

BEFORE THE BOARD OF SOCIAL WORK
OF THE STATE OF IOWA

IN THE MATTER OF)	NO. 09-028
)	
ANN M. NOVAK,)	NOTICE OF HEARING
)	AND STATEMENT OF CHARGES
RESPONDENT.)	

COMES NOW the Iowa Board of Social Work (Board) and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued masters level Iowa license 304 04338 on June 8, 2005. Respondent's license to practice master level social work in Iowa is active and will next expire on December 31, 2010.

Respondent's address as reported to the Board is 824 10th St. NW, Altoona, IA 50009.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on May 10, 2010, before the Board of Social Work. The hearing shall begin at 9:00 a.m. and shall be located in the Lucas State Office Building, Fifth Floor Board Room #526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Pleadings shall be filed with the Board at the following address: Iowa Board of Social Work, Lucas State Office Building—5th Floor, 321 E. 12th St., Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter 11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Heather Adams, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, Chapter 154C, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 154C, and 272C and 645 IAC Chapter 283.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Pursuant to Iowa Administrative Code 645—283.2(6)a, Respondent is charged with habitual intoxication and inability to practice with reasonable skill and safety by reason of excessive use of alcohol on a continuing basis.

Count II

Pursuant to Iowa Administrative Code 645—283.2(31), Respondent is charged with violating the terms of an initial agreement or violation of the terms of an impaired practitioner recovery contract with the Impaired Practitioner Review Committee.

Count III

Pursuant to Iowa Administrative Code 645—283.2(12), Respondent is charged with violation of a regulation, rule, or law of this state which relates to the practice of social work, including, but not limited to, the rules of conduct found in 645—282.

D. FACTUAL CIRCUMSTANCES

1. Respondent signed an initial agreement with the Impaired Practitioners Review Committee on May 21, 2009, and a contract on August 25, 2009. The conditions outlined that the Respondent agreed to abstinence from drugs and alcohol. In addition, the Respondent agreed to avoid taking over-the-counter medications containing alcohol.

2. Respondent tested positive for ethyl glucuronide/ethyl sulfate on June 18, July 16, July 17, and August 4, 2009. A Medical Review Officer (MRO) review was requested. Respondent stated that the positive test was the result of taking Nyquil which was in violation of her initial agreement and contract.

3. Respondent was jailed on August 27, 2009, as a result of an arrest on June 7, 2009, when Respondent was charged with an OWI 2nd offense. She did not notify the Impaired Practitioners Review Committee of the June arrest.

4. On September 3, 2009, the Impaired Practitioners Review Committee voted to not accept the contract signed by the Respondent and to refer her to the Board for noncompliance with the initial agreement and the terms of her contract, in accordance with IAC 656—16.8, and in violation of items #4 and #7 of the initial agreement, and items #14, 15, and 23 of the contract with the Impaired Practitioners Review Committee.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Heather Adams, Assistant Attorney General, at 515/281-3441.

F. PROBABLE CAUSE FINDING

On November 9, 2009, the Iowa Board of Social Work found probable cause to file this Notice of Hearing and Statement of Charges. Signed this 8th day of February, 2010.

This notice of hearing and statement of charges is approved by the board on February 8, 2010.