

BEFORE THE IOWA BOARD OF SOCIAL WORK

IN THE MATTER OF:) DIA NO. 07DPHSW003
)
)
CHRISTINE BOLAND-DUARTE) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) DECISION AND ORDER

On February 13, 2006, the Iowa Board of Social Work (Board) and Christine Boland-Duarte (Respondent) entered into a Settlement Agreement and Final Order that indefinitely suspended Respondent's license as a licensed independent social worker (LISW). On April 20, 2007, Respondent filed an Application for Reinstatement. The Board issued a Notice of Hearing on May 10, 2007.

The hearing was held on August 13, 2007 at approximately 10:40 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; and Monsignor W. Robert Schmidt, public member. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. Respondent Christine Boland-Duarte was self-represented. Assistant Attorney General Heather Adams 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)(2007) 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)(2007). 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 her probation officer, State Exhibits 1-7 (See exhibit index for description) and Respondent Exhibit A.

FINDINGS OF FACT

1. On October 7, 1996, the Board issued Respondent license number 01289 to practice as a licensed independent social worker in the state of Iowa. (State Exhibit 3)

2. On November 14, 2005, the Board filed a Statement of Charges alleging that Respondent committed unethical conduct and violated Board statutes and rules by engaging in sexual activities and sexual contact with a client and formal client. (State Exhibit 3)

3. On February 13, 2006, Respondent and the Board entered into a Settlement Agreement and Final Order in resolution of the Statement of Charges. Respondent's social work license was suspended until further order of the Board, with no possibility of reinstatement for at least twelve (12) months from the date of the Order. Prior to reinstatement of her license, Respondent was required to submit to a comprehensive, multi-disciplinary evaluation by Gary Schoener, M.Eq., at her own expense.

Mr. Schoener was required to provide a written evaluation report, to make a recommendation whether Respondent is safe to return to the practice of social work, and to make recommendations concerning any restrictions or conditions of licensure. Mr. Schoener was also required to provide an initial treatment plan, subject to Board approval. Respondent was required to comply with all of Mr. Schoener's treatment recommendations and to sign a release allowing the Board to freely communicate with all individuals responsible for her evaluation and treatment.

Finally, Respondent agreed that her license would not be reinstated except upon proof that she had complied with the terms of the Settlement Agreement, that the basis for the suspension no longer exists, and 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)

4. Respondent was charged criminally with the felony of Sexual Exploitation by a Counselor or Therapist, based on her sexual relationship with a social work client. On May 12, 2006, the court entered a deferred judgment and placed Respondent on probation for a period of two years.¹ As of the date of the hearing, Respondent has been very compliant with the terms of probation. Respondent participates in a female sex offenders' group that is led by her probation officer, who is also a licensed independent social worker. Respondent will be on the Sex Offender Registry for ten years from the date of the entry of the deferred judgment.² (Testimony of Respondent; Victory Peterson; State Exhibit 6)

5. Gary Schoener evaluated Respondent as required by the Settlement Agreement and Final Order. After some initial phone discussion, Mr. Schoener conducted a full day in-person interview with Respondent on June 24, 2006, followed by a forty minute telephone interview on July 17, 2006. After a final phone conversation with Respondent, Gary Schoener issued his written evaluation report on December 8, 2006. Mr. Schoener found that Respondent does not have: a sexual impulse control disorder, any indications of predatory behavior, any psychiatric disorder that would lead to generalized impulsiveness, or any other traits that would compromise her practice as a social worker. Mr. Schoener further found that at the time of her offense, Respondent had an underlying area of conflict about her own sexuality and personal identity that needed to be dealt with in personal psychotherapy and resolved through life experience.

Gary Schoener concluded that Respondent has made considerable progress and has come a long way in terms of personal insight, clarity about her sexuality, and developing relationship stability. Mr. Schoener further concluded that Respondent is capable of returning to social work practice, including the practice of psychotherapy, without posing a significant risk to clients, but only if the following conditions are met:

¹ A "deferred judgment" means a sentencing option whereby both the adjudication of guilt and the imposition of sentence are deferred by the court. The court retains the power to pronounce judgment and impose sentence subject to the defendant's compliance with conditions set by the court as a requirement of the deferred judgment. Iowa Code section 907.1(2005). A deferred judgment may be entered by the court upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered. Iowa Code section 907.3(2005).

² See Iowa Code section 692A.2(1), 692A.1(3)(2005).

- Respondent needs to continue in psychotherapy with her current therapist, Dr. Howard Weinberg, or a clinician of similar skill and experience, with the frequency of appointments to be determined by the therapist. The goals of therapy are to fully explore and settle relationship and identity issues;
- Upon return to practice, Respondent should have a minimum of one year of clinical supervision. The supervision should focus on a review of case formulation and treatment plan, a review of Respondent's level of advocacy in the case, a review of outcomes versus original goals, and an examination of any issues or indicators of transference/counter transference.

(Testimony of Respondent; State Exhibit 5)

6. Licensed psychologist Howard I. Weinberg, Ph.D., has been providing therapy to Respondent since May 12, 2005. Dr. Weinberg initially saw Respondent at a frequency of 2-3 times per week and is currently seeing her once every three weeks. Dr. Weinberg concurs with Mr. Schoener's findings and believes that Respondent is capable of returning to social work practice without significant risk to clients, provided she continues in psychotherapy and practices subject to clinical supervision for a period of one year. (Respondent Exhibit A; Testimony of Respondent)

7. Since her license was suspended, Respondent has been employed cleaning houses. Respondent has also provided counseling to one person and has been "coaching" a second person. Respondent consulted the Board to determine whether she could provide these services without a social work license. Respondent has not attended any formal continuing education courses since her license was suspended but reports that she has been reading and thinking about issues of transference and counter transference. (Testimony of Respondent)

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.

Engaging in a sexual relationship with a social work client is an egregious ethical and criminal violation that significantly harms both the individual client and the public's trust in the social work profession. Based on the record made at hearing, it is clear that the client victim in this case was an extremely troubled individual who had become very dependent on Respondent. Respondent exploited her position as the client's therapist when she violated all professional boundaries and obligations by engaging in a sexual relationship with the client. At a minimum, this type of violation justifies the imposition of a lengthy license suspension, professional evaluation of the licensee and appropriate treatment and/or therapy, and the licensee's full compliance with all requirements imposed by the courts as a result of criminal charges.

The issues before the Board are whether the basis for the suspension of Respondent's license no longer exists and whether reinstatement at this time is in the public interest. In order to reinstate, the Board must be satisfied that the public will be protected and that Respondent is willing and able to comply with all of the statutes and rules governing practice as a licensed independent social worker, including all ethical obligations.

When the Settlement Agreement and Final Order was approved and issued, the criminal proceedings against Respondent had not been completed. Since that time, Respondent has been placed on criminal probation for a period of two years and her name has

been placed on the Sex Offender Registry for ten years. As of the date of hearing, Respondent's license had been suspended for eighteen months. While Respondent has made good progress in therapy, has been compliant with her criminal probation, and is taking many of the steps necessary to lead to her eventual reinstatement, the Board was not persuaded that it is appropriate to reinstate her license at this time. There can be no question that the client was the victim in this case. The Board was not convinced that Respondent has gained sufficient insight and understanding concerning her violation and the issues of transference/counter transference. The Board has concerns about Respondent's judgment in providing counseling/coaching to two individuals while her license is suspended, even if the services may legally be provided by an unlicensed person. Finally, the Board is unaware of any precedence for reinstating a social work license while the licensee remains on criminal probation for a sex offense. The Board believes that in order to adequately protect the public, Respondent must be required to successfully complete probation as required by the terms of her deferred judgment, prior to any license reinstatement.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the application for reinstatement of license number 01289 to practice social work at the independent level, filed by Christine Boland-Duarte, is hereby DENIED.

IT IS FURTHER ORDERED that Respondent shall not file a second Application for Reinstatement for a period of twelve (12) months from the date of this Decision and Order. Prior to filing an Application for Reinstatement, Respondent shall:

1. Successfully complete criminal probation;
2. Complete continuing education in ethics, including courses addressing the issues of professional boundaries and transference/counter transference;
3. Continue in therapy at the frequency recommended by her therapist.

This findings of fact, conclusions of law, decision and order is approved by the board on November 26, 2007.

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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.