

BEFORE THE IOWA BOARD OF SOCIAL WORK

IN THE MATTER OF:)	DIA NO. 13SW005
)	CASE NO. 12-034
)	
DARLA KROM)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent)	DECISION AND ORDER

On August 12, 2013, the Iowa Board of Social Work (Board) filed a Notice of Hearing and Statement of Charges charging Darla Krom (Respondent) with the following two counts:

Count I: Engaging in sexual activities with a former client, in violation of 645 IAC 282.2(9)"b," and pursuant to Iowa Code section 147.55(3) and 645 IAC 283.2(12);

Count II: Conviction of a crime related to the profession, in violation of Iowa Code section 147.55(5) and 645 IAC 283.2(11).

The hearing was held on December 3, 2013 before the following members of the Board: Mark Hudson, Public Member and Chairperson; Mark Hillenbrand, LISW; Valerie Huntley, LISW; Amy Courneya, LISW; Jody Weigel, LMSW; Dana McCarthy, LBSW; and Neil Nelsen, public member. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. A certified court reporter recorded the hearing. Assistant Attorney General Laura Cathelyn represented the state. Respondent was represented by attorney Jay D. Grimes.

The hearing was closed to the public at Respondent's request, pursuant to Iowa Code section 272C.6(1)(2013) and 645 IAC 11.19(10). Following the hearing, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2013), to deliberate their decision. 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 Kimberly Groves, Client #1, Respondent, Bery Engebretson, M.D., State Exhibits 1-13 and Respondent Exhibits A-F (See exhibit indexes for description).

FINDINGS OF FACT

1. On July 15, 2003, the Board issued Respondent license number 06228 to practice as a licensed independent social worker (LISW) in the state of Iowa. Respondent's license is current and expires on December 31, 2014. (Exhibits 1, 3)

2. At all times relevant to the Statement of Charges, Respondent was employed as a licensed independent social worker providing counseling and therapy services to private clients. Respondent provided marital counseling and couples therapy to client #1 and her spouse from September 2010 until December 2011. The marital counseling ceased when the spouse of client #1 asked for a divorce. Client #1 and her spouse had three very young children, and they asked Respondent to participate in some mediation sessions concerning visitation and other issues. During their last mediation session, Client #1 asked Respondent if she would be willing to provide individual counseling for her. Client #1's spouse did not object to this after Respondent explained to her that they would not address any issues that had been covered during the couples' counseling. (Testimony of Client #1; Respondent; State Exhibit 4, pp. 23-25; Respondent Exhibit A)

3. Client #1 had nine individual counseling/therapy sessions with Respondent, with the first session on January 30, 2012 and the last session on April 7, 2012. Respondent's progress notes indicate that Client #1 suffered from anxiety and depression, and the treatment plan for Client #1 included continuing to develop healthy boundaries with her spouse. (Testimony of Client #1; Respondent; State Exhibit 4, pp. 26-29)

Respondent and Client #1 exchanged a series of emails prior to ending the therapeutic relationship in April 2012. In an April 9, 2012 email to Client #1, Respondent wrote: "In fear of crossing a boundary...I really wish you weren't my client...I really would love a good, considerate, loyal friend such as yourself...right now." (State Exhibit 4, p. 30) Client #1 responded, in part: "I

would also love to be your friend right now. You know more about the way things work with your ethics than I do so I guess you would have to be the one to decide if you would feel that it would be ok to confide in me. I would really like it if you could, but I wouldn't want to jeopardize anything for either of us." (State Exhibit 4, p. 31)

In an April 10th email, Respondent wrote, in part: "Thanks for taking the initiative to call me... well to answer the ethics question...I would be crossing a boundary to confide in you." (State Exhibit 4, p. 32) In an April 12th email, Client #1 wrote "I have been thinking that maybe we should consider dissolving our therapeutic relationship. If that were the case then we would have no conflict." Respondent replied, in part: "I don't want to sound arrogant, but here I go...is there an attraction there that I need to be aware of...I can tend to be sooo nice and flirty and I want to be sensitive to your vulnerability and feelings...And if that's not the case...cool... but if it is I think we need to talk about it. (State Exhibit 4, p. 34)

Respondent and Client #1 agreed to meet at a restaurant on Friday, April 13, 2012. Respondent told Client #1 that this would not be a counseling session and she would not be charging her. While at the restaurant, they agreed that they were friends and would no longer be in a therapist/client relationship. Client #1 then invited Respondent to join her and her friends at a bar, and Respondent agreed. While at the bar, Respondent put her hand on Client #1's leg and kissed her. Later, Respondent drove Client #1 home. Client #1 invited Respondent into her home, and they had sexual relations. (Testimony of Client #1; Respondent)

4. Client #1 reports that her relationship with Respondent was "tumultuous." Respondent had been involved in a long term relationship before initiating the relationship with Client #1. Over the next six months, Respondent moved in and out of Client #1's home several times and broke up with her repeatedly. Client #1 credibly testified that she was unable to sleep well, her health and work was adversely affected, and she was not thinking clearly. When Client #1 discovered that Respondent had taken her former partner on a business trip in October, she became very angry. On October 22, 2012, Client #1 reported Respondent's conduct to the Board and to Respondent's employer, who placed her on suspension. On October 26, 2012, Client #1 reported Respondent's conduct to the police. Respondent was subsequently arrested and charged criminally with a felony, Sexual Exploitation by a Counselor or Therapist. (Testimony of Client #1; State Exhibits 2, 4, 5, 6 p. 57)

5. In late November 2012, Client #1 called Respondent after one of her friends committed suicide. Respondent went to the home of Client #1 on November 30, 2012, and they were sexually intimate. Respondent told Client #1 that she loved her and that it was a mistake to cheat on her. Respondent purchased a separate cell phone that she used to communicate with Client #1. On December 1, 2012, Respondent proposed marriage to Client #1. On December 2, 2012, Respondent and Client #1 discussed Client #1 dropping the criminal charges against Respondent.

From December 2, 2012 through January 17, 2013, Client #1 and Respondent had intermittent communication by phone, text messages, or Kindle. During this time period they were intimate on several occasions. On December 29, 2012, Respondent and Client #1 looked at wedding rings at several pawn shops and discussed purchasing them. Respondent admits that she agreed to marry Client #1 and that they looked at wedding rings together. Respondent also admits that she and Client #1 were sexually intimate during this time period, but she denies that they were intimate as frequently as reported by Client #1. (Testimony of Client #1; Respondent; State Exhibits 8, 10)

6. Client #1 testified that she and Respondent spent time together and were intimate on December 30 and 31, 2012 and on January 8, 12, and 13, 2013. They had additional phone contact by text on January 14, 15, and 16, 2013. On January 17, 2013, Respondent advised Client #1 by phone that she wanted to end all contact with her due to her plea agreement. Client #1 continued to try to text and call Respondent, and she went to Respondent's home on January 20, 2013. (Testimony of Client #1; State Exhibits 8, 10)

7. On January 18, 2013, Respondent pled guilty to an Amended and Substituted Trial Information alleging two counts of Prohibited Acts, in violation of Iowa Code section 154C.5 and 147.86, a serious misdemeanor. Respondent admitted engaging in a sexual relationship with a former client from April-October 2012 and violating her professional license by a dual boundary violation. Respondent was granted a Deferred Judgment and was placed on probation for a period of two years, subject to terms and conditions. Respondent was required to complete 80 hours of community service within 120 days and was fined a total of \$630.00. Respondent was also required to undergo a psychological evaluation and to obtain treatment for professional boundaries issues. The original felony charge of Sexual Exploitation by a Counselor or Therapist was dismissed as part

of the plea bargain. (Testimony of Respondent; State Exhibit 5; Respondent Exhibit B)

8. On January 22, 2013, Respondent self-reported her guilty plea and conviction to the Board. (Respondent Exhibit B)

Also on January 22, 2013, Respondent filed a Petition for Relief from Domestic Abuse against Client #1. In the Petition, Respondent alleged that Client #1 was stalking her. The court granted a Temporary Protective Order on January 22nd and scheduled a hearing for January 31, 2013. On January 31, 2013, the court entered a Protective Order by Consent Agreement. Respondent and Client #1 have had no further contact since the protective order was entered. (Testimony of Client #1; Respondent; State Exhibits 9, 11)

9. In February 2013, Respondent underwent a psychological evaluation by licensed psychologist Gary Schoener, M.Eq. The evaluation included psychological testing (MMPI-2 and MCMI-III), an in-person interview of nearly five hours, and a follow-up telephone interview of two hours. In addition, Mr. Schoener conducted telephone interviews of several of Respondent's work colleagues/supervisors and of her psychiatrist. Mr. Schoener also reviewed Respondent's Petition to Plead Guilty and Sentencing Order, Statement of Offender, and a Personal History Questionnaire. Mr. Schoener was not provided any information from the Board's investigation. (Testimony of Respondent; Respondent Exhibit D)

In his report to Respondent's probation officer, Mr. Schoener concluded that Respondent's relationship with Client #1 was the result of Respondent's failures to:

- recognize the degree to which she was psychologically vulnerable as the result of some problems in her personal life;
- recognize the powerful countertransference she was experiencing;
- diagnose some aspects of the client's psychological issues, which would have generated the need for extra care and caution with regard to boundaries; and
- fully recognize the strong impact that the client's transference feelings were having on her;
- obtain consultation and or supervision given the strength of these feelings, and

- avoid putting herself in a high risk situation with the client outside of the office and then failing to exit the situation

Mr. Schoener did not find that Respondent had any significant risk of re-offending. Mr. Schoener recommended, in part, that Respondent:

- undertake at least short-term psychotherapy to more fully review and examine the issues that led to her misconduct; and
- establish a supervision or consultation relationship with a qualified practitioner for at least six months.

From Mr. Schoener's report, it does not appear that Respondent fully disclosed the extent and frequency of her intimate relationship with Client #1 or that there was additional intimate contact after Respondent was criminally charged. At hearing, Respondent admitted that she did not tell Mr. Schoener that she moved in and out of the client's home, that she developed a relationship with the client's young children, or that she agreed to marry the client in December 2012. (Respondent Exhibits C, D; Testimony of Respondent)

10. For the past four years, Respondent has been employed full-time by Integrated Primary Care Behavioral Health Program, which provides primary health care in central Iowa. This full-time position was in addition to Respondent's part-time employment with a separate mental health agency, through which she provided the mental health services to Client #1.

Respondent was instrumental in starting a mental health program, which addresses behavioral issues affecting primary care (e.g. counseling for a diabetic who is not following medical and lifestyle guidelines). Respondent's role has been described as limited to "consultation and brief therapy." Respondent testified that she typically conducts a 20-30 minute assessment to determine what is keeping the patient from being healthy and then provides motivational intervention and short term treatment to identify and implement necessary behavioral changes. Respondent sees patients for anywhere from 1-6 sessions. Patients who require additional treatment are referred to other providers.

After Respondent was arrested, the program placed her on administrative leave. She remained on administrative leave until after she entered her guilty plea and completed the psychological evaluation. After reviewing Dr. Schoener's report and obtaining written evidence that Respondent was complying with Mr.

Schoener's recommendations, the program made the decision to reinstate Respondent. Respondent is now assigned to one of its clinics where she meets with her direct supervisor, the medical director, and the human resources director every three months to provide updates and address any concerns. (Testimony of Respondent; Bery Engebretsen, M.D.; Respondent Exhibit E, p. 56)

11. Since March 25, 2013, Respondent has been meeting with Maggie Conrad, LISW on a bi-monthly basis to acquire the skills that she needs to meet the legal, ethical, and moral obligations of her profession and to explore the issues in her personal life that made her vulnerable to breaching professional boundaries with a client. Ms. Conrad reports that Respondent has been open and honest and is committed to initiating the necessary changes to become a healthy mental health services provider in the future. (Respondent Exhibit E, pp. 55, 57; Testimony of Respondent)

12. Since April 22, 2013, Respondent and her partner have been attending relationship counseling with Sharon Bandstra, LISW. (Respondent Exhibit E, p. 58)

13. Respondent has contacted Bruce Buchanan, ACSW, LISW, BCD as a potential supervisor for her clinical practice. Mr. Buchanan reports that he has reviewed the investigation material and has discussed the ramifications of Respondent's actions with her. Mr. Buchanan believes that Respondent has taken full responsibility for her actions. Mr. Buchanan is willing to provide any education or supervision for Respondent that the Board may require of her. (Testimony of Respondent; Respondent Exhibit E, p. 59)

CONCLUSIONS OF LAW

The Iowa legislature has directed the Board to adopt rules relating to the standards required for licensees engaged in private practice as a social worker and standards for the professional conduct of all licensees.¹ The Board has adopted rules prescribing "Rules of Conduct" for licensed social workers at 282 IAC 282.2. The Board has also adopted rules establishing "Grounds for Discipline" for licensed social workers at 645 IAC 283.2.

COUNT I

¹ Iowa Code section 154C.4(1), (2)(2011, 2013).

Iowa Code section 147.55(3) authorizes the Board to discipline licensees for engaging in unethical conduct or practice harmful or detrimental to the public. 645 IAC 283.2(12) provides that the board may impose any of the disciplinary sanctions provided in rule 645-283.3 when the board determines that the licensee has violated 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 IAC 282.2. 645 IAC 282.2(9) "b" provides:

282.2(9) *Sexual relationships.*

...

b. Former clients. A licensee shall not engage in sexual activities or sexual contact with a former client within the five years following termination of the client relationship. A licensee shall not engage in sexual activities or sexual contact with a former client, regardless of the length of time elapsed since termination of the client relationship, if the client has a history of physical, emotional, or sexual abuse or if the client has ever been diagnosed with any form of psychosis or personality disorder or if the client is likely to remain in need of therapy due to the intensity or chronicity of a problem.

Respondent admits that she entered into a sexual relationship with Client #1 immediately after they agreed to terminate their client/therapist relationship. The email exchanges prior to the termination of the therapeutic relationship clearly establish that Respondent was well aware of her professional and ethical obligations to maintain appropriate professional boundaries. It is also clear that Client #1 relied on Respondent to make the decision about the direction of their relationship, consistent with Respondent's understanding of her ethical obligations.

Respondent committed an egregious breach of her professional and ethical obligations when she initiated a personal and sexual relationship with Client #1 immediately after terminating the therapeutic relationship. Based on the mental health services that she provided to both Client #1 and her spouse, Respondent knew that the client was especially vulnerable due to her recent separation. Respondent continued the relationship over a protracted period of time and caused additional trauma to the client by moving in and out of the client's home, breaking up with the client and then reuniting, and establishing a relationship

with the client's young children. Moreover, Respondent continued to have personal and intimate contact with Client #1 even after she was arrested and after her actions had been reported to the Board.

COUNT II

Iowa Code section 147.55(5) and 645 IAC 2832.2(11) authorize the Board to discipline licensees for conviction of a crime related to the licensee's profession or occupation or the conviction of any crime that would affect the licensee's ability to practice within a profession. A copy of the record of conviction for plea of guilty shall be conclusive evidence.

The preponderance of the evidence established that Respondent was convicted of a crime related to the social work profession when she pled guilty to Prohibited Acts, in violation of Iowa Code sections 154C.5 and 147.86.

SANCTION

It is critically important for licensed social workers to uphold the professional and ethical obligations of their profession. Engaging in a sexual relationship with a client or former client is not only incredibly harmful to the client, it is also damaging to public confidence in the social work profession as a whole. In determining an appropriate sanction for this type of violation, the Board's primary objective must be protection of the public. The Board's sanction must not only address the particular violation, it must also serve as an effective deterrent to other licensees from engaging in similar behaviors. Based on the aggravating circumstances of this case and based on the need to deter other licensees from engaging in similar conduct, the Board has determined that the only appropriate sanction is a license revocation.

DECISION AND ORDER

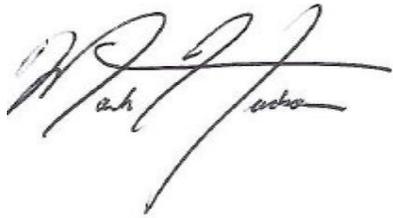
IT IS THEREFORE ORDERED that license number 06228, issued to Respondent Darla Krom, is hereby REVOKED, effective immediately upon service of this Decision and Order.

IT IS FURTHER ORDERED that any reinstatement of Respondent's license shall be subject to the provisions of 645 IAC 11.31. The burden will be on Respondent to establish that the reasons for the revocation of her license no longer exist and

that it is in the public interest for her license to be reinstated. Prior to filing a request for reinstatement, Respondent must complete a Board approved evaluation and must fully comply with any recommendations made by the evaluator. The evaluator must be provided the Board's investigative file and this Decision and Order of the Board.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6, that Respondent shall pay \$75.00 for fees associated with the disciplinary hearing and \$316.25 for the court reporter fees. The total fees of \$391.25 shall be paid within thirty (30) days of issuance of this decision.

Dated this 16th day of January, 2014.

A handwritten signature in black ink, appearing to read 'Mark Hudson', written over a horizontal line.

Mark Hudson, Chairperson
Iowa Board of Social Work

cc: Laura Cathelyn, Assistant Attorney General (LOCAL)
Jay D. Grimes, Respondent's Attorney (RESTRICTED CERTIFIED)

Pursuant to Iowa Code section 17A.19(2013) and 645 IAC 11.29, any appeal to the district court from a decision in a contested case shall be taken within 30 days from the issuance of the decision by the board. The appealing party shall pay the full costs for the transcript of the hearing. 645 IAC 11.23.