

BEFORE THE BOARD OF ATHLETIC TRAINING
OF THE STATE OF IOWA

IN THE MATTER OF:)	CASE NO. AT 08-002
)	DIA NO. 09DPHAT001
RYAN C. JANSSEN)	
)	
License No. 00285)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Respondent.)	DECISION AND ORDER

TO: RYAN C. JANSSEN

STATEMENT OF THE CASE

A Statement of Charges and Notice of Hearing was filed on June 16, 2009, by the Iowa Board of Athletic Training (Board), charging Ryan C. Janssen (Respondent) with three counts:

Count I: Engaging in unethical conduct and practices harmful or detrimental to the public.

Count II: Violating of a regulation, rule or law of this state, another state, or the United States, which relates to the practice of athletic training.

Count III: Violating Iowa Code section 272C.3(2)(a) for failing to notify the Board of a criminal conviction within 30 days of the action.

The hearing was scheduled for September 15, 2009 but was continued to December 15, 2009 at 10:00 a.m., in the Professional Licensure Board Room #526 in the Lucas State Office Building, Des Moines, Iowa. The following members of the Board presided at the hearing: Lynn Lindaman, M.D., Chairperson; Melody Higgins, LAT; Shaun McCarthy, LAT; Troy Kleese, LAT; Dr. Pamela Davis, M.D. ; and Roger Huston, public member.

Kris Ensign, Assistant Attorney General, appeared for the State. The Respondent, Ryan C. Janssen, failed to appear for the hearing. Administrative Law Judge John Priester assisted the Board in conducting the hearing. The hearing was open to the public pursuant to Iowa Code section 272C.6(1)(2009).

After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate their decision. The administrative law judge was directed to prepare the Board's decision in accordance with their deliberations.

After the hearing the State filed a Motion for a Protective Order concerning the exhibits that identify the victim in this matter. That Protective Order is GRANTED. The exhibits that identify the victim in this matter shall be sealed.

THE RECORD

The record includes the testimony of the witnesses and the following exhibits:

State Exhibit 1:	Ryan C. Janssen, License No. 00285;
State Exhibit 2:	Notice of Hearing and Statement of Charges;
State Exhibit 3:	Proof of Service;
State Exhibit 4:	Judgment Entry Page Two in Criminal Case No. FECR025296;
State Exhibit 5:	Investigative Report, 10/02/08;
State Exhibit 6:	Attachment No. 1;
State Exhibit 7:	Attachment No. 2;
State Exhibit 8:	Attachment No. 3;
State Exhibit 9:	Additional Investigative Report, 12/31/08;
State Exhibit 10:	Attachment No. 1;
State Exhibit 11:	Attachment No. 2;
State Exhibit 12:	Additional Investigative Report, 07/08/09.

FINDINGS OF FACT

1. On November 26, 2001, the Respondent was issued license no. 00285 by the Board to engage in the practice of an Athletic Trainer, subject to the laws of the state of Iowa and the rules of the Board. License no. 00285 is presently inactive. (State Exhibit 2)
2. On August 26, 2008 the Respondent was charged with the crime of Sexual Exploitation by Counselor or Therapist, a felony. (State Exhibit 6) On December 22,

2008, the Respondent pled guilty to the crime of Lascivious Conduct with a Minor, a serious misdemeanor. (State Exhibit 1)

The Respondent engaged in a two year sexual relationship with a student. The relationship began when the victim was 16 years old and in her junior year of high school during the basketball season.

3. The Respondent received a deferred judgment and was placed on probation for one year. (Testimony of Corey Powell; State Exhibit 4)

CONCLUSIONS OF LAW

Iowa law provides that a license issued by the Board "may be suspended or revoked, or renewal denied by the board, for violation of any provision of this chapter or section 147.55, section 272C.10, or rules adopted by the board." Iowa Code § 152D.

Count I: Engaging in Unethical Conduct and Practices Harmful or Detrimental to the Public.

Iowa Code section 147.55(3)(2009) provides, in relevant part:

147.55 Grounds.

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

3. ...engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

The Board has promulgated administrative rules governing the practice of athletic training. The rules provide that a license may be suspended or revoked if the Board determines that a licensee engaged "in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established." 645 IAC 353.2(3).

The preponderance of the evidence established that the Respondent violated Iowa Code section 147.55(3), unethical conduct or practice harmful or detrimental to the public, when engaged in a sexual relationship with a 16 year old high school student athlete.

Count II: Violation of a Regulation, Rule, or Law of this State which Relates to the Practice of Athletic Training.

Iowa Code section 147.55(3)(2003) provides, in relevant part:

147.55 Grounds.

A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

3. ...engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

The Board's rules provide that the Board can discipline a licensee if it is established that the licensee violated "a regulation, rule or law of this state, another state, or the United States, which relates to the practice of athletic training. 645 IAC 353.2(13)

The Respondent pled guilty to the offense of Lascivious Acts with a Minor, a serious misdemeanor. By pleading guilty to the offense the Appellant admitted that he violated a statute which relates to the practice of athletic training.

The Board finds that the State established Count II by a preponderance of the evidence.

Count III: Failure to Notify the Board of a Criminal Conviction within 30 Days of the Action.

The Board's administrative rules provide that a licensee may be disciplined for "failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred." 645 IAC 353.2(16).

The Respondent was granted a deferred judgment. Under Iowa law a deferred judgment is not a conviction. As such, the Board finds that while the Respondent violated a criminal statute, he was not convicted of the offense as he received a deferred judgment. The Board finds that the State did not establish Count III by a

preponderance of evidence because the Board's rules do not define a "conviction" as encompassing a deferred judgment.

DECISION AND ORDER

IT IS THEREFORE ORDERED that license no. 00285 issued to Ryan C. Janssen, is hereby REVOKED, effective immediately upon service of this decision and order. Upon receipt of this decision and order, Respondent shall immediately return his license to the Board.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 the Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing.

In accordance with the provisions of Iowa Code section 17A.16(2009) a party may file an application for rehearing within twenty (20) days after the issuance of this decision. In accordance with Iowa Code section 17A.19(3)(2009) any petition for judicial review must be filed within thirty (30) days after an application for rehearing has been denied or deemed denied. If a party does not file an application for rehearing any petition for judicial review must be filed within thirty (30) days after the issuance of this decision.

This findings of fact, conclusions of law, decision and order is approved by the board on March 25, 2010.