

BEFORE THE IOWA BOARD OF SOCIAL WORK

IN THE MATTER OF:)	DIA NO. 10DPHSW008
)	
DAVID J. HUEBNER)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
License No. 001823)	DECISION AND ORDER

On January 20, 1998, the Iowa Board of Social Work (Board) and David J. Huebner (Respondent) entered into an Informal Settlement that indefinitely suspended Respondent's license as a licensed independent social worker (LISW), with no possibility for reinstatement for a minimum period of three (3) years. On April 28, 2010, Respondent filed an Application for Reinstatement of his license. The Board issued a Notice of Hearing on June 2, 2010. The initial hearing date was continued due to a lack of board quorum.

The hearing was held on September 13, 2010 at 11:00 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; Katinka Keith, LISW; Beth Harms, LISW; David Stone, LISW; and Krista Mattson, LBSW. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. Respondent David J. Huebner appeared and was represented by attorney David Sykes. Assistant Attorney General Sara Scott 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 his wife, State Exhibits 1-11 (See exhibit index for description; Exhibit 11 is the Corrected Board Rescheduling Order), and Respondent Exhibit A (four letters of recommendation).

FINDINGS OF FACT

1. Respondent earned his MSW in clinical social work in 1993 from Washington University in St. Louis, Missouri. In 1994, Respondent engaged in a sexual relationship with a client while practicing as a social worker at a hospital in the state of Missouri. Respondent's employment was terminated as a result of this relationship. Respondent reports that he participated in individual and couple's therapy following his termination. (State Exhibits 3, 5, 9; Respondent testimony)

2. In January 1996, Respondent started employment with the Fairfield Psychiatric Clinic in Fairfield, Iowa, where he worked with three psychiatrists as part of a treatment team. In November and December 1996, Respondent engaged in sexual activities with one of his clients at the Fairfield Psychiatric Clinic. Respondent terminated his therapy sessions with the client in December 1996 but did not disclose the inappropriate relationship to his supervisor until August 28, 1997. (State Exhibit 5; Respondent testimony)

3. On April 15, 1997, the Board issued Respondent license number 001823 to practice as a licensed independent social worker in the state of Iowa. On his application for licensure, Respondent certified that he had adhered to the social work code of ethics. Respondent did not disclose that he had engaged in sexual relationships with two clients. When this information was reported to the Board, the Board filed a Statement of Charges against Respondent. (State Exhibits 3, 5; Respondent testimony)

Respondent and the Board subsequently entered into an Informal Settlement, which stipulated that Respondent's license would be indefinitely suspended until further order of the Board, with no possibility of reinstatement for a minimum period of three years. The Informal Settlement further provided that prior to filing a petition for reinstatement, Respondent was required to undergo a comprehensive, multidisciplinary evaluation at a facility approved by the Board. The facility was to provide an evaluation report and an initial treatment plan, subject to Board approval. Respondent was required to undergo any treatment recommended by the evaluating facility. (State Exhibit 4)

4. Respondent initially underwent evaluation by licensed psychologist Gary Schoener in May 2008. Respondent completed two objective psychological tests

and was interviewed by Mr. Schoener for 6.5 hours. However, the evaluation was not completed in 2008 due to Respondent's inability to pay Mr. Schoener.

Respondent returned to Gary Schoener in November 2009. At that time, Mr. Schoener readministered the psychological tests. The testing showed mild depression, a general feeling of malaise, sensitivity to criticism, and a tendency to feel hurt and hold those feelings inside. Dr. Schoener interviewed Respondent by phone for 1.5 hours on February 21, 2010 and for twenty minutes on April 4, 2010. On April 5, 2010, Mr. Schoener issued his written evaluation report. Mr. Schoener concluded, in relevant part, that:

- He did not believe that Respondent has, or had a sexual impulse control disorder, nor were there any indications of predatory behavior;
- He did not believe that Respondent had any other psychiatric disorder which would lead to generalized impulsiveness, or other traits which would compromise practice;
- It was his professional opinion that Respondent has gained appropriate insight and awareness and has addressed the underlying conditions which set the stage for the professional misconduct;
- It was his profession opinion that while there is no psychological reason that Respondent should not now be able to practice safely, the fact that he has been out of practice for nearly 13 years creates some general practice re-entry concerns. It was his opinion that Respondent should: 1) develop a plan for updating his knowledge through some continuing education or university-based courses, and 2) develop sufficient updated knowledge so as to be able to pass the national licensure examination at the required level for an Iowa social worker.
- It was his professional opinion that any return to practice should only be in a program or setting where Respondent was appropriately supervised at the level of oversight of a field placement.

(State Exhibits 8, 9)

5. On April 28, 2010, Respondent filed an application for reinstatement of his social work license at the master's level. (State Exhibit 1) Respondent has the support of his wife of 31 years, who believes that he has worked through the issues that led to the suspension of his license and that he is ready to return to the practice of social work. (Testimony of Reverend Connie Huebner) In the twelve plus years since his license was suspended, Respondent has been working

a variety jobs, including carpentry and sales. Respondent has submitted letters of recommendation from some of his former employers and co-workers. (Respondent testimony; Respondent Exhibit A)

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 his practice as a licensed master level social worker, including all ethical obligations.

Respondent's license has now been suspended for more than twelve years. Based on this record, the Board concludes that Respondent has complied with

the terms of the Informal Settlement and has addressed the issues that led to the suspension of his social work license. It is in the public interest to reinstate Respondent's license, so long as he fully complies with the requirements for education and supervision set out in this order.

DECISION AND ORDER

IT IS THEREFORE ORDERED that prior to reinstatement of social work license number 001823 at the master's level, Respondent David Huebner shall:

1. Develop a written educational plan to present to the Board for its review and approval. The educational plan must, at a minimum, include at least 12 credit hours at the graduate level relevant to master level social work. The credit hours must include a classroom component. Respondent shall be solely responsible for all costs associated with the educational plan. After Respondent has provided the Board with verification of his successful completion of the Board approved educational plan, he will be permitted to take the LMSW examination.
2. Upon successful completion of the LMSW level examination, Respondent's license number 001823 will be reinstated at the master's level. Respondent's license will immediately be placed on indefinite probation, subject to the following terms and conditions:
 - a. Prior to beginning any social work position, Respondent shall submit a plan for supervised professional practice that complies with the requirements of 645 IAC 280.6. Although these rules apply to supervised practice for the LISW, these hours of supervision are additional requirements that are being imposed on Respondent to ensure protection of the public. These supervision hours will not count towards licensure as an LISW.
 - b. During the supervised professional practice, Respondent must have a written performance review by his supervisor every six months. The performance review shall be submitted to the Board. In addition, Respondent shall return to Gary Schoener for re-evaluation every six months during the supervised professional practice. Respondent shall fully comply with any recommendations made by Mr. Schoener (e.g. therapy or practice

restrictions) to address any issues that are identified in connection with his professional practice. Mr. Schoener shall provide the Board a written report verifying that Respondent reported for each six month re-evaluation and that he is in compliance with any recommendations made by Mr. Schoener. Respondent shall sign all necessary releases to permit Mr. Schoener to provide these reports to the Board.

c. Respondent must complete the plan of supervision within six (6) years of the date that his license is reinstated on probation. All costs of compliance with the probationary conditions are Respondent's responsibility.

d. Failure to comply with any of the probationary requirements could result in further disciplinary action against Respondent's license.

This Findings of Fact, Conclusions of Law, Decision and Order is approved by the board October 15, 2010.