

BEFORE THE IOWA BOARD OF SOCIAL WORK EXAMINERS

IN THE MATTER OF THE) DIA NO. 05DPHSW007
REINSTATEMENT APPLICATION)
OF:)
LAURA KIRKMAN) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) DECISION AND ORDER

On May 15, 2001, the Iowa Board of Social Work Examiners (Board) and Laura Jane Dreasler, a/k/a Laura Kirkman (Respondent) entered into a Settlement Agreement and Final Order that indefinitely suspended Respondent's license as an independent social worker (LISW), with no possibility of reinstatement for a minimum period of nine (9) months. On June 23, 2004, Respondent filed an Application for Reinstatement. The Board issued a Notice of Hearing on November 23, 2005.

The hearing was held on February 13, 2006 at 9:30 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: Joyce Westphal, LISW, Chairperson; Katinka Keith, LISW; David Stout, LMSW; Christine Hoffman, LBSW; and Mary Tasler, public member. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. Respondent Laura Kirkman was self-represented. Assistant Attorney General Theresa O'Connell Weeg 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)(2005) 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)(2005). 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 the following exhibits:

State Exhibit 1: Application for Reinstatement of Iowa License and Accompanying Documentation
State Exhibit 2: 645 IAC 11.31
State Exhibit 3: Statement of Charges, 12/11/00
State Exhibit 4: Settlement Agreement and Final Order, 5/15/01
State Exhibit 5: Letter from Gary Schoener, M.Eq., 1/21/02
State Exhibit 6: Evaluation Report of Gary Schoener, M.Eq., 4/9/03
State Exhibit 7: Notice of Hearing

Respondent Exhibit A: Continuing Education Certificates

FINDINGS OF FACT

1. On July 1, 1996, the Board issued Respondent license number 01172 to practice as a licensed independent social worker in the state of Iowa. (State Exhibit 1) For approximately one year from late in 1998 until late in 1999, Respondent was employed as a social worker by a mental health center and provided therapy to client #1. Respondent began a sexual relationship with client #1 within one month of the termination of their therapist-client relationship. On December 11, 2000, the Board filed a Statement of Charges alleging that Respondent engaged in a sexual relationship with a client, in violation of Board statutes and rules. (State Exhibit 3; Testimony of Respondent)

2. On May 15, 2001, Respondent and the Board entered into a Settlement Agreement and Final Order. Respondent's social work license was indefinitely suspended, for a minimum period of nine months. Prior to reinstatement of her license, Respondent was required to submit to a comprehensive, multi-disciplinary evaluation at her own expense. The evaluating facility was required to provide a written evaluation report and initial treatment plan, subject to Board approval, and to make a recommendation whether Respondent is safe to return to the practice of social work. Respondent was required to comply with the recommendations of the evaluating facility and to undergo treatment pursuant to the approved treatment plan. Respondent was required to sign a release allowing the Board to freely communicate with all individuals responsible for her evaluation and to provide the Board full access to all evaluation and treatment records and to monthly reports on Respondent's

progress. Finally, Respondent agreed that her license would not be reinstated except upon proof that she had complied with the terms of the Settlement Agreement and proof that it would be in the public interest to reinstate her license. Respondent agreed that following a hearing on reinstatement, the Board could enter a further period of suspension, could place her license on probation for a period of time subject to terms, conditions and restrictions, or could impose other appropriate discipline. (State Exhibit 4)

3. Gary Schoener, M.Eq., evaluated Respondent as required by the Settlement Agreement and Final Order. The comprehensive evaluation was initiated in September 2001, but a serious illness significantly delayed Respondent's completion of the evaluation. Gary Schoener eventually issued a written evaluation report on April 9, 2003. Schoener made the following findings/recommendations:

- Respondent does not require treatment and does not suffer from a condition that requires rehabilitation, per se.
- If Respondent returns to practice, she needs clinical supervision by an experienced supervisor who is fully apprised of her disciplinary history and her personality strengths and vulnerabilities regarding clinical work.
- Respondent would benefit from a professional boundaries course.
- Respondent needs to seek psychotherapeutic intervention if she begins to have symptoms of depression or anxiety or if she has any major relationship breakdown.

Respondent and her former client remained in a committed relationship at the time Gary Schoener completed the evaluation. (Testimony of Respondent; State Exhibits 5, 6)

4. Approximately two years ago, Respondent and her former client ended their four-year relationship. Respondent followed Gary Schoener's recommendation and entered therapy when the relationship ended. Respondent and her former client remain on friendly terms. Respondent has received ongoing psychiatric treatment for symptoms of depression and anxiety for approximately twelve years. These conditions are under control with medication. (Testimony of Respondent; State Exhibit 6)

5. In July 2002, Respondent returned to work as a social worker in a residential care facility for the chronically mentally ill. This position does not involve clinical practice and does not require licensure as a social worker. Respondent's primary duties include admitting and discharging residents, arranging funding, helping residents obtain disability payments, writing treatment plans regarding rehabilitative goals, and occasional crisis intervention.

In September 2005, Respondent again became seriously ill and had to leave her employment at the residential care facility. Respondent is not currently employed. If her health permits, Respondent would like to return to her social work position at the residential care facility. Respondent enjoyed this work and has no current plans or desire to return to a clinical social work position. Respondent explained that she does not want to put herself in a position where there is "potential for problems." (Testimony of Respondent; State Exhibit 1)

6. In November 2003 and October 2004, Respondent attended three-credit courses on professional boundaries offered in conjunction with the annual Mental Health Conference. Respondent has also attended additional continuing education and has provided certificates of completion for these courses. (Testimony of Respondent; State Exhibit 1; 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.

Respondent's social work license has been suspended for more than the minimum period established in the Settlement Agreement and Final Order. Respondent has completed the multi-disciplinary evaluation required by the Settlement Agreement, and the evaluator has submitted a written report recommending reinstatement, subject to conditions. Respondent has complied with the evaluator's recommendation that she attend a course on professional boundaries.

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. Respondent states that she has no plans to return to a social work position providing psychotherapy, but only wants to "close the circle" and establish that she has worked through the difficulties that led to her license suspension. Regardless of whether Respondent has plans to return to a position requiring licensure at the master's level, she is asking the Board to reinstate the license that authorizes her to return to clinical practice. In order to do so, the Board must be satisfied that Respondent will comply with all of the statutes and rules governing practice as a licensed independent social worker, including all ethical obligations, and that sufficient safeguards are in place to ensure that the public will be protected.

In her testimony before the Board, Respondent maintained that she is not a predator, but that the sexual relationship with her client arose from Respondent's own vulnerability and from her failure to establish good professional boundaries. Respondent asserts she has learned to set good professional boundaries and now understands that she must seek outside help when she has an inappropriate emotional response to a client.

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 her social work license to be reinstated on probation, subject to the conditions outlined below. These conditions are necessary to ensure that Respondent will fully integrate and practice what she has learned through the evaluation process and in professional boundaries courses when she is in a social work practice setting with vulnerable clients.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the application for reinstatement of license number 01172 to practice social work at the independent level, filed by Laura Kirkman, is hereby GRANTED. License Number 01172 shall immediately be placed on PROBATION for an INDEFINITE PERIOD, subject to the following terms and conditions:

1. Respondent shall immediately report any social work employment to the Board, regardless of whether the social work position requires a license. Respondent shall also provide the Board with a current written job description and written verification from her employer that the employer has been provided and has read the Board's Findings of Fact, Conclusions of Law, Decision and Order. Respondent shall report any change of employment to the Board within two weeks.

2. Respondent shall obtain ongoing supervision from a Board-approved licensed independent social worker (LISW) when employed in a social work position, regardless of whether the position requires licensure as a social worker.

a. Within thirty (30) days of accepting any social work position, Respondent and her Board-approved supervisor shall develop a written plan of supervision and submit it to the Board for its approval. The plan of supervision must address transference/counter-transference; sexual misconduct dynamics; and professional boundary issues. Respondent is responsible for any costs or fees associated with this supervision.

b. If Respondent is employed in a social work position that does not require licensure, she and her supervisor must document at least one (1) hour of supervision each month. If Respondent is employed in a clinical/master level social work position, Respondent and her supervisor must document at least three (3) hours of supervision each month.

c. Respondent's Board-approved supervisor shall provide a written report to the Board every six (6) months. The report shall describe Respondent's social work practice and her compliance with the statutes and rules governing the practice of social work. This report must be filed regardless of whether Respondent's social work position requires licensure. In addition to the written report every six months, Respondent's supervisor shall promptly report any violations or ethical concerns to the Board.

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

3. Respondent shall promptly report any change in her mental health status to the Board.

4. Respondent's probation shall continue until the Board terminates it. 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"(2005), 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 May 31, 2006.

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.