practice professional counseling issued to Lisa R. Hergert, L.P.C. (license number 3557-125) is LIMITED as follows:

a. For a period of at least two (2) years from the date of this Order:

¹ Solpadine, an analgesic containing various amounts of paracetamol, ibuprofen, caffeine, and codeine.

- i. Respondent shall enroll and participate in a drug and alcohol monitoring program which is approved by the Section (Approved Program). Enrollment shall occur within thirty (30) calendar days from the date of this Order.
- ii. At the time Respondent enrolls in the Approved Program, Respondent shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a substantial violation of this Order. The requirements shall include:
 - 1. Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - 2. Production of a urine, blood, sweat, fingernail, hair, saliva or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
 - 3. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year, for at least the first year of this Order. Thereafter, the Section may adjust the frequency of testing on its own initiative at any time.
- iii. Respondent shall abstain from all personal use of alcohol.
- iv. Respondent shall abstain from all personal use of controlled substances as defined in Wis. Stat. § 961.01(4), except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Respondent shall disclose Respondent's drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Respondent shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Respondent's treatment with, and provide copies of treatment records to, the Section or its designee. Copies of these releases shall immediately be filed with the Department Monitor.
- v. Respondent shall report to the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within 24 hours of ingestion or administration of the medication or drug, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. Each time the prescription is filled or refilled, Respondent

shall immediately arrange for the prescriber or pharmacy to fax and mail copies of all prescriptions to the Department Monitor.

- vi. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that they may take from time to time. Over-the-counter medications and drugs that mask the consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation, shall not be taken unless ordered by a physician, in which case the drug must be reported as described in the paragraph 3(a)v.
- vii. All positive test results are presumed valid and may result in automatic suspension of licensure by the Section or its designee. Respondent must prove by a preponderance of the evidence an error in collection, testing, fault in the chain of custody or other valid defense.
- viii. If any urine, blood, sweat, fingernail, hair, saliva or other specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Section or its designee shall determine to be appropriate to clarify or confirm the positive or suspected positive test results. Tests other than urine will not be requested within the first six months of this order.
- ix. Respondent shall practice only in a work setting pre-approved by the Section or its designee.
- x. Respondent is currently self-employed providing professional counseling services. Should Respondent's employment change, Respondent shall provide her employer with a copy of this Order before engaging in any employment as a professional counselor. Respondent shall provide the Department Monitor with written acknowledgment from each professional counseling employer that a copy of this Order has been received. Such acknowledgment shall be provided to the Department Monitor within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.
- xi. Respondent shall not work as a professional counselor in a setting in which Respondent has access to controlled substances. Respondent shall provide the Department Monitor with written acknowledgment from each professional counseling employer that Respondent does not have access to controlled substances. Such acknowledgement shall be provided to the Department Monitor

within fourteen (14) days from the date of this Order for any current employer and on a quarterly basis thereafter from each professional counseling employer.

4. The Section or its designee may, without hearing, suspend Respondent's professional counselor license upon receipt of information that Respondent is in substantial or repeated violation of any provision of this Order. A substantial violation includes, but is not limited to, a positive drug or alcohol screen. A repeated violation is defined as the multiple violations of the same provision or violation of more than one provision.

5. The Section or its designee may terminate the suspension if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Section or its designee.

6. After the first year from the date of this Order, Respondent may petition the Section on an annual basis for a modification of the terms of this Order. After two (2) consecutive years of successful compliance, Respondent may petition the Section for return of full licensure. The Department may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

7. Within 120 days from the date of this Order, Lisa R. Hergert, L.P.C., shall pay COSTS of this matter in the amount of \$450.00.

8. Any requests, documents 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

You may also submit this information online via DSPS' Monitoring Case Management System, here: <https://dspsmonitoring.wi.gov>

9. In the event that Respondent violates any term of this Order, Respondent's license (no. 3557-125) to practice professional counseling 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.

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

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

By: Tammy Scheidegger C.P.
A Member of the Section

7/21/2020
Date

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

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

LISA R. HERGERT, L.P.C.,
RESPONDENT.

STIPULATION

ORDER 0006902

Division of Legal Services and Compliance Case No. 20 CPC 008

Respondent Lisa R. Hergert, L.P.C. 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 Corinne Ivanca.

4. Respondent agrees to the adoption of the attached Final Decision and Order by
the Professional Counselor 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.

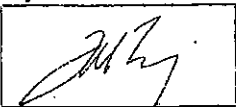
8. The Division of Legal Services and Compliance joins Respondent in recommending the Section adopt this Stipulation and issue the attached Final Decision and Order.


Lisa R. Hergert, L.P.C., Respondent
Marshfield, WI 54449
License no. 3557-125

4-24-20
Date


Corinne Ivanca, Attorney for Respondent
Geraghty O'Loughlin & Kenney P.A.
55 East Fifth Street, Suite 1100
Alliance Bank Center
Saint Paul, MN 55101

4/27/20
Date


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

4/29/2020

Date