

BEFORE THE IOWA BOARD OF SOCIAL WORK

IN THE MATTER OF:)	DIA NO. 11SW003
)	
JOSEPH B. KENNEY)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent)	DECISION AND ORDER

On August 8, 2011, the Iowa Board of Social Work (Board) filed a Notice of Hearing and Statement of Charges charging Joseph B. Kenney (Respondent) with two counts:

Count I: Submission of a false report of continuing education and failure to submit the biennial report of continuing education, in violation of 645 IAC 283.2(22); and

Count II: Violation of a regulation, rule, or law of this state or another state, or the United States, which relates to the practice of social work, including, but not limited to the rules of conduct found at 645 IAC 282.2.

The hearing was held on November 14, 2011 at 11:12 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; Krista Lindholm, LMSW; Dana McCarthy, LBSW; and Neil Nelsen, public member. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. Respondent Joseph B. Kenney failed to appear for hearing. Assistant Attorney General Sara Scott represented the state. A certified court reporter recorded the hearing. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(2011) 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)(2011). 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 Lalah McGowen and State Exhibits 1-9 (See exhibit index for description)

FINDINGS OF FACT

1. On July 6, 2000, the Board issued Respondent license number 05838 to practice as a licensed independent social worker in the state of Iowa. Respondent's license is currently active and expires on December 31, 2012. (State Exhibits 2, 4)
2. On January 14, 2011, Respondent submitted his license renewal application for the January 1, 2011-December 31, 2012 biennium. Respondent answered all of the questions on the application and indicated that he had completed the required hours of continuing education to renew his license. Because Respondent renewed his license during the 30-day grace period, his application was automatically subject to audit. (Exhibit 4; Testimony of Lalah McGowen)
3. On February 21, 2011, Board staff sent Respondent a notice that he had been selected for a post renewal continuing education audit. Respondent was instructed to submit the Post Renewal Continuing Education Audit Report Form and documentation of his continuing education courses by March 23, 2011. Specifically, Respondent was told to submit individual copies of certificates of program or course completion issued to him by the course sponsor. The documents were required to identify the course title, date(s), contact hours, sponsor, and licensee's name. (Exhibit 6; Testimony of Lalah McGowen)
4. On March 11, 2011, Respondent submitted the completed Post Renewal Audit Continuing Education Report Form listing 21 courses completed between August 24, 2010 and October 5, 2010 for a total of 52.5 credits. All of the courses were self-study. Respondent attached the certificates of completion for the courses. (Exhibit 7; Testimony of Lalah McGowen)
5. On March 17, 2011, the Board's Executive sent Respondent a notice informing him that he had submitted insufficient hours of continuing education for license renewal. Board rules permit a maximum of 12 hours of independent

study continuing education hours per biennium. Respondent was informed that he still needed 15 live program attendance or live interactive webinar hours for his license renewal. Respondent was directed to submit documentation of these hours by April 1, 2011. Respondent was further notified that if he had not completed the required hours he must complete make up hours as soon as possible. Any make up hours used to fill the continuing education requirements for the last renewal could not be used for the next renewal. Finally, Respondent was notified that failure to submit the required information may result in a failed audit requiring disciplinary action. (Exhibit 8; Testimony of Lalah McGowen)

6. Respondent did not submit any additional continuing education hours and did not respond to the March 17, 2011 notification. On April 5, 2011, Respondent was sent a second notice providing a new deadline of April 20, 2011. Respondent was warned that if the required documentation was not received by then that disciplinary action could be imposed by the Board. The Board also sent Respondent a Notice of Continuing Education Audit Failure and a Request to Inactivate License form. Respondent was notified that he could avoid disciplinary action by voluntarily inactivating his license by April 15, 2011. These notices were sent by restricted certified mail and were delivered to Respondent on April 13, 2011. (Exhibits 9, 10; Testimony of Lalah McGowen)

7. Respondent did not provide any further documentation in response to the notices sent by the Board, and he did not inactivate his license. The Board issued its Notice of Hearing and Statement of Charges on August 8, 2011. It was served on Respondent by restricted certified mail on August 13, 2011. Respondent failed to appear for hearing. (Exhibits 2, 3; Testimony of Lalah McGowen)

CONCLUSIONS OF LAW

Licensing boards are required to issue rules for continuing education requirements as a condition to license renewal.¹ The Board has established such rules at 645 IAC chapter 281. Iowa social work licenses are renewed on a biennial basis.² The biennial continuing education compliance period extends for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even numbered year. Each licensee is required to complete a minimum of 27 hours of continuing education approved

¹ Iowa Code section 272C.2(1)(2011).

² 645 IAC 280.9.

by the board each biennium.³ Licensees are required to maintain a personal file with all documentation of the continuing education credits obtained.⁴ The continuing education hours of credit can be obtained by completing a maximum of 12 hours per biennium for independent study courses.⁵ "Independent study" means a subject /program/activity that a person pursues autonomously that meets standards for approval criteria in the rules and includes a posttest.⁶

The Board may impose any of the disciplinary sanctions provided in rule 645-283.3(272C) when the board determines that the licensee has:

Violated a regulation, rule, or law of this state or another state, or the United States, which relates to the practice of social work, including, but not limited to the rules of conduct found at 645 IAC 282.2.⁷

...

Submitted a false report of continuing education or has failed to submit the biennial report of continuing education. ⁸

The preponderance of the evidence established that Respondent violated 645 IAC 283.2(12) and 283.2(22) when he falsely reported that he had completed the continuing education hours required to renew his license and when he failed to document his completion of the required continuing education. Respondent failed to document his completion of 15 hours continuing education credits for the biennium ending on December 31, 2010 that were not "independent study" courses. Respondent may not continue to practice as a social worker if he has not completed the required continuing education to renew his license.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Respondent Joseph Kenney shall pay a civil penalty of five hundred dollars (\$500) for his failure to complete the required continuing education or provide documentation of completion and for his false representation on his renewal application that he had completed it.

³ 645 IAC 281.2(1).

⁴ 645 IAC 281.2(6).

⁵ 645 IAC 281.3(2)"b."

⁶ 645 IAC 281.1.

⁷ 645 IAC 283.2(12).

⁸ 645 IAC 283.2(22).

IT IS FURTHER ORDERED that Respondent Joseph Kenney shall complete a three (3) hour live course on ethics, in addition to any other continuing education course required for license renewal.

IT IS FURTHER ORDERED that license number 05838 issued to Respondent Joseph Kenney is hereby SUSPENDED, effective immediately upon service of this Decision and Order. The license suspension will continue until Respondent provides documentation of his completion of 15 hours of continuing education for the January 1, 2009 thru December 31, 2010 biennium (not "independent study" courses), pays the \$500 civil penalty, and completes the additional 3 hour ethics course. Respondent's continuing education will be automatically audited in the next renewal cycle. If Respondent has not satisfied these steps to reinstate his license prior to the expiration of the current biennium on December 31, 2012, his license will be revoked.

Dated this 5th day of December, 2011.