

BEFORE THE IOWA BOARD OF SOCIAL WORK

IN THE MATTER OF:) DIA NO. 08DPHSW002
)
)
BARRION STAPLES) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) DECISION AND ORDER

On August 22, 1997, the Iowa Board of Social Work (Board) and Barrion Staples (Respondent) entered into an Informal Settlement that indefinitely suspended Respondent's license as a licensed independent social worker (LISW), with no possibility for reinstatement for a minimum period of three (3) years. On November 9, 1998, the Board issued a Decision on Rehearing that extended the minimum period of suspension for an additional eighteen (18) months. On November 16, 2007, Respondent filed an Application for Reinstatement of his license. The Board issued a Notice of Hearing on March 4, 2008.

The hearing was held on April 14, 2008 at 10:30 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; Mary Tasler and Monsignor W. Robert Schmidt, public members. Administrative Law Judge Margaret LaMarche assisted the Board in conducting the hearing. Respondent Barrion Staples appeared and 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 State Exhibits 1-13 (See exhibit index for description).

FINDINGS OF FACT

1. Respondent earned his MSW in clinical social work in 1977 and a Ph.D in Counseling Psychology from Columbia Pacific University, an on-line correspondence program, in 1981. On July 17, 1990, the Board issued Respondent license number 00663 to practice as a licensed independent social worker in the state of Iowa. (State Exhibits 3; 7; 12; Testimony of Respondent)

2. Respondent has a lengthy disciplinary history with the Board.

a. On November 14, 1994, the Board filed a Statement of Charges alleging that Respondent knowingly made misleading, deceptive, untrue or fraudulent representations in the practice of social work and engaged in unethical business practices when he submitted insurance claims to two insurance companies for services that were never rendered.

On January 10, 1995, Respondent and the Board entered into a Settlement Agreement and Final Order in resolution of the Statement of Charges. Respondent agreed, in part, to be supervised by a licensed social worker, to enter into a Board approved written fee agreement with each client, to develop a practice of billing in conformity with Board rules, to complete notes for each patient/client clearly stating the patient/client's name, date of session, specific time of session, and areas of discussion, and to complete an initial assessment for each patient/client clearly stating an initial diagnosis, goals of treatment, and expected length of treatment. The Settlement Agreement was later modified by the Board on February 13, 1996. (State Exhibits 3-6)

b. On June 11, 1997, the Board issued a second Statement of Charges against Respondent, charging him with engaging in unethical conduct and engaging in prohibited acts by making sexual advances toward and engaging in sexual activities with a patient. (State Exhibit 6)

On August 22, 1997, Respondent and the Board entered into a Settlement Agreement and Final Order in resolution of the Statement of Charges. Pursuant to the terms of the Informal Settlement, Respondent's license to practice

social work was suspended indefinitely, with no possibility of reinstatement for a minimum period of three (3) years. During the entire period of suspension, Respondent was prohibited from holding himself out as a licensed social worker and from engaging in any of the practices or aspects of the practice of social work requiring a license. Respondent was also required to undergo a full psychiatric evaluation at a facility approved by the Board and to undergo treatment, pursuant to an approved treatment plan. (State Exhibits 7-8)

c. On January 13, 1998, the Board filed a third Statement of Charges against Respondent, charging him with failing to comply with a board decision imposing discipline by engaging in the practice of social work while his license was suspended. Following a hearing, the Board issued Findings of Fact, Conclusions of Law, and Decision and Order extending Respondent's suspension for a minimum period of six months or, in the alternative, completing additional hours of continuing education. On November 9, 1998, the Board issued a Decision on Rehearing which struck the Board's prior Order and suspended Respondent's license for an additional period of eighteen (18) months. (State Exhibits 9-11)

3. In June and July 2007, Respondent was evaluated by Gary Schoener, M.Ed., Licensed Psychologist. Prior to the evaluation, Respondent completed two objective psychological tests: the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) and the Millon Clinical Multiaxial Inventory-III (MCMI-III). Mr. Schoener interviewed Respondent for 3½ hours on July 6, 2007, followed by several short follow-up telephone interviews. Mr. Schoener also conducted collateral interviews with two professionals, a substance abuse counselor and an attorney, who had known Respondent for a number of years. In his report, Mr. Schoener noted that it had been difficult to locate any collaterals with knowledge of the events in question given the passage of time since the complaints.

On October 22, 2007, Mr. Schoener issued his written evaluation report. Mr. Schoener concluded, in relevant part, that:

- There was no evidence that Respondent had a psychiatric disorder of any type, thus nothing requiring treatment;

- There was no evidence of a sexual impulse control disorder, although no assessment can rule this out completely;
- Respondent may not fit into a traditional "mold" because his professional background crosses many fields of work (corrections, substance abuse, forensic, mental health) and a wide variety of traditions;
- In terms of crossing professional boundaries, Respondent erred by not consulting a colleague to document occurrences and his response;
- Respondent may be less experienced in assessing transference and counter transference than in understanding other issues and dynamics. Supervision or consultation, at least in situations where ongoing counseling or psychotherapy is being provided, would be important;
- In close personal relationships and to some degree in his professional work, Respondent tries too hard at times to make a relationship "work" despite serious problems or limitations which impact on the helping relationship.

Mr. Schoener made the following recommendations, in order to clear Respondent for return to practice and to ensure public safety and success:

- 1) Respondent needs to attend a workshop covering current ethical standards in the field of social work;
- 2) Respondent needs to work in a practice setting within a group or team where support and consultation is easily available;
- 3) Respondent's clinical work, especially counseling or psychotherapy, should be supervised for at least the first year of return to practice.

Respondent is willing to comply with Mr. Schoener's recommendations. (State Exhibit 12; Testimony of Respondent)

4. In the ten years since his license was suspended, Respondent has been teaching martial arts and on-line courses in critical thinking at Kaplan University. He has also been involved in marketing prepaid legal services. (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.

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. 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 his practice as a licensed independent social worker, including all ethical obligations.

Respondent's license has been suspended for more than ten years, pursuant to the Informal Settlement that resolved allegations of serious professional boundary violations, as well as Respondent's subsequent practice of social work in violation of the Informal Settlement. Respondent continues to dispute the allegations of unethical conduct, boundary violations, and sexual contact made by his former client. Nevertheless, Respondent's own account of his interactions with the client, as provided in his interview with the Board's investigator in 1996 and in his testimony at hearing, reveals that he does not understand the professional boundaries and ethical obligations

of a licensed social worker. Respondent claimed that he has done a lot of personal reading and has attended a workshop on boundaries and transference/counter transference, but he was unable to document his attendance or even provide the date(s) of the workshop. In addition, when a Board member asked Respondent to explain the concepts of transference and counter transference, his answer was cursory and inaccurate.

Based on this limited record, the Board was unable to conclude that the reason for the indefinite suspension of Respondent's social work license no longer exists or that it is in the public interest for his license to be reinstated at this time. At a minimum, Respondent must successfully complete an in-depth educational program focused on ethical issues, professional boundaries, transference, and counter transference before the Board would consider allowing his return to social work practice in a supervised setting.

DECISION AND ORDER

IT IS THEREFORE ORDERED that the application for reinstatement of social work license number 00663, filed by Respondent Barrion Staples, is hereby DENIED. IT IS FURTHER ORDERED that prior to filing a second Application for Reinstatement, Respondent shall:

1. Establish a training mentor relationship with a licensed independent social worker who has demonstrated expertise in social work practice ethics, including professional boundaries and clinical practice expertise in issues of transference and counter-transference. Respondent and his training mentor shall develop a written educational plan that addresses social work ethics, with an emphasis on professional boundaries. Both the training mentor LISW and the educational plan must be pre-approved by the Board.
2. At a minimum, the educational plan shall include:
 - Structured reading assignments on ethics, dual relationships, professional boundaries, and issues of transference/counter transference, including but not necessarily limited to the statutes and regulations applicable to the practice of social work and relevant articles from professional journals and publications.

- Formal discussion of the reading assignments with the approved LISW, including application of the educational materials to hypothetical case scenarios presenting ethical dilemmas.
- Study and review of appropriate clinical documentation using a SOAP (subjective, objective, assessment, plan) format.

3. As background, the Board will provide the approved LISW with copies of the Statements of Charges, Settlement Agreements, and Board Decisions contained in the state's Exhibit Book as well as a copy of Respondent's July 12, 1996 interview with the Board's Investigator (with names redacted) and Mr. Schoener's written evaluation report. Respondent and the mentoring LISW must sign any and all necessary releases to allow the LISW to review these documents.

4. Respondent must satisfactorily complete the approved educational plan prior to filing a second Application for Reinstatement and shall provide the Board with a written final report from the approved LISW verifying his successful completion of the educational plan.

5. Respondent shall be solely responsible for all costs associated with the educational plan, including any fees charged by the approved LISW.

This findings of fact, conclusions of law, decision and order is approved by the board on May 12, 2008.

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.