

BEFORE THE BOARD OF SOCIAL WORK
OF THE STATE OF IOWA

IN THE MATTER OF)	NO. 11-040
)	
BRIAN C. NEDOBA,)	ORDER GRANTING MOTION
)	TO AMEND NOTICE OF HEARING
)	AND STATEMENT OF CHARGES
RESPONDENT.)	

The Iowa Board of Social Work (Board) currently has a Notice of Hearing and Statement of Charges pending against Brian C. Nedoba, (Respondent) charging Respondent with five separate counts. Hearing is currently scheduled to begin February 11, 2013.

On or about January 9, 2013, the State, by and through Assistant Attorney General Sara Scott, filed a Motion to Amend Notice of Hearing and Statement of Charges. The proposed amendment adds an additional count against Respondent for failing to comply with the terms of an impaired practitioner recovery contract with the Impaired Practitioner Review Committee. The State maintains it is in the interests of justice to allow the new count. The new count is directly related to charges currently pending against Respondent relating to his substance abuse.

Respondent was provided notice of the State's Motion to Amend but filed no response or resistance.

The Board met by telephone conference call on January 23, 2013 to consider the State's motion. Board members present were Mark Hillenbrand, LISW, Beth Harms, LISW, Krista Lindholm, LMSW, Dana McCarthy, LBSW, and Neil Nelsen, Public Member. After meeting in closed session, pursuant to Iowa Code section 21.5 (1) d, the

Board took the following action in open session. The Board voted to approve the Motion to Amend Notice of Hearing and Statement of Charges.

ORDER

The State's motion to Amend Notice of Hearing and Statement of Charges is hereby GRANTED.

Signed this 23rd day of January, 2013.



Beth Harms, LISW, Chairperson
Iowa Board of Social Work

Cc: Sara Scott
Assistant Attorney General
Department of Justice
Hoover Building

Brian Nedoba
2135 Lindsay Court
Coralville, IA 52241

BEFORE THE BOARD OF SOCIAL WORK
OF THE STATE OF IOWA

IN THE MATTER OF)	NO. 11-040
)	AMENDED
BRIAN C. NEDOBA,)	NOTICE OF HEARING
)	AND STATEMENT OF CHARGES
RESPONDENT.)	

COMES NOW the Iowa Board of Social Work (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa license 00690 on January 2, 1991. Respondent's license is current and will next expire on December 31, 2012. Respondent's address as reported to the Board is 2135 Lindsay Court, Coralville, Iowa 52241.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on February 11, 2013, before the Board of Social Work. The hearing shall begin at 9:00 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Rooms 517/518, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Social Work, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may

request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 645 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Sara Scott, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file

with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 154C, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 154C, and 272C and 645 IAC chapter 283.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Pursuant to Iowa Administrative Code 645 – 283.2(6)(a), Respondent is charged with habitual intoxication and inability to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

Count II

Pursuant to Iowa Administrative Code 645—283.2(11), Respondent is charged with conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred.

Count III

Pursuant to Iowa Administrative Code 645—283.2(29), Respondent is charged with unethical conduct for making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

Count IV

Pursuant to Iowa Administrative Code 645—282.2(13), Respondent is charged with practicing in a professional relationship while intoxicated or under the influence of alcohol or drugs not prescribed by a licensed physician.

Count V

Pursuant to Iowa Administrative Code 645—283.2(12), Respondent is charged with violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of social work, including, but not limited to, the rules of conduct found in 645—282.2.

Count VI

Pursuant to Iowa Administrative Code 645—283.2(31), Respondent is charged with violation of the terms of an initial agreement or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

D. FACTUAL CIRCUMSTANCES

1. From approximately 2001 until his termination in January of 2012, Respondent provided mental health services at an agency in northeastern Iowa.
2. In September of 2011, during a therapy session, Respondent made

inappropriate comments of a sexual nature to a client and shared other inappropriate personal information. Respondent also made inappropriate comments to a second client and invited the client and her husband to dinner.

3. In September of 2011, Respondent was tested under the agency's reasonable suspicion drug and alcohol testing policy and tested positive for alcohol.

4. Respondent admitted to an investigator that he provided services to clients when he had been drinking.

5. On August 27, 2010, Respondent pled guilty to Driving while License Revoked in the Iowa District Court for Bremer County. Respondent was ordered to pay a fine.

6. On February 28, 2011, Respondent pled guilty to OWI 1st offense in the Iowa District Court for Howard County. Respondent received a deferred judgment and was placed on unsupervised probation for one year.

7. On April 26, 2012, Respondent pled guilty to OWI 2nd offense in the Iowa District Court for Tama County. Respondent was sentenced to serve no more than two years at a facility designated for the treatment of drunk drivers and pay a fine.

8. On October 11, 2011, Respondent self reported to the Impaired Practitioner Review Committee. On December 23, 2011, Respondent submitted an updated self-report form and signed an initial agreement with the Impaired Practitioner Review Committee.

9. Requests for Respondent's medical records were made on December 6, 2011 and February 20, 2012. Respondent failed to provide the requested records. The

initial agreement, paragraph 1, requires Respondent to ensure that medical records are provided to the committee.

10. On December 7, 2012, the Impaired Practitioner Review Committee voted to refer Respondent to the Board for noncompliance with the program and the initial agreement.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Sara Scott, Assistant Attorney General, at 515-242-0104.

F. PROBABLE CAUSE FINDING

On this 23rd day of January, 2013, the Iowa Board of Social Work found probable cause to file this Notice of Hearing and Statement of Charges.



Beth Harms, Chairperson
Iowa Board of Social Work

Copies to:

Sara Scott
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor Hoover Bldg.
Des Moines, IA 50319

Brian Nedoba