

**LOUISIANA STATE BOARD OF
SOCIAL WORK EXAMINERS**

IN THE MATTER OF

MARJORIE SZERLIP

LICENSE NO. 3221

ADMINISTRATIVE COMPLAINT

NUMBER: 2011-89

DECISION AND ORDER

This matter came before the Board on November 18, 2011, pursuant to an Administrative Complaint (“Complaint”) which charged Respondent, Marjorie Szerlip, LCSW, (hereinafter “Respondent” or “Ms. Szerlip”) with violating the terms of the Consent Agreement and Order (“Agreement”) which she entered into with the Board on August 13, 2010 in Complaint Number 2010-120. The case was heard before a panel of the Board consisting of John McBride, LCSW, Michael Hickerson, RSW, Hope Himel-Benson, LCSW, Evelyn Jenkins, LCSW, and Lisa Lipsey, LCSW. This panel of the Board, after hearing the case, renders the following unanimous decision.

THE NOTICE TO RESPONDENT

The Administrative Record shows that Respondent was served by certified mail with the signed Administrative Complaint to which was attached the Agreement entered into in Complaint #2010-120 along with the July 29, 2011 formal Notice of the Complaint which notified Respondent of the date, time and place of the hearing on the Complaint allegations. The return receipt was received by the Board confirming delivery of the certified mail.

THE COMPLAINT

The Complaint charged that Respondent entered into the August 13, 2010 Agreement with the Board in prior Complaint #2010-120 in which she agreed to be evaluated by the Louisiana State Board of Social Work Examiners' Impaired Professional Program (IPP), at her expense, within 30 days from the date all parties signed the Consent Agreement (August 13, 2010), and follow all recommendations of the designated IPP evaluator. Pursuant to this requirement, Ms. Szerlip entered into a Participation Agreement with the IPP. Ms. Szerlip failed to be compliant with the Participation Agreement, including but not limited to, failure to maintain psychotherapy appointments and twelve step meetings, as specified in the Participation Agreement, and non-compliance with the monitoring requirements, including missing required check-ins in February 2011 (2/15, 2/16, 2/19, 2/22, 2/26, and 2/27), March 2011 (3/5, 3/6, 3/12, 3/13, 3/19, 3/20, 3/26, and 3/27), April 2011 (4/2, 4/3, 4/9, 4/11, and 4/24), May 2011 (5/5 and 5/25), and June 2011 (6/4, 6/6, 6/7, 6/8, 6/9, 6/11, and 6/12; missing required check-ins and testing on June 3, 2011 and June 10, 2011; and having a positive urinalysis screen on February 25, 2011. The current complaint also charges that the Agreement contained Respondent's signed acknowledgment that failure to comply with the terms of the Agreement may result in a suspension or revocation of her license and that the admissions contained in such Agreement would be considered proven and that the only issue would be the failure to comply with the terms of the Agreement.

RESPONDENT'S FAILURE TO APPEAR

When the case was called for a hearing at the designated time, Respondent was not present and Respondent had not notified the Board of good cause for her absence. Accordingly, the Board, pursuant to Rule §941(B), proceeded with the adjudication, notwithstanding Respondent's absence.

Without regard to Respondent's failure to participate, the Board maintained a standard of proof by a preponderance of the evidence as a prerequisite to making any finding of fact, including the adequacy of notice to Respondent.

SUMMARY OF EVIDENCE AND FACTUAL FINDINGS

The evidence presented included the testimony of one fact witness, Sherril Rudd, manager of the Board's IPP, as well as the introduction of documentary evidence. Among the pieces of documentary evidence were the Administrative Complaint and the attached Agreement in Complaint 2010-120, the signed Participation Agreement for the IPP, and the check-in history report provided by Affinity. Paragraph 5 of the Board's Order of the Agreement in Complaint 2010-120 contains the Respondent's acknowledgment that her admissions contained in the Agreement will be considered proven and the only issue will be her failure to follow the terms of the Agreement. Paragraph 14 of the Participation Agreement contains the Respondent's acknowledgment that failure to comply with the terms and conditions of the agreement, or a receipt by the Board of any positive, unexplained substance abuse/drug screen reports may form the basis for disciplinary action. Based on the unrebutted testimony of Ms. Rudd, the Board makes the factual finding that the Respondent failed to be compliant with the Participation Agreement, including but not limited to, failure to maintain psychotherapy appointments and twelve step meetings, as specified in the Participation Agreement, and non-compliance with the monitoring requirements, including missing required check-ins in February 2011 (2/15, 2/16, 2/19, 2/22, 2/26, and 2/27), March 2011 (3/5, 3/6, 3/12, 3/13, 3/19, 3/20, 3/26, and 3/27), April 2011 (4/2, 4/3, 4/9, 4/11, and 4/24), May 2011 (5/5 and 5/25), and June 2011 (6/4, 6/6, 6/7, 6/8, 6/9, 6/11, and 6/12; missing required check-ins and testing on June 3, 2011 and June 10, 2011; and having a positive

urinalysis screen on February 25, 2011.

Based on these factual findings, the Board further finds that the Respondent's admissions contained in the Agreement are proven as established facts.

THE LAPSE OF RESPONDENT'S LICENSE

The Administrative Record further shows that Respondent allowed her license to lapse on August 31, 2011 and has taken no steps to renew her license within the time limitations provided by La. R.S 37:2714(C). Accordingly, by law, Ms. Szerlip can no longer practice social work in Louisiana unless she applies for licensure as a new applicant and is granted same. However, the Respondent's unilateral decision not to renew her license can not control the Board's right to adjudicate a pending disciplinary action relating to Respondent's conduct which occurred while her license was active (although under probation). Otherwise, social workers could avoid the disciplinary process by allowing their licenses to lapse, leaving this jurisdiction and applying for licensure in another state. Furthermore, the Board concludes that neither the Practice Act nor the Louisiana Administrative Procedure Act requires the Board to wait an indefinite period of time until Respondent applies for licensure before it can adjudicate a pending complaint. Such a delay would permit a social worker to avail themselves of the possibility of faded memories of witnesses, witnesses who move, die or cannot be located, lost evidence, and changes in Board member composition. The Board can discern no useful public purpose or benefit in suspending the disciplinary process awaiting a future license application that may never occur. In fact, Board rules and statutory law require the Board to adjudicate pending complaints expeditiously, consistent with the due process rights of the Respondent. Under the above circumstances, the Board has concluded that its jurisdiction to adjudicate the pending complaint is continuing, notwithstanding

Respondent's lapsed license.

CONCLUSIONS OF LAW

Based on the preceding factual findings, the Board makes the following conclusions of law:

1. Respondent, by failing to comply with the Participation Agreement for the Impaired Professional Program, has failed to comply with the Board's Order of the Agreement in Complaint 2010-120 which is a violation of La. R.S. 37:2717(A)(5).
2. Respondent, by having a positive urinalysis screen on February 25, 2011, has violated §705(A)(4) of the Board's Rules, Standards and Procedures.

SANCTION

The Board takes notice of the range of sanctions contained in the Agreement in Complaint 2010-120 which Respondent acknowledged could result from her failure to comply with the terms of the Agreement. Considering Respondent's proven conduct of practicing social work while impaired, as well as Respondent's disregard for the terms and conditions of the Agreement, the Board finds no basis to deviate from the suggested sanctions contained in the Agreement.

Accordingly, the Board determines that **REVOCAION** of license is the appropriate sanction.

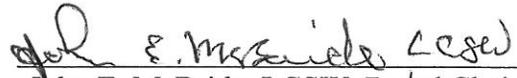
Because Respondent is currently unable to practice social work in the state of Louisiana as a result of the lapse of her license, it is **ORDERED** that Marjorie Szerlip may not apply for any form of license or credential to practice social work in Louisiana for a period of five years from the date of this Order. **IT IS FURTHER ORDERED**, that any application submitted by Marjorie Szerlip for any license or credential to practice social work shall be restricted to the following conditions:

1. With any application submitted to the board, Marjorie Szerlip must also submit:

- A. Credible documentation, to the Board's satisfaction, that she is fit for duty to provide social work services; and
- B. Payment to the Board of the amount due for the investigative and legal costs associated with Complaint 2010-120 in the amount of \$1,426.76 in addition to the amount of \$1,030.50 for the costs associated with adjudicating Complaint 2011-89.

LOUISIANA STATE BOARD OF SOCIAL WORK EXAMINERS

Baton Rouge, Louisiana this 13th day of January, 2012.



John E. McBride, LCSW, Board Chairperson