

BEFORE THE BOARD OF BEHAVIORAL SCIENCE
OF THE STATE OF IOWA

IN THE MATTER OF)	CASE NO. 09-003
)	
Lisa Vogel, MHC)	NOTICE OF HEARING
License No. 00363)	SETTLEMENT AGREEMENT, AND
RESPONDENT.)	FINAL ORDER

COMES NOW the Iowa Board of Behavioral Science (Board) and Lisa Vogel (Respondent), enter into this Combined Notice of Hearing, Settlement Agreement, and Final Order (Order) pursuant to Iowa Code sections 17A.10(2), 272C.3(4), and 645 Iowa Administrative Code (IAC) rule 12.1.

NOTICE OF HEARING

1. A hearing on this matter will not be held as the Board and Respondent have entered into the following combined Notice of Hearing, Settlement Agreement and Final Order.

2. Respondent was issued Iowa license 00363 on October 23, 1998. Respondent's license is current and will next expire on September 30, 2010. Respondent's address as reported to the Board is 2511 N. 73rd Street, Omaha, Nebraska, 68134.

LEGAL AUTHORITY AND JURISDICTION

3. The Board has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 154D, and 272C.

SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

4. Respondent is charged with violating a regulation, rule or law of this state, another state, or the United States, which relates to the practice of the profession, in violation of 645 Iowa Administrative Code 33.2(13).

COUNT II

5. Respondent is charged with failing to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred, in violation of 645 Iowa Administrative Code 33.2(16).

COUNT III

6. Respondent is charged with fraud in procuring a license by making a false representation of material fact when making application for license in this state, in violation of 645 Iowa Administrative Code 33.2(2).

FACTUAL CIRCUMSTANCES

7. On May 29, 1996, Respondent was convicted of Failure to Yield to Oncoming Traffic, a misdemeanor. She was originally charged with Operating While Intoxicated- First Offense.

8. On July 8, 1998, Respondent was convicted of careless driving, in violation of Iowa Code section 321.277A and two counts of faulty equipment, in violation of Iowa Code section 321.385, all misdemeanors. She was originally charged with Operating While Intoxicated - Second Offense.

9. On October 17, 2000, Respondent was convicted of Operating while Intoxicated - Second Offense, a misdemeanor, in violation of Iowa Code section 321J.2(b).

10. On September 23, 2003, Respondent was convicted of Operating while Intoxicated - First Offense, a misdemeanor, in violation of Iowa Code section 321J.2(A).

11. On January 9, 2007, Respondent was convicted of Operating while Intoxicated - Second Offense, a misdemeanor, in violation of Iowa Code section 321J.2(B).

12. Respondent failed to report any of the convictions to the Board within the required reporting time.

13. On August 3, 1998, Respondent applied for licensure. In response to the question, "Have you ever been convicted of a felony or misdemeanor?" Respondent answered no.

14. On July 1, 2006, Respondent applied for licensure renewal. In response to the question, "Since your last renewal have you been convicted, found guilty or entered a plea of guilty or no contest to a felony or misdemeanor crime?" Respondent answered no.

15. On November 14, 2008, Respondent entered into a settlement agreement with the State of Nebraska to settle allegations of misrepresenting material facts on a renewal application, failure to report a conviction and alcohol abuse. The settlement agreement imposed a five year term of probation with conditions including random drug testing, practice monitor requirements, and quarterly reports.

SETTLEMENT AGREEMENT AND FINAL ORDER

16. This combined Notice of Hearing, Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

17. By entering into this Agreement and Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Agreement and Order and voluntarily waives any objections to the terms of the Agreement and Order, including the right to appeal.

18. This combined Notice of Hearing, Settlement Agreement and Final Order, is voluntarily submitted by Respondent to the Board for consideration.

19. Respondent acknowledges that she has a right to be represented by counsel in this matter.

20. Respondent agrees that the State's counsel may present this Agreement to the Board.

21. This Agreement and Order is subject to approval of the Board. If the Board fails to approve this Agreement and Order it shall be of no force or effect to either party.

22. In the event Respondent violates or fails to comply with any of the terms of this Settlement Agreement and Final Order, the Board may initiate appropriate action to revoke or suspend Respondent's license or to impose other licensee discipline in accordance with Iowa Code section 272C.3(2)(a).

23. This Agreement, and Order is a public record available for inspection and copying upon execution of the Agreement and Order in accordance with the requirements of Iowa Code chapter 22 and 272C.

24. Any failure by Respondent to comply with the terms and conditions of this Order may subject the Respondent to further licensee disciplinary action by the Board.

25. The Board's approval of this combined Notice of Hearing, Settlement Agreement and Final Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED

26. Respondent currently holds a probationary license in Nebraska. As part of her probation, Respondent must abstain from the use of alcohol and controlled substances, must submit to random drug testing, must comply with all aftercare recommendations, must provide notice to all employers of her disciplinary action, must have a practice monitor if self-employed, and must provide quarterly reports from her employer.

27. Respondent's license shall be placed on probation for a period of four years, subject to the following terms and conditions:

a. Respondent agrees to abide by all conditions set forth by the State of Nebraska. Failure to satisfy the terms and conditions of her probationary license is a violation of the terms of this Settlement Agreement.

b. Respondent agrees to sign all necessary medical releases to authorize the submission of results from alcohol and drug testing and any related medical records to the Board. Respondent shall ensure that such reports are sent to the Board at least on a quarterly basis.

c. Respondent shall attend at least ten Alcoholics Anonymous (AA) or similar alcohol abuse meetings monthly, and not less than two per week. Respondent shall

obtain documentation of attendance and include the documentation within her quarterly reports to the Board.

d. Respondent agrees to submit quarterly written reports to the Board no later than January 1, April 1, July 1, and October 1 during the period of probation. The quarterly reports should include all information necessary to verify Respondent's compliance with the terms of probation, including:

- (1) The time period covered by report;
- (2) The name and address of any place Respondent is employed as a mental health counselor and a description of her duties;
- (3) The name and license number of Respondent's practice monitor, if any;
- (4) Record of compliance with AA/NA attendance requirement; and
- (5) Record of any controlled substances or prescription medications used by or administered to Respondent.

e. Respondent agrees to notify the Board in writing prior to any change in her practice address or status. Failure to notify the Board within fifteen days of a change in employment status shall constitute a violation of this agreement.

f. If self-employed, Respondent agrees to ensure that her practice monitor submit a quarterly written report of the practice monitor's observations and findings regarding Respondent's job performance, attendance, and abstinence from drugs. Respondent is responsible for ensuring the practice monitor reviews occur. Respondent shall be responsible for any costs associated with the practice monitor reviews and reports. If not self-employed, Respondent agrees to ensure that her employer submit a

quarterly written report containing the same information.

28. Upon request of the Board, Respondent shall appear before the Board to report on the status of her practice and to answer any questions or concerns the Board may have regarding her practice as a mental health counselor. The Board shall provide Respondent with reasonable notice of time, date and place for any requested appearance. Respondent agrees that any such appearance is governed by 645 IAC 9.7 and waives any and all objections to the Board members both participating in the appearance and later participating in decision makers in a contested case hearing.

29. Upon full compliance with the terms and conditions of the probationary period, Respondent's license to practice as a mental health counselor in the state of Iowa shall be restored to its full privilege, free and clear of all restrictions.

AGREED AND ACCEPTED:

This notice of hearing, settlement agreement and final order is approved by the board on March 26, 2010.