

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

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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

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	ORDER FIXING COSTS
	:	
ORLESIA G. GOOSEBERRY-BELL,	:	ORDER0007848
S.W., C.S.A.C.,	:	
RESPONDENT.	:	

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TO: Orlesia Gooseberry-Bell  
Milwaukee, WI 53206

On February 11, 2022, the Social Worker Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board (Section) issued its Final Decision and Order in the above-captioned matter by which the Section ordered that pursuant to Wis. Stat. § 440.22, the costs of this proceeding be assessed against Respondent. The Section received the Affidavits of Costs from the Division of Legal Services and Compliance and Division of Hearings and Appeals. The Section considered the Affidavits of Costs on October 18, 2022, and orders as follows:

ORDER

Pursuant to Wis. Stat. § 440.22, the costs of this proceeding in the amount of \$1,857.71 are assessed against Respondent and shall be payable by Respondent to the Department of Safety and Professional Services (Department). **Failure of Respondent to make payment on or before October 18, 2023, shall constitute a violation of the Order unless Respondent petitions for and the Section grants a different deadline.** Should Respondent violate any term of this Order, including failure to pay as directed via an approved petition for a different deadline, Respondent's credential may be immediately suspended and remain suspended until Respondent comes into compliance with the terms of this Order. Under Wis. Stat. § 440.22(3), the Department may not restore, renew or otherwise issue any credential to Respondent until Respondent has made payment to the Department in the full amount assessed.

Payment shall be made payable to the Department and mailed to:

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

Dated this 18th day of October, 2022.

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

By: Sherry S. Yang  
A Member of the Section



RETURN SERVICE REQUESTED

July 7, 2022

ORLESIA GOOSEBERRY-BELL  
PO BOX 06055  
MILWAUKEE WI 53206

Re: In the Matter of Disciplinary Proceedings Against Orlesia G. Gooseberry-Bell,  
S.W., C.S.A.C., Respondent, Order No. 0007848

Dear Ms. Gooseberry-Bell:

On February 11, 2022, the Wisconsin Social Worker Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board (Section) issued an order involving your license to practice as a social worker in the state of Wisconsin (license no. 10901-120). The Section has ordered that you shall pay all recoverable costs in the matter.

Enclosed are copies of the affidavits of costs in this matter for the Division of Hearings and Appeals and the Division of Legal Services and Compliance. The Division of Hearings and Appeals costs were \$292.80, and the Division of Legal Services and Compliance's costs were \$1,564.91. The total amount of the costs is \$1,857.71.

You have the right to file objections to the affidavits within 15 days of the date of this mailing. If you choose to file objections, they must be submitted to: Department of Safety and Professional Services, ATTN: Beth Cramton, Division of Legal Services and Compliance, 4822 Madison Yards Way, P.O. Box 7190, Madison, Wisconsin 53707-7190, on or before July 22, 2022. After reviewing the objections, if any, the Section will issue an Order Fixing Costs. Under Wis. Stat. § 440.22(3), the Department may not restore or renew a credential until the costs are paid in the full amount assessed.

Sincerely,

Beth Cramton  
Paralegal  
Division of Legal Services and Compliance  
Tel. (608)261-2380  
[Beth.Cramton@wisconsin.gov](mailto:Beth.Cramton@wisconsin.gov)

Enclosure



Before The  
State of Wisconsin  
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Disciplinary Proceedings  
Against Orlesia G. Gooseberry-Bell, S.W.,  
C.S.A.C., Respondent.

DHA Case No. SPS-21-0003  
DLSC Case Nos. 18 SOC 057

**AFFIDAVIT OF COSTS**

Kristin P. Fredrick, Administrative Law Judge, affirms the following before a notary public for use in this action, subject to the penalties for perjury in Wis. Stat. § 946.31:

1. I am an administrative law judge/attorney licensed to practice law in the State of Wisconsin, employed by the Wisconsin Division of Hearings and Appeals. I served as the Administrative Law Judge in the above-captioned matter.
2. This affidavit sets forth the costs and expenses incurred in this matter based upon my contemporaneous timekeeping entries in connection with the hearing:

Date	Action	Time/Amount
2/16/2021	Telephone	0.1 hours
2/17/2021	File Review	0.2 hours
2/17/2021	PHC/Writing	0.7 hours
3/16/2021	E-Mail	0.2 hours
3/16/2021	Other	0.3 hours
4/12/2021	File Review	0.2 hours
4/27/2021	Research/Writing	1.9 hours
4/28/2021	Research/Writing	1.2 hours

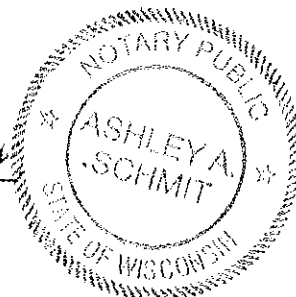
That upon information and belief the total assessable costs for the Division of Hearings and Appeals are as follows: Administrative Law Judge: 4.8 hours at \$61 per hour = \$292.80.

Dated this 3rd day of February, 2022 in Madison, WI.

By: [Signature]  
Kristin Fredrick  
Administrative Law Judge

Subscribed and sworn to before me  
this 3rd day of February, 2022.

[Signature]  
NOTARY PUBLIC, STATE OF WISCONSIN  
MY COMMISSION EXPIRES ON 04/20/2024



STATE OF WISCONSIN  
BEFORE THE SOCIAL WORKER SECTION

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

Orlesia G. Gooseberry-Bell

RESPONDENT

AFFIDAVIT OF COSTS

18 SOC 057

STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF DANE )

Being duly on affirmation, the undersigned employee of the Department of Safety and Professional Services, deposes and states as follows:

That set out below are the costs of the proceeding accrued to the Division of Legal Services and Compliance in this matter, based upon Division of Legal Services and Compliance records compiled in the regular course of agency business in the above-captioned matter.

**INVESTIGATOR EXPENSE --- Robert Eldredge**

DATE		HOURS	MINUTES
1/6/2020	Confer with attorney re: next steps	0	5
5/12/2020	Email attorney for update, review g-drive/emails to see if anything is missing, begin drafting C/S	0	30
5/29/2020	Extensive review of file, PD reports and Respondent credentialing history. Finish drafting C/S, email ZP.	1	20
6/17/2020	Move to OLA	0	5
7/6/2020	Respond to email re: new attorney tasking	0	5
7/8/2020	Review attorney tasking, email credentialing requesting Respondent application and renewal file.	0	10
7/9/2020	Review credentialing emails, label and save to g-drive, forward to AK	0	10
7/9/2020	Respond to attorney email re: Case Summaries. Respond to attorney email re: application requests. Draft and send application request to credentialing.	0	10
7/10/2020	Review credentialing email, respond, forward to AK. Save to g-drive	0	5
7/15/2020	Briefly review file, scan entire file, send to attorney for further tasking	0	10

<b>TOTAL INVESTIGATOR EXPENSE ---</b>	<b>2 HOURS AND 50 MINUTES</b>	<b>HOURS</b>	<b>MINUTES</b>
<b>(Based on their average salary and benefits at the Division of Legal Services and Compliance)</b>	<b>TOTALS</b>	<b>2</b>	<b>50</b>

AT \$31.67 PER HOUR \$89.73

**PARALEGAL EXPENSE --- Angela Slaney**

DATE		HOURS	MINUTES
12/21/2020	PR of Complaint. Send back to Atty AK for final edits.	0	35
1/13/2021	Draft Notice of Hearing.	0	25
1/13/2021	Notify SE of possible filing. Prepare documents. Draft Affidavit of Service. Send documents to SE for filing. Communicate with Atty AK re mailing of Complaint. Relay to SE.	0	35

<b>TOTAL PARALEGAL EXPENSE ---</b>	<b>1 HOURS AND 35 MINUTES</b>	<b>HOURS</b>	<b>MINUTES</b>
<b>(Based on their average salary and benefits at the Division of Legal Services and Compliance)</b>	<b>TOTALS</b>	<b>1</b>	<b>35</b>

AT \$37.79 PER HOUR \$59.83

**PARALEGAL EXPENSE --- Steven Engelbrecht**

DATE		HOURS	MINUTES
10/1/2020	Draft, proofread offer ltr and Stip. Peer Review Stip & FDO. Fill out PR form. Email to Atty. Kennedy re: Peer Review completed.	0	50

**STATE OF WISCONSIN  
BEFORE THE SOCIAL WORKER SECTION**

1/13/2021	Proofread NOH & Complaint. Electronically file NOH & Complaint w/ DHA. Mail copy of NOH & Complaint to R via Certified Mail Return Receipt and via regular US Mail. Mail NOH & Complaint to DHA via regular US Mail (PO Box address and Appleton Ave address). Update Affidavit of Service. Make Pleadings File. Travel to Post office and Mail.	0	55
2/5/2021	Rec Notice of TPC from ALJ. Copy to AA Doc. Add event to Docketing Calendar. (18 RSA 041, 18 SOC 057)	0	5
2/18/2021	Rec Prehearing Conference Report and Scheduling Order from ALJ. Copy to AA Doc. Add events to Docketing Calendar. (18 RSA 041 and 18 SOC 057)	0	15
3/17/2021	Rec, rev Notice of Default and Order from ALJ. Copy to AA Doc. Add event to Docketing Calendar. Remove events from Docketing Calendar. (18 RSA 041, 18 SOC 057)	0	10
3/29/2021	Peer Review Recommended PDO. Email to Atty. AK re: PR completed.	0	30
3/30/2021	Fill out PR form.	0	5
4/9/2021	Proofread recommended PDO. Electronically file with DHA. Mail recommended PDO to R Gooseberry-Bell via Certified Mail and regular US Mail. Email Word copy of Rec PDO to DHA as requested.	0	20
4/29/2021	Rec Notices of Filing PDOs and PDOs from ALJ. Verify that they were copied to G drive. Add events to Docketing Calendar. Add flags to r's credentials as Atty. Supervisor LG requested. (18 RSA 041, 18 SOC 057)	0	10
5/12/2021	Post office returned PDOs that were sent to R's PO Box mailing address via Certified Mail Return Receipt Requested. Scan to PDF, copy to G drive and email to Atty. AK. (18 RSA 041, 18 SOC 057)	0	10

<b>TOTAL PARALEGAL EXPENSE ---</b>	<b>3 HOURS AND</b>	<b>30 MINUTES</b>	<b>HOURS</b>	<b>MINUTES</b>
<b>(Based on their average salary and benefits at the Division of Legal Services and Compliance)</b>			<b>TOTALS</b>	
			<b>3</b>	<b>30</b>

**AT \$37.79 PER HOUR \$132.27**

**PROSECUTING ATTORNEY EXPENSE --- Alicia Kennedy**

DATE		HOURS	MINUTES
10/31/2018	screened	0	10
7/6/2020	review file; email instructions to inv.	0	30
7/9/2020	review email and screenshots; review and edit CS; email investigator; review info in ICE re: credential denial; review denial letter and save copy in case file	0	30
7/10/2020	review and respond to email from inv.	0	5
7/16/2020	review file and CS; make edits; note to discuss during bi-weekly meeting	1	0
8/20/2020	review status; update CS; email to CA for recommendation	0	35
9/28/2020	draft FDO	1	0
9/29/2020	complete PR form; email to LM for PR	0	10
9/30/2020	review PR; email MR that files need a paralegal for PR	0	10
10/1/2020	review email and respond to R	0	5
10/1/2020	prepare offer and send to R; calendar deadline	0	35
10/2/2020	review emails with R from yesterday; edit offer; email to R; save emails	0	30
10/5/2020	review and respond to emails; save	0	5
10/19/2020	follow up on offer	0	5
10/20/2020	review and respond to email from R; provide additional 2 weeks to respond; response due 11/3; save emails	0	5
10/30/2020	review email from Boyle-Prior	0	10
10/30/2020	phone call with R; email credentialing for files	0	40
11/2/2020	review emails from R and save	0	30
11/10/2020	edit CS; edit offer;	0	45
11/16/2020	review and save email from R; calendar follow up	0	5
12/1/2020	edit typo in offers; draft email to R; send and save	0	20
12/7/2020	review response from R; will provide formal response by 12/15	0	5
12/17/2020	review email and save; convert FDO into complaint; email CA to approve filing; email to LM for PR	0	45
12/18/2020	review PRs and make edits; email to AS to PR	0	30

**STATE OF WISCONSIN  
BEFORE THE SOCIAL WORKER SECTION**

12/18/2020	review and save email from CA approving filing complaint	0	5
1/12/2021	phone call with LG to discuss revisions	0	5
1/12/2021	review PR; make edits; email to LG for approval to file	0	15
1/13/2021	review NOH and email AS complaints are ready to file	0	10
2/2/2021	phone call from R; provide email for Leon Young who she says can confirm she reported the conviction.	0	5
2/3/2021	draft email to Leon Young (name and email provided by R) who allegedly assisted R in reporting conviction in 2014	0	15
2/3/2021	phone call with Leon Young; doesn't directly remember help reporting did provide help	0	5
2/5/2021	rec'd and reviewed pre-hearing conference notice	0	20
2/17/2021	prep for and participate in prehearing conference	0	45
2/18/2021	review PHCR and SO; accept calendar invites from SE for due dates	0	15
2/22/2021	save mailed copy of PCR and SO	0	5
3/3/2021	review action lists and agendas from 2014 for R's name or report of conviction; draft affidavit and email to Leon Young; save email; organize drive folder	1	30
3/5/2021	edit affidavit and email to Leon Young	0	10
3/15/2021	review ALJ response; split time	0	5
3/15/2021	draft email to ALJ moving for default based on failure to file an answer; split time	0	10
3/16/2021	email parties re: default and request 30 days to file PDO	0	5
3/17/2021	review and save email granting default	0	5
3/18/2021	save email from Leon Young	0	5
3/19/2021	begin drafting PDO	2	30
3/23/2021	finish PDO draft; email to LM for PR	1	30
3/24/2021	review and edit PDO	0	30
3/30/2021	finalize PDOs and send to LG for review and approval; split time	0	15
4/2/2021	review and accept LG edits; email final version to LG for approval	0	5
4/2/2021	received approval for filing; saved email; fwd to SE to file	0	5
7/19/2021	confirm PDO on agenda	0	5
2/11/2022	review AOC; email to MR for approval	0	30

<b>TOTAL PROSECUTING ATTORNEY</b>	<b>19 HOURS AND 30 MINUTES</b>	<b>HOURS</b>	<b>MINUTES</b>
(Based on their average salary and benefits at the Division of Legal Services and Compliance)	<b>TOTALS</b>	<b>19</b>	<b>30</b>

AT \$59.91 PER HOUR \$1,168.25

**PROSECUTING ATTORNEY EXPENSE --- Lesley McKinney**

DATE		HOURS	MINUTES
9/29/2020	PR	0	25
12/18/2020	PR complaint.	0	40
3/24/2021	PR PDO	0	50

<b>TOTAL PROSECUTING ATTORNEY</b>	<b>1 HOURS AND 55 MINUTES</b>	<b>HOURS</b>	<b>MINUTES</b>
(Based on their average salary and benefits at the Division of Legal Services and Compliance)	<b>TOTALS</b>	<b>1</b>	<b>55</b>

AT \$59.91 PER HOUR \$114.83

**EXPENSE SUMMARY**

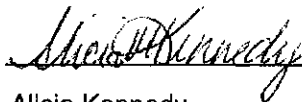
INVESTIGATOR EXPENSE	Robert Eldredge	\$89.73
PROSECUTING ATTORNEY EXPENSE	Alicia Kennedy	\$1,168.25
PARALEGAL EXPENSE	Steven Engelbrecht	\$132.27
PARALEGAL EXPENSE	Angela Slaney	\$59.83

STATE OF WISCONSIN  
BEFORE THE SOCIAL WORKER SECTION

PROSECUTING ATTORNEY EXPENSE      Lesley McKinney

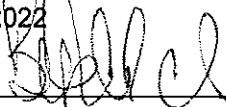
\$114.83

TOTAL ASSESSABLE COST >>>      \$1,564.91



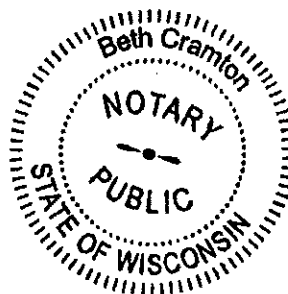
Alicia Kennedy

Subscribed and affirmed to before me this  
2/15/2022



Notary Public

My commission 24 pires 3/27/2024







**Before the  
State of Wisconsin  
Department of Safety and Professional Services**

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In the Matter of the Disciplinary Proceedings  
Against Orlesia G. Gooseberry-Bell, S.W.,  
C.S.A.C., Respondent.

FINAL DECISION AND ORDER

Order No. **ORDER 0007848**

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**Division of Legal Services and Compliance Case No. 18 SOC 057**

The State of Wisconsin, Wisconsin Social Worker Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

**ORDER**

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Safety and Professional Services.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 11th day of February, 2022.

Member

Wisconsin Social Worker Section of the Marriage  
and Family Therapy, Professional Counseling and  
Social Work Examining Board



**Before The  
State of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

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In the Matter of Disciplinary Proceedings Against  
Orlesia G. Gooseberry-Bell, S.W., C.S.A.C.,  
Respondent.

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DHA Case No. SPS-21-0003  
DLSC Case No. 18 SOC 057

**PROPOSED DECISION AND ORDER**

The parties to this proceeding for purposes of Wis. Stat. §§ 227.47(1) and 227.53 are:

Orlesia G. Gooseberry-Bell, S.W., C.S.A.C.  
PO Box 06055  
Milwaukee, WI 53206

Wisconsin Social Worker Section of the Marriage and Family Therapy, Professional  
Counseling and Social Work Examining Board  
P.O. Box 8366  
Madison, WI 53707-8366

Department of Safety and Professional Services,  
Division of Legal Services and Compliance, by:

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

**PROCEDURAL HISTORY**

On January 13, 2021, the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed a formal complaint against Respondent Orlesia G. Gooseberry-Bell, S.W., C.S.A.C., alleging that Respondent engaged in unprofessional conduct. As grounds for taking disciplinary action against the Respondent's credentials the complaint alleged the following: (1) Respondent violated Wis. Admin. Code § MPSW 20.02(2), by violating a law of any jurisdiction, the circumstances of which substantially relate to the practice under the credential; (2) Respondent violated Wis. Stat. § 457.26(2)(b), by being convicted of an offense the circumstances of which substantially relate to the practice of social work; and (3) Respondent engaged in unprofessional conduct under Wis. Stat. §

440.03(13)(am) by failing to notify the Department within 48 hours after the entry of the judgment of conviction. Administrative Law Judge Kristin Fredrick (ALJ) was assigned to the matter.

The Notice of Hearing and the Complaint (Notice and Complaint) in this matter were served on Respondent by the Division on January 13, 2021. The Notice and Complaint were sent by both Certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08, to the address on file with the Department. An Answer to a Complaint was to be filed within 20 days from the date of service of the Complaint. Wis. Admin. Code § SPS 2.09(4). No Answer has been filed.

Following expiration of the 20-day time period to file an Answer, the undersigned ALJ scheduled a telephone prehearing conference for Wednesday, February 17, 2021, at 10:00 am. The Respondent contacted the ALJ to provide a telephone number where she could be reached for the February 17, 2021 prehearing. During the prehearing conference, Respondent stated that she did file an Answer despite neither the ALJ nor the Division having received a copy.

On February 18, 2021, the ALJ issued a Prehearing Conference Report and Scheduling Order. The Order required Respondent to submit a written answer to the Complaint on or before March 9, 2021 and included instructions on how to file the Answer. The Respondent failed to file a written answer by March 9, 2021. Therefore, on March 15, 2021, the Division moved for default pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3) based on Respondent's failure to file an Answer and failure to comply with the Scheduling Order. The ALJ sent an email to Respondent requesting a response by the end of business on March 15, 2021. Respondent failed to respond.

Based upon Respondent's failure to file an Answer and failure to comply with the Scheduling Order, the ALJ granted the Division's motion for default and found Respondent in default. On March 17, 2021, the ALJ issued a Notice of Default against Respondent and ordered that the Division file a recommended proposed decision and order by April 15, 2021. The Division timely filed its submission.

### FINDINGS OF FACT

#### Facts Related to the Alleged Violations

1. Respondent Orlesia G. Gooseberry-Bell, S.W., C.S.A.C., (DOB July 23, 1965) is certified in the state of Wisconsin to practice social work, having certificate number 10901-120, first issued on August 5, 2011, and current through February 28, 2021.<sup>1</sup> <sup>2</sup> Respondent's most recent mailing address on file with the Wisconsin Department of Safety and Professional Services (Department) is Post Office Box 06055, Milwaukee, Wisconsin 53206. Respondent's most recent physical address on file with the Department is 8806 West Appleton Avenue, Milwaukee, Wisconsin 53225. (Division Complaint dated January 13, 2021, ¶ 1)

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<sup>1</sup> Respondent is also certified in the state of Wisconsin to practice clinical substance abuse counseling, having certificate number 15709-132, first issued on August 24, 2012, and expired on February 28, 2021.

<sup>2</sup> Since the filing of the Complaint, Respondent's credential has expired. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew upon payment of a fee until February 27, 2026.

2. On August 20, 2014, Respondent was convicted in Milwaukee County Circuit Court case number 2013CF646 of one (1) count of battery, a class A misdemeanor, and two (2) counts of disorderly conduct, a class B misdemeanor. The convictions stemmed from Respondent's admission to spanking her grandchildren with a belt. (Complaint, ¶ 2)

3. The Department was not notified of this conviction until Respondent applied for a clinical supervisor-in-training credential with the Department on April 16, 2018. (Complaint, ¶ 3)

#### Facts Related to Default

4. The Notice of Hearing and the Complaint (Notice and Complaint) in this matter were served on Respondent by the Division on January 13, 2021. The Notice and Complaint were sent by both Certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08, to both addresses address on file with the Department.

5. The Notice instructed Respondent: "If you do not provide a proper Answer within 20 days, you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Section may take disciplinary action against you and impose the costs of the investigation, prosecution and decision of this matter upon you without further notice or hearing."

6. An Answer to a Complaint was to be filed within 20 days from the date of service of the Complaint. Wis. Admin. Code § SPS 2.09(4). No Answer had been filed.

7. Following expiration of the 20-day time period to file an Answer, the undersigned ALJ scheduled a telephone prehearing conference for Wednesday, February 17, 2021, at 10:00 am. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide to the ALJ a telephone number at which Respondent could be reached for the conference no later than February 16, 2021. Respondent did provide a telephone number.

8. On February 17, 2021, the ALJ contacted both parties and held the prehearing conference. During the prehearing conference, Respondent stated that she did file an answer; however, neither the ALJ nor the Division received a copy of the Respondent's alleged answer. Therefore, the Respondent was instructed to resubmit her answer to both the ALJ and the Division.

9. On February 18, 2021, the ALJ issued a Prehearing Conference Report and Scheduling Order. The Scheduling Order required Respondent to submit a written answer to the Complaint on or before March 9, 2021 and included instructions on how to file the Answer.

10. On March 15, 2021, the Division moved for default based on Respondent's failure to file an Answer and failure to comply with the Scheduling Order, pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3). The ALJ sent an email to Respondent requesting a response by the end of business on March 15, 2021. The Respondent failed to reply to the email.

11. Based upon Respondent's failure to file an Answer and failure to comply with the Scheduling Order, the ALJ granted the motion and found Respondent in default.

12. On March 17, 2021, the ALJ issued a Notice of Default against Respondent and ordered that the Division file a recommended proposed decision and order by April 15, 2021. The Division timely filed its submission.

13. The Division timely filed its recommended proposed decision and order.

### DISCUSSION

#### Jurisdictional Authority

The Wisconsin Social Worker Section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board (Section) has jurisdiction over this matter pursuant to Wis. Stat. § 457.26. Wisconsin Stat. § 440.03(1) provides that the Department "may promulgate rules defining uniform procedures to be used by the department . . . and all examining boards and affiliated credentialing boards attached to the department or an examining board, for . . . conducting [disciplinary] hearings." These rules are codified in Wis. Admin. Code ch. SPS 2.

Pursuant to Wis. Admin. Code § SPS 2.10(2), the undersigned ALJ has authority to preside over this disciplinary proceeding in accordance with Wis. Stat. § 227.46(1).

#### Default

The Division properly served the Notice and Complaint upon Respondent by mailing copies to her at her last known address. Service by mail is complete upon mailing. Wis. Admin. Code § SPS 2.08(1). Pursuant to Wis. Admin. Code § SPS 2.14, if a respondent "fails to answer as required by s. SPS 2.09 or fails to appear at the hearing at the time fixed therefor, the respondent is in default and the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence." *See also* Wis. Admin. Code § HA 1.07(3)(c).

Respondent violated Wis. Admin. Code § SPS 2.09(4) by failing to file an Answer to the Complaint within 20 days from the date of service. Respondent appeared at the prehearing telephone conference on February 17, 2021, whereupon she asserted she did file an Answer; however, neither the ALJ nor the Division received a copy. The ALJ extended the deadline to file an Answer to March 9, 2021. Respondent failed to do so. Therefore, Respondent is in default, findings may be made, and an order may be entered on the basis of the Complaint.

#### Violations

The social work section of the examining board (Board section) has the authority to impose discipline against the Respondent following an investigation and disciplinary hearing, if the Board section determines that a credential holder has "been convicted of an offense the circumstances of which substantially relate to the practice of social work," "engaged in unprofessional conduct,"

and “violated this chapter or any rule promulgated under this chapter.” Wis. Stat. § 457.26(2)(b), (f), and (h), respectively.

Wisconsin Admin. Code § MPSW 20.02 sets forth rules promulgated by the Board related to unprofessional conduct. Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § MPSW 20.02(2), by violating a law of any jurisdiction, the circumstances of which substantially relate to the practice under the credential; violated Wis. Stat. § 457.26(2)(b), by being convicted of an offense the circumstances of which substantially relate to the practice of social work; and violated Wis. Stat. § 440.03(13)(am), by failing to send notice of a conviction by First Class Mail to the Department within 48 hours after the entry of the judgment of conviction.

The practice of “social work” entails the following:

...applying psychosocial or counseling principles, methods, or procedures in the assessment, evaluation, or psychosocial diagnosis, prevention, treatment, or resolution of a difficulty in the social, psychological, personal, emotional, or mental functioning of an individual, couple, family, group of individuals, or community, including the enhancement or restoration of, or the creation of societal conditions favorable to the enhancement or restoration of, the capacity of an individual, couple, family, group of individuals, or community for social functioning or the delivery of services to a group of individuals or a community to assist the group or community in providing or improving the provision of social or health services to others.

Wis. Stat. §457.01(9).

On August 20, 2014, Respondent was convicted in Milwaukee County Circuit Court case number 2013CF646 of one (1) count of battery, a class A misdemeanor, and two (2) counts of disorderly conduct, a class B misdemeanor. The convictions stemmed from Respondent’s admission to spanking her grandchildren with a belt. The Respondent did not notify the Department of this conviction within 48 hours of entry of the judgment of conviction in violation of Wis. Stat. § 440.03(13)(am). Instead, the Board only learned of the conviction when the Respondent applied for a clinical supervisor in-training credential with the Department on April 16, 2018.

Pursuant to the statutory definition of a social worker, the Respondent is required to utilize “psychosocial or counseling principles, methods, or procedures”... in the .... “prevention, treatment, or resolution of a difficulty in the social, psychological, personal, emotional, or mental functioning of an individual, couple, family, group of individuals, or community.” Wis. Stat. § 457.01(9). The Respondent’s actions that led to her criminal convictions involve conduct inconsistent with the basic tenants of a social worker’s duties and thus substantially related to the practice of social worker in violation of Wis. Stat. §§ 457.26(2)(b) and contrary to Wis. Admin. Code § MPSW 20.02(2).

By violating these rules of professional conduct, Respondent is subject to discipline pursuant to Wis. Stat. § 457.26(2), Wis. Stat. § 440.03(13)(am), and Wis. Admin. Code § MPSW 20.02(2).

### Discipline

The three purposes of discipline in a professional misconduct case are: (1) to promote the rehabilitation of the credential holder; (2) to protect the public from other instances of misconduct; and (3) to deter other credential holders from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209, 237 N.W.2d 689 (1976).

The Division recommends that Respondent's right to renew her credential be subject to an indefinite suspension and with the ability to stay the suspension after completing a fitness to practice examination.

The recommended discipline is consistent with the purposes articulated in *Aldrich*. Although promoting rehabilitation is one of the purposes of discipline, rehabilitation remains unknown in this case. Respondent failed to report her battery and disorderly conduct convictions to the Department. Additionally, Respondent's convictions are the result of her spanking her grandchildren with a belt. The Division's recommendation will ensure the health, safety, and welfare of the public by confirming whether Respondent is safe to practice with a vulnerable group of people. If so, she will be able to petition the Department to stay the suspension so she can return to practice, while still being monitored for safety. Finally, having received no Answer from Respondent following the Notice and Complaint, the Department cannot determine whether any rehabilitative measures would be effective.

"Protection of the public is the purpose of requiring a license." *State ex rel. Green v. Clark*, 235 Wis. 628, 631, 294 N.W. 25 (1940). When a license is granted to an individual, Wisconsin is assuring the public that the licensed individual is competent in his or her profession. *Stringez v. Dep't of Regulation & Licensing Dentistry Examining Bd.*, 103 Wis. 2d 281, 287, 307 N.W.2d 664 (1981). It follows that if the state cannot assure the public of the licensee's competence to practice the profession, then suspension is appropriate. *Gilbert v. State Medical Examining Bd.*, 119 Wis. 2d 168, 189-90, 349 N.W.2d 68 (1984). The Division alleges that the Respondent's decision to spank her grandchildren with a belt put them in danger; and as the authority figure, gave Respondent power over them. Moreover, the Respondent's failure to report her subsequent conviction related to that conduct prevented the Department from taking action to evaluate the need to ensure the protection of the public. The Department cannot assure the public that an individual is neither competent nor safe to practice. Not only are a suspension and limitations on Respondent's right to renew her credential necessary to protect the public from other instances of misconduct, but the Department also cannot ensure that Respondent will practice her profession safely without limitations.

Suspension and limitations on Respondent's right to renew her credential are also necessary to deter other credential holders from engaging in similar conduct. The suspension and limitations will serve to deter others from engaging in similar conduct.

In light of the facts of this case, and the factors set forth in *Aldrich*, it is appropriate to suspend and place limitations on Respondent's right to renew her credential to practice social work in Wisconsin, as set forth in the Order section below.

### Costs

The Board is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondent. See Wis. Stat. § 440.22(2). In exercising such discretion, the Board must look at aggravating and mitigating facts of the case; it may not assess costs against a licensee based solely on a "rigid rule or invocation of an omnipresent policy," such as preventing those costs from being passed on to others. *Noesen v. State Department of Regulation & Licensing, Pharmacy Examining Board*, 2008 WI App 52, ¶¶ 30-32, 311 Wis. 2d 237, 751 N.W.2d 385. In previous orders, the Board has considered the following factors when determining if all or part of the costs should be assessed against the Respondent: (1) the number of counts charged, contested and proven; (2) the nature and seriousness of the misconduct; (3) the level of discipline sought by the prosecutor; (4) the respondent's cooperation with the disciplinary process; (5) prior discipline, if any; (6) the fact that the Department is a program revenue agency, funded by other licensees; and (7) any other relevant circumstances. See *In the Matter of Disciplinary Proceedings Against Elizabeth Buenzli-Fritz*, LS0802183CHI (Aug. 14, 2008). It is within the Board's discretion as to which of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

Considering the above factors, it is appropriate for Respondent to pay the full costs of the investigation and prosecution of these proceedings. Respondent defaulted, and the factual allegations identified in this decision were deemed admitted. Respondent displayed dangerous behavior that harmed her own grandchildren. Finally, Respondent failed to file an Answer to the Complaint, or otherwise provide any argument regarding the allegations brought against her. Lastly, the Department is a program revenue agency whose operating costs are funded by the revenue received from credential holders. It would be unfair to impose the costs of pursuing discipline in this matter on those licensees who have not engaged in misconduct. Therefore, it is appropriate for Respondent to pay the full costs of the investigation and this proceeding, as determined pursuant to Wis. Admin. Code § SPS 2.18.

### ORDER

For the reasons set forth above, IT IS ORDERED that the right to renew the certificate to practice as a social worker in the state of Wisconsin issued to Respondent, Certificate No. 10901-120, is SUSPENDED as follows:

#### SUSPENSION

- A.1. The right to renew the certificate of Respondent to practice as a social worker in the state of Wisconsin is SUSPENDED for an indefinite period.

#### REMOVAL OF SUSPENSION

- B.1. The suspension of right to renew Respondent's Wisconsin social work certificate may be removed upon Respondent petitioning the social work section of the examining board (Board section) and providing proof, which is determined by the Board section or its



designee to be sufficient, that Respondent completed a Fitness to Practice evaluation within the 30 days prior to Respondent's petition and according to the terms of paragraphs C.1.-C.8.

#### FITNESS TO PRACTICE

- C.1. Respondent shall, at her own expense, undergo 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 to practice.
- C.2. Prior to evaluation, Respondent shall provide a copy of this Final Decision and Order to the Evaluator.
- C.3. 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.
- C.4. Within fifteen (15) days of the 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.
- C.5. Respondent shall execute necessary documents authorizing the Division 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 Board section or its designee. Certified copies of the final evaluation report shall be admissible in any future proceeding before the Board section.
- C.6. If the Evaluator determines that Respondent is not fit to practice or is fit for practice with limitations, the Board section or its designee may deny the stay of suspension until Respondent provides proof sufficient to convince the Board 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.
- C.7. If the Evaluator determines that Respondent is fit to practice or is fit to practice with limitations, the Board section or its designee may limit Respondent's certificate in a manner to address any concerns the Board 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:
  - i. Psychotherapy, at Respondent's expense, by a therapist approved by the Board section or its designee, to address specific treatment goals, with quarterly reports to the social work section by the therapist.

- ii. Additional professional education in any identified areas of deficiency.
  - iii. Restrictions on the nature of practice, practice setting, or requirements for supervision of practice by a professional approved by the Board section, with periodic reports to the Board section by the supervisor.
- C.8. Respondent is responsible for ensuring that the results of the evaluation are sent to the Department Monitor.

**MISCELLANEOUS**

- D.1. Any requests, petitions, reports, payment 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) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov


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

IT IS FURTHER ORDERED that Respondent pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established, payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor using the contact information in paragraph D.1.

IT IS FURTHER ORDERED that the terms of the Order are effective the date the Final Decision and Order in this matter is signed by the Section.

Dated at Madison, Wisconsin, on this 28th day of April, 2021.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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Madison, Wisconsin 53705  
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By:   
Kristin P. Fredrick, Administrative Law Judge