

BEFORE THE IOWA BOARD OF SOCIAL WORK

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IN THE MATTER OF: ) DIA NO. 09DPHSW007  
 )  
 ) FINDINGS OF FACT,  
BARRION STAPLES ) CONCLUSIONS OF LAW,  
 ) DECISION AND ORDER

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Barrion Staples (Respondent) has a lengthy history with the Board. These actions culminated in an Informal Settlement being filed on August 22, 1997. The Informal Settlement suspended the Respondent's license indefinitely until further order of the Board, with no possibility of reinstatement for a period of three years.

On November 12, 2007, the Respondent filed an Application for Reinstatement. The Board held a hearing on the Application April 14, 2008. After the hearing the Board denied the Application for reinstatement.

On June 24, 2009 the Respondent filed a second Application for Reinstatement with the Board. The hearing was held on November 9, 2009 at 9:00 a.m. in the fifth floor conference room, Lucas State Office Building, Des Moines, Iowa. The following members of the Board presided at the hearing: David Stout, LMSW, Chairperson; Joyce Westphal, LISW; Katinka Keith, LISW; Beth Harms, LISW; and LaMark Combs, public member.

Administrative Law Judge John M. Priester assisted the Board in conducting the hearing. Respondent Barrion Staples was present and represented himself. Assistant Attorney General Heather Adams represented the state. A certified court reporter recorded the hearing. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1)(2009) and 645 IAC 11.19(10).

Following the hearing, the Board convened in closed executive session to deliberate their decision, pursuant to Iowa Code section 21.5(1)(f)(2009). The administrative law judge was instructed to prepare Findings of Fact, Conclusions of Law, Decision and Order, in accordance with the Board's deliberations.

### THE RECORD

The record includes the testimony of Respondent and State Exhibits 1-23. (See exhibit indexes for description)

### FINDINGS OF FACT

1. On July 17, 1990, the Board issued Respondent license number 00663 to practice as a licensed social worker in the state of Iowa. (State Exhibit 6)

2. On June 11, 1997, the Board filed a Statement of Charges alleging that Respondent violated Board statutes and rules by:

- Engaging in unethical conduct in the practice of social work when he made sexual advances towards and engaged in sexual contact with patient #1;
- Engaging in prohibited acts in the practice of social work when he engaged in sexual contact with patient #1;
- Making sexual advances toward, or engaging in physical intimacies or sexual activity with a patient when he engaged in sexual contact with patient #1.

(State Exhibit 6)

3. On August 22, 1997, Respondent and the Board entered into an Informal Settlement in resolution of the Statement of Charges. Respondent's social work license was indefinitely suspended, with no possibility of reinstatement for three years.

Prior to reinstatement of his license, the Respondent was required to meet the following conditions:

- a. The Respondent shall undergo a full psychiatric evaluation at a facility approved in advance by the Board. Prior to the evaluation, the facility shall be provided with the Statement of Charges, the Informal Settlement, and the investigative file in the contested case.
- b. The Respondent shall provide, from the Board approved facility, an initial treatment plan. This initial treatment plan shall be subject to approval of the Board. The Respondent shall undergo treatment pursuant to such approved plan.

- c. The Respondent shall sign a release which (a) will enable the Board to freely communicate with all individuals involved in Respondent's evaluation and treatment, (b) provide for full access by the Board to all records maintained with respect to such evaluation and treatment, and (c) provide for monthly reports on Respondent's progress to be submitted directly to the Board.
- d. Any proceeding for reinstatement shall be initiated by the Respondent, who may file with the Board an application for reinstatement. The application shall state facts which, if established, shall be sufficient to prove that Respondent has complied with the terms of his Informal Settlement, that the basis of the suspension no longer exists, and that it would be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the Respondent.

(State Ex. 8).

4. Gary Schoener, M.Eq., evaluated the Respondent as required by the Settlement Agreement and Final Order. The comprehensive evaluation was initiated on June 27, 2007 and Gary Schoener issued a written evaluation report on October 22, 2007. Mr. Schoener did not find evidence of any psychiatric disorder. Mr. Schoener did observe that the Respondent had problems with documentation, dual relationships and assessing transference and counter-transference. Mr. Schoener concluded that the Respondent could safely return to the practice of social work, without risk to the public, and made the following recommendations:

- Respondent needs to attend a workshop which covers current ethical standards in the field of social work so that he is up-to-date on the rules;
- Respondent needs a practice setting other than solo private practice - that he needs to be working within a group or team;
- Respondent should have supervision of clinical work - especially counseling or psychotherapy - for at least the first year of return to practice.

(State Exhibit 12)

5. November 12, 2007, the Respondent filed an application for reinstatement with the Board. The matter came on for a hearing and the Board issued Findings of Fact, Conclusions of Law, Decision and Order on May 12, 2008.

The Board denied the application for reinstatement. The Board determined that prior to reinstatement that Respondent would be required, at a minimum, to:

1. Establish a training mentor relationship with a licensed independent social worker who has demonstrated expertise in social work practice ethics, including professional boundaries and clinical practice expertise in issues of transference and counter-transference. Respondent and his training mentor shall develop a written educational plan that addresses social work ethics, with an emphasis on professional boundaries. Both the training mentor LISW and the educational plan must be pre-approved by the Board.

2. At a minimum, the educational plan shall include:

- Structured reading assignments on ethics, dual relationships, professional boundaries, and issues of transference/counter transference, including but not necessarily limited to the statutes and regulations applicable to the practice of social work and relevant articles from professional journals and publications.
- Formal discussion of the reading assignments with the approved LISW, including application of the educational materials to hypothetical case scenarios presenting ethical dilemmas.
- Study and review of appropriate clinical documentation using a SOAP (subjective, objective, assessment, plan) format.

3. As background, the Board will provide the approved LISW with copies of the Statements of Charges, Settlement Agreements, and Board Decisions contained in the state's Exhibit Book as well as a copy of Respondent's July 12, 1996 interview with the Board's Investigator (with names redacted) and Mr. Schoener's written evaluation report. Respondent and the mentoring LISW must sign any and all necessary releases to allow the LISW to review these documents.

4. Respondent must satisfactorily complete the approved educational plan prior to filing a second Application for Reinstatement and shall provide the Board with a written final report from the approved LISW verifying his successful completion of the educational plan.

5. Respondent shall be solely responsible for all costs associated with the educational plan, including any fees charged by the approved LISW.

(State Exhibit 14)

6. The Respondent filed a second application for reinstatement of Iowa license on June 24, 2009. (State Exhibit 18)

7. On July 17, 2009, the Respondent provided a written report from Stephen Trefz, LISW. This report outlined the mentoring that has occurred between Mr. Trefz and the Respondent and the Respondent's educational plan. (State Exhibit 20)

8. The Respondent appeared for a hearing on November 9, 2009 before the Board. At that time the Respondent explained what steps he has taken since his license was suspended to be in compliance with the Board's Order. The Respondent showed a PowerPoint presentation to the Board on Ethics and Client Boundaries. (Respondent Testimony)

#### CONCLUSIONS OF LAW

645 IAC 11.31 provides, in relevant part:

**645-11.31(272C) Reinstatement.**

**11.31(1)** Any person whose license to practice has been...suspended may apply to the board for reinstatement in accordance with the terms and conditions of the order of ... suspension,...

**11.31(2)** If the order of ... suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application may not be made until one year has elapsed from the date of the order or the date of the voluntary surrender.

...

**11.31(4)** An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the ...suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

**11.31(5)** An order denying or granting reinstatement shall be based upon a decision which incorporates findings of fact and conclusions of law. The order shall be published as provided for in this chapter.

The issues before the Board are whether the basis for the suspension of Respondent's license no longer exists and whether reinstatement is in the public interest. In order to reinstate, the Board must be satisfied that the public will be protected and that Respondent is willing and able to comply with all of the statutes and rules governing practice as a licensed independent social worker, including all ethical obligations.

The Respondent's social work license has now been suspended for more than twelve years. The Respondent has completed the evaluation required by the Settlement Agreement, and the evaluator has submitted a written report recommending the Respondent's reinstatement, subject to conditions.

The Board finds that the preponderance of the evidence established that Respondent complied with the terms of the Settlement Agreement and further established that it is in the public interest for his social work license to be reinstated at this time with restrictions

Before the Respondent's license is reactivated, he must obtain a Board-approved supervisor who is licensed at the LISW level. The supervisor will be provided with the Respondent's history with the Board. The Respondent's license will then be reactivated and he will be placed on indefinite probation. The Respondent shall sign a release and have the supervisor provide quarterly reports to the Board.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the application for reinstatement of license number 00663 to practice social work at the independent level, filed by Barrion Staples, is hereby GRANTED. Pursuant to 645 IAC 280.15, Respondent is now eligible to reactivate his license.

Upon completion of all of the requirements set out in 645 IAC 280.14(3) payment of all applicable licensure fees, continuing education, and passing the clinical level of the ASWB examination, license number 00663 shall be reactivated and immediately placed on PROBATION for an INDEFINITE PERIOD, subject to the following terms and conditions:

1. Respondent shall only practice in a group or agency setting that can provide adequate clinical supervision or support. Any work practice setting shall be approved by the Board.

2. Respondent shall obtain ongoing supervision from a Board-approved licensed independent social worker (LISW). Respondent's proposed supervisor shall provide the Board with written verification that he/she has been provided with a copy of this Decision and Order of the Board and is familiar with the Respondent's prior history with the Board. Respondent's supervisor shall be approved by the Board.

- a. Within thirty (30) days of accepting a social work position, Respondent and his Board-approved supervisor shall develop a written plan of supervision and submit it to the Board for its approval.

- b. Respondent's Board-approved supervisor shall provide a written report to the Board every three (3) months. The report shall describe Respondent's social work practice and his compliance with the statutes and rules governing the practice of social work, including all ethical obligations. In addition to the written report every three months, Respondent's supervisor shall promptly report any violations or ethical concerns to the Board.

c. Respondent shall execute any and all necessary releases to allow a free exchange of information between his supervisor and the Board.

IT IS FURTHER ORDERED that Respondent's probation shall continue until such time as the Board terminates it. Respondent may be asked to personally appear before the Board following the reactivation of his license. At that time the Board may consider whether it is appropriate to release Respondent from the terms of probation.

IT IS FURTHER ORDERED that if Respondent violates any provision of this Decision and Order, the Board will hold a hearing pursuant to Iowa Code section 272C.3(2)"a"(2009), and determine whether additional sanctions, including revocation, are warranted.

**This findings of fact, conclusions of law, decision and order is approved by the board on February 8, 2010.**

Any appeal to the district court from a decision in a contested case shall be taken within 30 days from the date of issuance of the decision by the Board. 645 IAC 11.29.