STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION & LICENSING

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
SARAH S. HIBBARD, RESPONDENT.	:	LS 0912162 RSA

[Division of Enforcement Case No. 09 RSA 021]

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

Sarah S. Hibbard
422 E. 7th Street
Richland Center, WI 53581

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Secretary of the Department. The Secretary has reviewed this Stipulation and considers it acceptable.

Accordingly, the Secretary in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Sarah S. Hibbard, Respondent, date of birth June 30, 1954, is certified by the Department of Regulation and Licensing[1] as a:

   a. Clinical Substance Abuse Counselor in the state of Wisconsin, pursuant to certificate number 2128, which was first granted March 6, 1998.

[1] Respondent was originally credentialed by the Wisconsin Certification Board (WCB) as a Certified Alcohol Drug Counselor III on March 6, 1998 and as a Registered Clinical Supervisor on April 11, 2001. In 2006, Wisconsin Act 2005-25 transferred authority for the certification and regulation of substance abuse credential holders to the Department of Regulation and Licensing and from the Department of Health and Family Services, which had contracted those responsibilities to WCB. At that time, Respondent's credentials became certificates as a Clinical Substance Abuse Counselor and Clinical Supervisor-in-Training, respectively.

b. Clinical Supervisor-in-Training in the state of Wisconsin, pursuant to certificate number 11958, which was first granted April 11, 2001.

2. Respondent's last address reported to the Department of Regulation and Licensing is 422 E. 7th Street, Richland Center, WI 53581.

3. Respondent has a history of abusing alcohol and cocaine. In 1977, Respondent was treated for alcohol addiction at APAC in Oconomowoc, Wisconsin. Respondent's use of cocaine occurred in the mid-1980's. Respondent has been active in AA for the past 30 years.

4. From September 30, 1999 until her resignation on July 3, 2009, Respondent was employed by Richland County Health and Human Services (RCHHS) as an AODA Counselor.

5. In September 2006, Respondent was diagnosed with throat cancer. Respondent was prescribed hydrocodone for pain. Hydrocodone is a narcotic analgesic and Schedule II controlled substance. Respondent continued to use the hydrocodone after completing treatment.

6. On December 28, 2006 and January 4, 2007, Respondent came to work with her health compromised and impaired to the point that she was unable to perform her work duties. Respondent was required to have her physician provide RCHHS with a medical release for her return to work.

7. Respondent's physician required her to undergo and AODA assessment. On January 23, 2007, Respondent had an AODA assessment performed at UW Health Gateway Recovery (Gateway) in Madison, Wisconsin. Respondent was diagnosed with Alcohol Dependence, with Physiological Dependency in Sustained Full Remission and Cocaine Dependence, without Physiological Dependency in Sustained Full Remission. AODA treatment was not recommended at that time and Respondent was cleared to return to work.

8. Sometime thereafter, Respondent began abusing Soma, using approximately 400 mg daily, and became addicted. Soma is a muscle relaxant for which a prescription is required. Soma was originally prescribed for Respondent's neck pain but she started abusing it within the first two months.

9. Respondent's use of Soma together with hydrocodone began to affect her work performance by causing her to be unable to focus on conversations or directives, to "nod off" in meetings and client sessions, and to be absent from work without notification.

10. On October 8, 2007, as a result of her conduct, Respondent's employment was suspended. Respondent took a Family Medical Leave in order to participate in intensive treatment.

11. On October 17, 2007, Respondent had another AODA assessment performed at Gateway and met the diagnostic criteria for Sedative Dependence with Physiological

Dependence; Alcohol Dependence with Physiological Dependence in Sustained Full Remission; Cocaine Dependence with Physiological Dependence in Sustained Full Remission; Adjustment Disorder with Mixed Anxiety and Depression symptoms; R/O Panic Disorder with Agoraphobia; R/O Substance Induced Anxiety Disorder. Individual and group AODA therapy sessions were recommended.

12. On November 1, 2007, Respondent was admitted to Mercy Hospital in Janesville and successfully completed a 7-day detoxification program. Prior to her admission, Respondent had continued to use hydrocodone and Soma, and drank alcohol almost daily. On November 14, Respondent began an Intensive Outpatient Program (IOP) at Gateway and completed it in December.

13. In January 2008, Respondent returned to a partial work schedule at RCHHS under conditions outlined by her treatment providers. Recommendations included:

a. Attend the Woman's Group in February 2008.
b. Continue to meet with Gateway therapist 2-3 times per month.
c. Attend 2-3 AA meetings weekly.
d. Requirement to obtain weekly urine drug screens.

14. In May 2008, Respondent returned to a full-time schedule under the same conditions previously outlined by her treatment providers. In mid-May, Respondent missed work and called in, slurring her words. Respondent later admitted to her employer that she had relapsed on Codeine. Respondent was informed that she could not continue to work until she received new recommendations from her treatment providers regarding her readiness to work.

15. On June 12, 2009, Respondent experienced another relapse and was arrested for operating a motor vehicle while intoxicated (OWI). At that time, Respondent's employer determined that Respondent could no longer function in her position as a Substance Abuse Counselor and gave her the option of resigning in lieu of termination. Respondent resigned her position effective July 3, 2009.

16. On June 22, as a result of her conduct, Respondent was charged in Sauk County Wisconsin Circuit Court case number 2009TR004020 with Operating While Under Influence (1st), in violation of Wis. Stat. § 346.63(1)(a). The matter is still pending.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction over this matter pursuant to Wis. Stat. § 440.88(6) and has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. Respondent, by engaging in the conduct as set out above, has committed unprofessional conduct as defined by Wis. Admin. Code § RL 164.01(2)(h) and is subject to discipline pursuant to Wis. Stat. § 440.88(6).

3. Respondent, by having violated a law substantially related to practice as a substance abuse professional, has committed unprofessional conduct as defined by Wis. Adm. Code § RL 164.01(2)(b) and is subject to discipline pursuant to Wis. Stat. § 440.88(6).

ORDER

IT IS ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, effective the date of this Order:

SUSPENSION

A.1. The certificates of Sarah S. Hibbard to practice as a Clinical Substance Abuse Counselor and a Clinical Supervisor-in-Training are SUSPENDED for an indefinite period.

A.2 Respondent shall mail or physically deliver all indicia of the above certifications to the Department Monitor within 14 days of the effective date of this order.

A.3. Upon a showing by Respondent of continuous, successful compliance for a period of at least five (5) years with the terms of this Order, including at least 600 hours of active practice as a substance abuse counselor for every year the suspension is stayed, the Secretary may grant a petition by the Respondent under paragraph D.4. for return of full licensure.

A.4. The Secretary may, on her own motion or at the request of the Department Monitor, grant full certification at any time.

STAY OF SUSPENSION

B.1. The suspension shall not be stayed immediately, but shall be stayed upon Respondent petitioning the Secretary and providing proof, which is determined by the Secretary or her designee to be sufficient, that Respondent has been in compliance with the provisions of Sections C and D of this Order for the most recent three (3) consecutive months.

B.2. The Secretary or her designee may, without hearing, remove the stay upon receipt of information that Respondent is in substantial or repeated violation of any provision of Sections C or D of this Order. Repeated violation is defined as the multiple violation of the same provision or violation of more than one provision. The Secretary may, in conjunction with any removal of any stay, prohibit the 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 Regulation and Licensing pursuant to Wis. Stat. § 440.11; or

(b) Actual notice to Respondent or Respondent's attorney.

B.4. The Secretary or her 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 Secretary or her designee.

B.5. If Respondent requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 2. The hearing shall be held in a timely manner with the evidentiary portion of the hearing being completed within 60 days of receipt of Respondent's request, unless waived by Respondent. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITIONS AND LIMITATIONS

Treatment Required

C.1. Respondent shall enter into, and shall continue, in a drug and alcohol treatment program at a treatment facility (Treater) acceptable to the Secretary or her designee. 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 Final Decision and Order and all other subsequent orders.

C.3. Treater shall be responsible for coordinating Respondent's rehabilitation, drug monitoring and treatment program 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 Treater, Respondent shall immediately seek approval of a successor Treater by the Secretary or her designee.

C.4. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by Treater, but not less than twice per month for the first year. Therapy may end only upon a determination by the Secretary or her designee after receiving a petition for modification as required by D.4., 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 the drug and alcohol treatment program. Treater shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Releases

C.6. Respondent shall provide and keep on file with Treater, all treatment facilities and personnel, laboratories and collections sites current releases complying with state and federal laws. The releases shall allow the Secretary, or her designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Respondent's treatment and rehabilitation. Copies of these releases shall immediately be filed with the Department Monitor.

AA/NA Meetings

C.7. Respondent shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an 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 and reported monthly 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 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, Treater and the Secretary or her designee.

C.10. Respondent shall abstain from all use of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Respondent's treatment and rehabilitation.

C.11. Respondent shall report all medications and drugs, over-the-counter or prescription, taken by Respondent to Treater and the Department Monitor within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. If Respondent has not provided a release as required by C.9 above, within 24 hours of a request by Treater or the Secretary or her designee, Respondent shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Respondent's treatment with, and provide copies of treatment records to, the requester.

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 pursuant to Wis. Adm. Code § RL 7.11 ("Approved Program"). A list of Approved Programs is available from the Department Monitor.

C.13. 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:

(a) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.

(b) Production of a urine 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 urine specimens at a frequency of not less than 48 times per year, for the first year of this Order. After the first year, the

frequency may be reduced only upon a determination by the Secretary or her designee after receiving a petition for modification as required by D.4., below.

C.15. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Respondent shall promptly submit to additional tests or examinations as the Treater or the Secretary or her 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 Secretary or her designee may require Respondent to do any or all of the following: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, (c) furnish any specimen in a directly witnessed manner.

C.17. All confirmed positive test results shall be presumed to be valid. Respondent must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.

C.18. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Adm. Code § RL 7.11.

Practice Limitations

C.19. Respondent shall not work as a substance abuse counselor or other health care provider in a setting in which Respondent has access to controlled substances.

C.20. Respondent shall practice only under the direct supervision of a clinical substance abuse counselor or other licensed health care professional approved by the Secretary or her designee and only in a work setting pre-approved by the Secretary or her designee.

C.21. Respondent shall provide a copy of this Final Decision and Order and all other subsequent orders immediately to supervisory personnel at all settings where Respondent works as a substance abuse counselor or care giver or provides health care, currently or in the future.

C.22. It is Respondent's responsibility to arrange for written reports from supervisors to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's work performance, and shall include the number of hours of active practice of substance abuse counseling worked during that quarter.

C.23. Respondent shall report to the Department Monitor any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

MISCELLANEOUS

Department Monitor

D.1. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor
Wisconsin Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue

P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

Required Reporting by Respondent

D.2. Respondent is responsible for compliance with all of the 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 the Treater, treatment facility, 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. Additionally, every three (3) months the Respondent shall notify the Department Monitor of the Respondent's compliance with the terms and conditions of the Order, and shall provide the Department Monitor with a current address and home telephone number.

Change of Treater or Approved Program by Secretary

D.3. If the Secretary or her designee determines the Treater or Approved Program has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Secretary or her 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.4. Respondent may petition the Secretary for modification of the terms of this Order or termination, however no such petition for modification shall occur earlier than one year from the date of this Order and no such petition for termination shall occur other than in compliance with paragraph A.3. Any such 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.

Costs of Compliance

D.5. 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.6. Respondent shall pay costs of Six Hundred Dollars ($600.00) to the Department of Regulation and Licensing, within ninety (90) days of this Order.) In the event Respondent fails to timely submit any payment of costs, Respondent's certificate(s) may, in the discretion of the Secretary or her designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

Additional Discipline

D.7. In addition to any other action authorized by this Order or law, violation of any term of this Order may be the basis for a separate disciplinary action pursuant to Wis. Stat. § 440.88.

Department of Regulation and Licensing

By: _____ Secretary

_____ Date 12/16/09

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION & LICENSING

IN THE MATTER OF THE DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	STIPULATION
SARAH S. HIBBARD, RESPONDENT.	:	LS 0912162 RSA

[Division of Enforcement Case No. 09 RSA 021]

Respondent Sarah S. Hibbard, personally on her own behalf; and Jeanette Lytle, attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, stipulate:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's certification by the Division of Enforcement (file 09 RSA 021). Respondent consents to the resolution of this investigation by stipulation.

2. Respondent understands that by signing this Stipulation, she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, 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 her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided an opportunity to obtain the advice of legal counsel prior to signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Secretary of the Department. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Secretary's Order, if adopted in the form as attached.

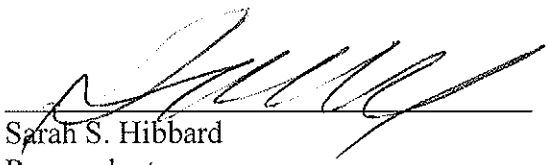
5. If the terms of this Stipulation are not acceptable to the Secretary, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Secretary, the parties agree not to contend that the Secretary has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement may appear before the Secretary, without the presence of Respondent or her

attorney, if any, for purposes of speaking in support of this agreement and answering questions that the Secretary may have in connection with deliberations on the Stipulation.

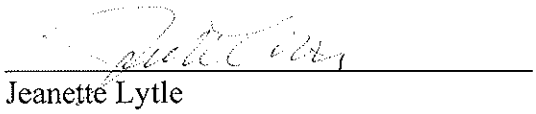
7. Respondent is informed that should the Secretary adopt this Stipulation, the Secretary's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending that the Secretary adopt this Stipulation and issue the attached Final Decision and Order.



Sarah S. Hibbard
Respondent
422 E. 7th Street
Richland Center, WI 53581

11/9/09
Date



Jeanette Lytle
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11/03/09
Date