# BEFORE THE BOARD OF SOCIAL WORK OF THE STATE OF IOWA

IN THE MATTER OF	)	NO. 11-040
BRIAN C. NEDOBA,	) )	NOTICE OF HEARING AND STATEMENT OF CHARGES
RESPONDENT.	)	AND STATEMENT OF STIANGES

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 Iowa license 00690 on January 2, 1991. Respondent's license is current and will next expire on December 31, 2012. Respondent's address as reported to the Board is 2135 Lindsay Court, Coralville, Iowa 52241.

## A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on February 11, 2013, 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 Conference 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: Board of Social Work, 5<sup>th</sup> Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

<u>Presiding Officer</u>. 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 645 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.

<u>Pre-hearing Conference</u>. 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.

<u>Prosecution</u>. 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: Sara Scott, Assistant Attorney General, Iowa Attorney General's Office, 2<sup>nd</sup> 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

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

<u>Legal Authority</u>. 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.

<u>Default</u>. 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 the excessive use of alcohol on a continuing basis.

### Count II

Pursuant to Iowa Administrative Code 645—283.2(11), Respondent is charged with conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred.

#### Count III

Pursuant to Iowa Administrative Code 645—283.2(29), Respondent is charged with unethical conduct for making suggestive, lewd, lascivious or improper remarks or advances to a client or coworker.

#### Count IV

Pursuant to Iowa Administrative Code 645—282.2(13), Respondent is charged with practicing in a professional relationship while intoxicated or under the influence of alcohol or drugs not prescribed by a licensed physician.

#### Count V

Pursuant to Iowa Administrative Code 645—283.2(12), Respondent is charged with violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of social work, including, but not limited to, the rules of conduct found in 645—282.2.

#### D. FACTUAL CIRCUMSTANCES

- From approximately 2001 until his termination in January of 2012,
   Respondent provided mental health services at an agency in northeastern lowa.
- 2. In September of 2011, during a therapy session, Respondent made inappropriate comments of a sexual nature to a client and shared other inappropriate personal information. Respondent also made inappropriate comments to a second client and invited the client and her husband to dinner.
- 3. In September of 2011, Respondent was tested under the agency's reasonable suspicion drug and alcohol testing policy and tested positive for alcohol.

- 4. Respondent admitted to an investigator that he provided services to clients when he had been drinking.
- 5. On August 27, 2010, Respondent pled guilty to Driving while License Revoked in the Iowa District Court for Bremer County. Respondent was ordered to pay a fine.
- 6. On February 28, 2011, Respondent pled guilty to OWI 1<sup>st</sup> offense in the lowa District Court for Howard County. Respondent received a deferred judgment and was placed on unsupervised probation for one year.
- 7. On April 26, 2012, Respondent pled guilty to OWI 2<sup>nd</sup> offense in the Iowa District Court for Tama County. Respondent was sentenced to serve no more than two years at a facility designated for the treatment of drunk drivers and pay a fine.

#### 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 Sara Scott, Assistant Attorney General, at 515-242-0104.

## F. PROBABLE CAUSE FINDING

On this 3rd day of December, 2012, the Iowa Board of Social Work found probable cause to file this Notice of Hearing and Statement of Charges.

Beth Harms, Chairperson Iowa Board of Social Work

Copies to:

Sara Scott Assistant Attorney General Iowa Attorney General's Office 2<sup>nd</sup> Floor Hoover Bldg. Des Moines, IA 50319

Brian Nedoba