

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

JESSICA M. ELLINGSWORTH, L.P.C.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER

:
: **ORDER 0007-24**

Division of Legal Services and Compliance Case No. 21 CPC 029

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

Jessica M. Ellingsworth, L.P.C.
Kenosha, WI 53143

Wisconsin Professional Counselor 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 Professional Counselor 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. Respondent Jessica M. Ellingsworth, L.P.C., (Year of Birth 1978) is licensed in the state of Wisconsin as a professional counselor, having license number 5955-125, first issued on May 9, 2016, 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 Kenosha, Wisconsin 53143.

2. At all times relevant to this proceeding, Respondent was employed as a professional counselor at a facility in Kenosha, Wisconsin (Facility).

3. On May 4, 2021, Respondent had a counseling appointment scheduled with a minor patient (Patient A) at 5:00 p.m. Respondent sent a text message to Patient A's parent at 8:30 a.m. that morning confirming the appointment to which Patient A's parent responded and confirmed attendance. When Patient A and his parent arrived for the appointment, Respondent's office door was closed, and she did not acknowledge their knock on the door. Patient A's parent texted Respondent asking if they needed to reschedule and Respondent failed to respond. Patient A's parent contacted the Kenosha Police Department (KPD) to conduct a welfare check.

4. When the KPD arrived at the Facility, Respondent's door was locked, and she did not respond to KPD knocking. Through the office window, KPD observed Respondent laying unresponsive on the couch. KPD reported that Respondent smelled of alcohol and could not answer basic questions. KPD located four empty 187 ml plastic wine bottles in Respondent's office. Respondent admitted to KPD she had been drinking. Respondent also told the officers she was not supposed to consume alcohol due to "driving." KPD Dispatch confirmed that Respondent was on probation and parole for felony operating while intoxicated.

5. Respondent was transported to a local emergency department for treatment of alcohol intoxication.

6. On October 13, 2017, Respondent was convicted of Operating While Intoxicated (5th), a G felony, in violation of Wis. Stat. § 346.63(1)(a), in Kenosha County Circuit Court Case No. 2017CF000388. Respondent was sentenced to five (5) years extended supervision, three (3) years driver's license revocation, three (3) years ignition interlock requirement, and conditions including absolute sobriety, no possession or consumption of alcohol or controlled substances without a valid prescription, and to continue mental health, alcohol and drug treatment.

7. 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 violated Wis. Admin. Code § MPSW 20.02(9) by practicing or attempting to practice while the credential holder is impaired due to the utilization of alcohol or other drugs, or 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. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 457.26(2)(a), (e), (f) and (h).

ORDER

1. The attached Stipulation is accepted.
2. This Final Decision and Order (Order) is effective on the date of its signing.
3. Respondent's license to practice as a professional counselor in the state of Wisconsin (license number 5955-125) is SUSPENDED as follows:

SUSPENSION

- A.1. Respondent's license to practice as a professional counselor in the state of Wisconsin is SUSPENDED for an indefinite period.

STAY OF SUSPENSION

- B.1. The suspension of Respondent's professional counselor license may be stayed upon Respondent petitioning the Section and providing proof, which is determined by the Section or its designee to be sufficient, that Respondent is in compliance with the provisions of Sections C and D of this Order, for a period of at least thirty (30) consecutive days.
- B.2. The Section or its designee may, without hearing, remove the stay upon receipt of information that Respondent is in violation of any provision of this Order. The Section or its designee may, in conjunction with any removal of any stay, prohibit Respondent for a specified period of time from seeking a reinstatement of the stay under paragraph B.4.
- B.3. This suspension becomes reinstated immediately upon notice of the removal of the stay being provided to Respondent either by:
 - (a) Mailing to Respondent's last-known address provided to the Department of Safety and Professional Services (Department) pursuant to Wis. Stat. § 440.11; or
 - (b) Actual notice to Respondent or Respondent's attorney.
- B.4. The Section or its designee may reinstate the stay, if provided with sufficient information that Respondent is in compliance with the Order and that it is appropriate for the stay to be reinstated. Whether to reinstate the stay shall be wholly in the discretion of the Section or its designee.

CONDITIONS AND LIMITATIONS

Treatment Required

- C.1. Respondent shall enter into, and/or shall continue, drug and alcohol treatment with a treater acceptable to the Board or its designee (Treater). Respondent shall participate in, cooperate with, and follow all treatment recommended by Treater.

- C.2. Respondent shall immediately provide Treater with a copy of this Order and all other subsequent orders.
- C.3. Treater shall be responsible for coordinating Respondent's rehabilitation and treatment as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor (See D.1., below). If Treater is unable or unwilling to serve as required by this Order, Respondent shall immediately seek approval of a successor Treater by the Section or its designee.
- C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater. Therapy may end only with the approval of the Section or its designee, after receiving a petition for modification as required by D.5., below.
- C.5. Treater shall submit formal written reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's progress in drug and alcohol treatment.

Releases

- C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collection sites, current releases complying with state and federal laws. The releases shall allow the Section, its designee, and any employee of the Department to: (a) obtain all specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation with Treater, treatment facilities and personnel, laboratories and collection sites. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

- C.7. Respondent shall attend Alcoholics Anonymous and/or Narcotics Anonymous meetings or an approved equivalent program for recovering professionals, at the frequency recommended by Treater, but no less than twice per week. Attendance of Respondent at such meetings shall be verified by the speaker or chair and reported quarterly to Treater and the Department Monitor.

Sobriety

- C.8. Respondent shall abstain from all personal use of alcohol.
- C.9. 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 prescribing the controlled substance. Respondent shall, at the time the controlled substance

is prescribed, 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, Treater and the Section or its designee. Copies of these releases shall immediately be filed with the Department Monitor. Respondent shall disclose the name and address of such practitioner to the Department Monitor within five (5) business days of receipt of a prescription for controlled substances.

- C.10. Respondent shall provide the Department Monitor with a list of over-the-counter medications and drugs that she may take from time to time. Respondent shall abstain from all use of over-the-counter medications, products, or other substances (including but not limited to natural substances, such as poppy seeds or any products containing alcohol) which may mask consumption of controlled substances or alcohol, create false positive screening results, or otherwise interfere with Respondent's test results, treatment, or rehabilitation, unless ordered by a physician and approved by Treater, in which case the drug must be reported as described in paragraph C.11. It is Respondent's responsibility to educate herself about the medications and substances which may violate this paragraph, and to avoid those medications and substances.
- C.11. Respondent shall report to Treater and the Department Monitor all prescription medications and drugs taken by Respondent. Reports must be received within twenty-four (24) hours of administration, fill, or refill 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 the prescription to the Department Monitor.

Drug and Alcohol Screens

- C.12. Respondent shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department (Approved Program).
- C.13. At the time Respondent enrolls in the Approved Program, Respondent shall review all 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 violation of this Order. The requirements shall include:
- (a) Contact with the Approved Program as directed on a daily basis, including vacations, weekends, and holidays.
 - (b) Production of a urine, blood, sweat, nail, hair, saliva, or other specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
- C.14. The Approved Program shall require the testing of specimens at a frequency of not less than forty-nine (49) times per year (one of which may be a hair test at the Section's discretion), 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, and/or Respondent may petition for modification of testing frequency per paragraph D.5.

- C.15. If any urine, blood, sweat, nail, 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.
- C.16. In addition to any requirement of the Approved Program, the Section or its designee may require Respondent to do any or all of the following: (a) submit additional specimens; (b) furnish any specimen in a directly witnessed manner; or (c) submit specimens on a more frequent basis.
- C.17. All confirmed positive test results shall be presumed valid. Respondent must prove, by a preponderance of the evidence, an error in collection, testing, fault in the chain of custody, or other valid defense.
- C.18. The Approved Program shall submit information and reports to the Department Monitor as directed.

Practice Limitations

- C.19. Respondent shall not work as a professional counselor in a setting in which Respondent has access to controlled substances.
- C.20. Professional Mentor: Within thirty (30) days from the date of this order, Respondent shall engage the services of a licensed professional counselor, pre-approved by the Section or its designee, who will serve as a professional mentor. The mentor shall not have any current or prior relationship with Respondent that could reasonably be expected to compromise the ability to render fair and unbiased reports to the Department. The mentor must be sufficiently skilled and qualified to consult with Respondent in relation to her practice and other professional activities. Prior to commencement of this mentorship, the proposed mentor shall confirm, in writing, that he or she has read this Order and agrees to serve as Respondent's mentor.
 - (a) For a period of no less than two (2) years, the professional mentor shall meet with Respondent to review cases in which Respondent has provided professional services. For the first six (6) months, the reviews should involve 25% of the cases in which Respondent has provided professional services. For the remaining months, the reviews should involve 10% of the cases in which Respondent has provided professional services.
 - (b) The professional mentor shall submit quarterly reports identifying the number of meetings that have occurred, the number and percentage of total cases reviewed, and shall address Respondent's professional performance and practice. It is Respondent's responsibility to ensure the reports are submitted timely to the

Department Monitor. The mentor shall immediately report any unprofessional conduct or suspected violation of this Order.

- (c) Respondent is responsible for any and all cost associated with the service of the professional mentor.
 - (d) After the timely submission of eight (8) consecutive satisfactory mentor reports, and with a written recommendation from the professional mentor expressly supporting the request, Respondent may submit a request for the termination of this limitation.
- C.21. Respondent must obtain Section pre-approval prior to changing jobs. Requests for pre-approval must be accompanied by a current job description, name and contact information of the direct supervisor, and written acknowledgment from the employer that a copy of this Order and any subsequent orders modifying this original Order have been received and that the restrictions will be accommodated.
- C.22. Respondent shall provide a copy of this Order, and any subsequent order modifying this original Order, immediately to supervisory personnel at all settings where Respondent works as a professional counselor or in any capacity that requires a professional counselor license, currently or in the future. Within fourteen (14) days from the date of this Order, including any subsequent order modifying this original Order, Respondent shall provide the Department Monitor with written acknowledgment from the employer that a copy of this Order, and any subsequent order modifying this original Order, have been received and that the restrictions will be accommodated.
- C.23. Respondent shall report to the Section any change of employment status, residence, mailing address, email address, or telephone number within five (5) days of the date of a change. This report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.

MISCELLANEOUS

Department Monitor

- 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) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

Required Reporting by Respondent

D.2. Respondent is responsible for compliance with all terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any failures of Treater, the treatment facility, the Approved Program, or collection sites to conform to the terms and conditions of this Order. Respondent shall promptly notify the Department Monitor of any violations of any of the terms and conditions of this Order by Respondent.

D.3. Respondent shall submit self-reports to the Department Monitor on a quarterly basis, as directed by the Department Monitor. The reports shall include a summary of Respondent's compliance with the terms and conditions of the Order in the previous quarter, Respondent's current mailing address, email address, and home telephone number. The self-report shall not be considered formal change of address notification pursuant to Wis. Stat. § 440.11.

Change of Treater or Approved Program by Board

D.4. If the Section, or its designee, determines Treater or the Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Section, or its designee, may direct that Respondent continue treatment and rehabilitation under the direction of another Treater or Approved Program.

Petitions for Modification of Limitations or Termination of Order

D.5. Respondent may petition the Section on an annual basis for modification of the terms of this Order; however, no such petition for modification shall occur earlier than one (1) year from the date of the initial stay of the suspension. Any petition for modification shall be accompanied by a written recommendation from Respondent's Treater expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

D.6. Respondent may petition the Section for termination of this Order after demonstrating five (5) years of successful compliance with all terms, including at least 600 hours of approved professional counseling practice each year. The Section may, on its own motion, grant a full Wisconsin license at any time.

Costs of Compliance

D.7. Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision, and any other expenses associated with compliance

with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Costs of Proceeding

D.8. Within 120 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,155.00.

Additional Discipline

D.9. In addition to any other action authorized by this Order or law, the Section, in its discretion, may impose additional limitations or pursue separate disciplinary action for violation of any term of this Order.

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

By: Al. Rohmeyer **DSPS Chief Legal Counsel,**
A Member of the Section **Delegates**

5/19/2022
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

JESSICA M. ELLINGSWORTH, L.P.C.,
RESPONDENT.

STIPULATION

ORDER 0007-14

Division of Legal Services and Compliance Case No. 21 CPC 029

Respondent Jessica M. Ellingsworth, 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 Attorney Sean Gaynor.

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

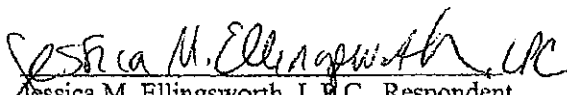
or consent of the parties. Respondent waives all rights to any appeal of the Section's order, if adopted in the form as attached.

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.

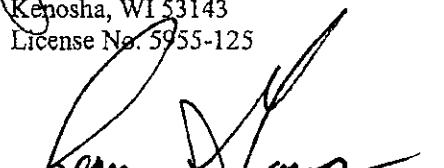
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Section ever assigned as an advisor in this investigation may appear before the Section in open or closed session, without the presence of Respondent or Respondent's 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.


Jessica M. Ellingsworth, L.H.C., Respondent
Kenosha, WI 53143
License No. 5955-125

12/23/21
Date


Sean Gaynor, Attorney for Respondent
Leib, Knott & Gaynor, L.L.C.
219 N. Milwaukee St., Ste. 710
Milwaukee, WI 53202

12/23/21
Date


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

1/3/22
Date