

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

WHITNEY J. HAYS, S.W.,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0007839

Division of Legal Services and Compliance Case No. 20 SOC 040

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

Whitney J. Hays, S.W.
Aniwa, WI 54408

Wisconsin Social Worker Section of the 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 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. Whitney J. Hays, S.W. (Respondent), (Year of Birth 1996) is certified in the state of Wisconsin as a social worker, having certificate number 13136-120, first issued on March 30, 2020, and current through February 28, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Aniwa, Wisconsin 54408.

2. At all times relevant to this proceeding, Respondent was employed as a social worker at a county social services agency (Agency) located in Wausau, Wisconsin.

3. From May – August 2020, Respondent provided social work services to Client A. During this time, Respondent established an intimate and sexual relationship with Client A.

4. Respondent used her work cell phone to contact Client A multiple times via phone and text messages after work hours from May – July 2020. In July 2020, Respondent provided Client A with her personal cell phone number, which she frequently used to communicate with Client A. None of the after-hours or personal contacts with Client A were documented in Client A's client records.

5. On August 10, 2020, Respondent reported to her Agency supervisor that she had transported Client A and his children in her vehicle outside of business hours. Respondent also reported her undocumented after-hours and personal communication with Client A.

6. On August 17, 2020, as part of the Agency's investigation into Respondent's relationship with Client A, the Agency asked Respondent to attend a predetermination meeting. Respondent resigned from her position as a social worker at the Agency that day. Respondent cited multiple mental health diagnoses as part of her reason for resigning.

7. Following Respondent's resignation from the Agency, another Agency social worker met with Client A for a routine home visit. During the visit, Client A disclosed his sexual relationship with Respondent and that he felt Respondent used her power as a social worker to prevent him from being involved with his ex-girlfriend (the mother of his children).

8. On the evening of August 20, 2020, Respondent was at Client A's home with Client A, at which time both Respondent and Client A engaged in heavy consumption of alcohol. Client A's ex-girlfriend arrived at the house and a domestic dispute ensued, resulting in police intervention.

9. During the police contact, Respondent reported that she was the victim of a hit and run committed by Client A's ex-girlfriend the week prior. At that time, Respondent was driving her vehicle with Client A and Client A's children as passengers. Respondent said she did not report this incident at the time it happened because her personal relationship with Client A would have been a work rule violation, as she was employed by the Agency at the time.

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

CONCLUSIONS OF LAW

1. The Section 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, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(9) by practicing while impaired as a result of an illness which impairs the credential holder's ability to appropriately carry out the functions delineated under the credential in a manner consistent with the safety of a client, patient, or the public.

3. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(11) by engaging in sexual contact, sexual conduct, or any other behavior with a client which could reasonably be construed as seductive. For purposes of this rule, a person shall continue to be a client for 2 years after the termination of professional services.

4. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(13) by failing to avoid dual relationships or relationships that may impair the credentialed person's objectivity or create a conflict of interest.

5. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(18) by failing to maintain adequate records relating to services provided a client in the course of a professional relationship.

6. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(22) by engaging in gross negligence in practice in a single instance, or negligence in practice in more than one instance.

7. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 457.26(2)(f), (g) and (h).

ORDER

1. The attached Stipulation is accepted.

2. The certificate to practice social work issued to Respondent (certificate number 13136-120) is SUSPENDED for one (1) year beginning on the date of this Order.

3. The certificate to practice social work issued to Respondent (certificate number 13136-120) is LIMITED as follows:

Education

a. Within six (6) months of the date of this Order, Respondent shall at her own expense, successfully complete six (6) hours of education on the topic of professional boundaries and dual relationships, and six (6) hours of education on the topic of professional ethics, offered by a provider pre-approved by the Section's monitoring liaison, including taking and passing any exam offered for the courses:

i. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below.

- ii. 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.
- iii. This limitation shall be removed from Respondent's license after satisfying the Section or its designee that Respondent has successfully completed the ordered education.

Fitness to Practice

- b. Within nine (9) months of the date of this Order, Respondent shall, at her own expense, undergo and complete a fitness for practice evaluation with a pre-approved psychiatrist or psychologist (Evaluator) who has not provided treatment to Respondent and is experienced in evaluating whether a health care professional is fit for practice:
 - i. Prior to evaluation, Respondent shall provide a copy of this Final Decision and Order to the Evaluator.
 - ii. 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.
 - iii. Within fifteen (15) days of completion of the evaluation, a written report regarding the results of the assessment shall be submitted to the Department 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 competently and, if so, shall provide any recommended limitations for safe and competent practice.
 - iv. Respondent shall execute necessary documents authorizing the Department to obtain records of the 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 Section or its designee. Certified copies of the final evaluation report shall be admissible in any future proceeding before the Section.
 - v. If the Evaluator determines that Respondent is not fit for practice or is fit for practice with limitations, the Section or its designee may suspend Respondent's license until Respondent provides proof sufficient to convince the Section or its designee 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.
 - vi. If the Evaluator determines that Respondent is fit for practice or is fit for practice with limitations, the Section or its designee may limit

Respondent's license in a manner to address any concerns the Section or its designee has as a result of the conduct set out in the Findings of Fact and to address any recommendations resulting from the evaluation, 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 quarterly reports to the Section by the therapist.
 2. Additional professional education in any identified areas of deficiency.
 3. Restrictions on the nature of practice, practice setting, or requirements for supervision of practice by a professional approved by the Section, with periodic reports to the Section by the supervisor.
- vii. Respondent is responsible for ensuring that the results of the evaluation are sent to the Department Monitor at the address below.

- c. Respondent shall report to the Section any change in employment status, residence, address, or telephone number within five (5) days of the date of the change. This report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.

4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,044.00.

5. Any requests, petitions, payments of costs (made payable to Department of Safety and Professional Services), and other information required by this Order shall be submitted to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online at: <https://dspsmonitoring.wi.gov>.

7. In the event Respondent violates any term of this Order, Respondent's certificate to practice social work (certificate no. 13136-120) or Respondent's right to renew her certificate, 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.

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

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

By: Sherry H. Yang Date 2/11/2022
A Member of the Section

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

WHITNEY J. HAYS, S.W.,
RESPONDENT.

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STIPULATION

ORDER 0007839

Division of Legal Services and Compliance Case No. 20 SOC 040

Whitney J. Hays, S.W. (Respondent), 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 Social Worker Section of the 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.

RECEIVED

JUL 9 - 2021

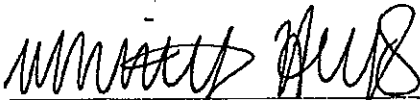
DIVISION OF LEGAL SERVICES AND COMPLIANCE
DEPARTMENT OF SAFETY & PROFESSIONAL SERVICES

5. If the terms of this Stipulation are not acceptable to the Section, 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, 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.


Whitney J. Hays, S.W., Respondent
Aniwa, WI 54408
Certificate No. 13136-120

7-6-21
Date


Nicholas Dalla Santa, Prosecuting Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

7/9/2021
Date