

LOUISIANA STATE BOARD OF SOCIAL WORK EXAMINERS
DECISION IN THE MATTER OF ADMINISTRATIVE COMPLAINT NO. 2012-28
JESSICA DONAHO, LICENSE NO. 7220
FINDINGS OF FACT, CONCLUSIONS OF LAW AND SANCTIONS

This matter came before the Louisiana State Board of Social Work Examiners (“Board”) on May 4, 2012 for a hearing due to Jessica Donaho’s non-compliance with the Consent Agreement and Order she entered into with the Board on June 10, 2011. The Consent Agreement and Order contained Jessica Donaho’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. Emalie Boyce, Assistant Attorney General, prosecuted the case on behalf of the state. George Papale, legal counsel for the Board served as the Hearing Officer. Board members, John McBride, LCSW, Michael Hickerson, RSW, Lisa Lipsey, LCSW, Judith Haspel, LCSW, and Carla Moore, LMSW, served on the hearing panel.

NOTICE OF PENDING ACTION

The Administrative Record shows that Respondent was served by certified and regular mail with the signed Administrative Complaint to which was attached the Agreement entered into in Complaint #2011-39 along with the February 20, 2012 formal Notice of the Complaint which notified Respondent of the date, time and place of the hearing on the Complaint allegations.

THE COMPLAINT

The complaint charged that Respondent entered into the June 10, 2011 Agreement with the Board in prior Complaint #2011-39 in which she agreed to be placed on one year suspension, subject to conditions of license renewal. In addition, Ms. Donaho agreed to, among others, be evaluated by the Louisiana State Board of Social Work Examiners' Impaired Professional Program (IPP) within 30 days from the signing of the Agreement and follow all recommendations of the designated IPP evaluator; and that she pay the investigative and legal costs associated with Complaint #2011-39 in the amount of \$823.50 within one year that all parties sign the Agreement. The current complaint alleges that the Respondent failed to be evaluated by the IPP and failed to make payment of the investigative and legal costs associated with Complaint #2011-39.

THE HEARING

Emalie Boyce, Assistant Attorney General, introduced into evidence, Administrative Complaint #2012-28 and Consent Agreement and Order #2011-39 between Jessica Donaho and the Board. Emily Efferson, Administrator, was called as a witness to testify regarding Ms. Donaho's compliance with the requirement to make a payment within 30 days towards the legal and investigative costs of Complaint #2011-39 in the amount of \$823.50 and to subsequently make quarterly payments. Ms. Efferson testified that Respondent made one payment in the amount of \$50.00 on October 31, 2011. IPP Manager, Sherril Rudd, LCSW, was called as a witness to testify regarding Ms. Donaho's compliance with the requirement that she be evaluated for the IPP within 30 days from the date all parties signed the Agreement and to follow all recommendations of the IPP evaluator. Ms. Rudd testified that Jessica Donaho cancelled the evaluation she scheduled in November, rescheduled that evaluation, but failed to show,

scheduled an evaluation for December 7 and later cancelled, and finally completed an evaluation for the IPP on December 29. Ms. Rudd advised the Board that she requested Respondent's medical records, but never received the documents. Her final statement to the hearing panel is that she mailed the IPP Participation Agreement to Respondent on March 8, 2012, but has not received it back signed from the Respondent. Jessica Donaho had no questions for either witness. Members of the hearing panel had no questions for either witness.

Jessica Donaho testified that she is not in compliance with her Agreement because she makes minimum wage and has no money left after paying bills. She testified that she has been sober for one year and that the District Attorney dismissed the charges filed after her arrest because she completed treatment. Ms. Donaho presented a copy of the criminal minutes for May 3, 2012 in the Parish of Rapides which reads "upon motion of the State, Nolle Prose was entered to obtain CDS by fraud". Ms. Donaho also entered into evidence, a letter from Kimberly Powell, LAC, to document that she completed treatment at Buckhalter Recovery Center around March 2011.

SUMMARY OF EVIDENCE AND FACTUAL FINDINGS

The state's evidence presented included the testimony of two fact witnesses, Emily Efferson and Sherril Rudd, as well the introduction of documentary evidence. Among the pieces of documentary evidence was the Administrative Complaint and the attached Agreement in Complaint #2011-39. Paragraph 6 of the Board's Order of the Agreement in Complaint #2011-39 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. Based on the un rebutted testimony of Ms. Efferson and Ms. Rudd, the Board makes the factual finding that the Respondent failed to be evaluated for the IPP within 30 days of the

Agreement in Complaint #2011-39 being signed, failed to make a payment towards the investigative and legal costs of Complaint #2011-39 within 30 days of the Agreement, and failed to make subsequent payments on a quarterly basis as required by the Agreement.

Based on these factual findings, the Board further finds that the Respondent's admissions contained in the Agreement are proven as established facts. Accordingly, the Board finds that while Ms. Donaho was actively engaged in the practice of social work, she failed to maintain proper documentation involving patients, improperly removed employee payroll information and attempted to dispose of the records, improperly obtained a medical prescription pad from a doctor and illegally obtained prescriptions using the doctor's DEA number and a forged signature, and reported to work impaired.

THE LAPSE OF RESPONDENT'S LICENSE

The Administrative Record 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). The Respondent's unilateral decision to not 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 suspension). Otherwise, social workers could avoid the disciplinary process by allowing their license 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. 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. By failing to maintain proper documentation on patients, Ms. Donaho has practiced in a manner detrimental or potentially detrimental to the client, such conduct which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(7); Ms. Donaho has failed to properly maintain records of services provided to clients in violation of Rule 111(G), such conduct which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(5), Rule 105 and La. R.S. 37:2717(A)(11); Ms. Donaho has failed to make reasonable efforts to advance the welfare and best interests of a client in violation of Rule 107(B), such conduct which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(5), Rule 105 and La. R.S. 37:2717(A)(11).
2. By reporting to work impaired, Ms. Donaho has violated Rule 117(A), which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(5), Rule 105 and La. R.S. 37:2717(A)(11); Ms. Donaho has practiced in a manner detrimental or potentially detrimental to the client, which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(7).
3. By improperly removing employee payroll information and attempting to dispose of the records, Ms. Donaho has failed to maintain good moral character, which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(5), Rule 105 and La. R.S. 37:2717(A)(11).

4. By illegally obtaining prescriptions using a stolen prescription pad and forged signature, Ms. Donaho has failed to maintain good moral character, which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(5), Rule 105 and La. R.S. 37:2717(A)(11).

5. By not making payment within 30 days of the Agreement in Complaint #2011-39 and by not making subsequent quarterly payments, Ms. Donaho has failed to adhere to the requirements of a Board order, which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(5).

6. By not completing an evaluation for the Impaired Professional Program within 30 days of the Agreement in Complaint #2011-39, Ms. Donaho has failed to adhere to the requirements of a Board order, which is cause for disciplinary action pursuant to La. R.S. 37:2717(A)(5).

SANCTIONS

The Board takes notice of the range of sanctions contained in the Agreement in Complaint 2011-39 which Jessica Donaho acknowledged could result from her failure to comply with the terms of the Agreement. Considering Ms. Donaho's disregard for the terms and conditions of the Agreement and the serious nature of the complaint, the Board finds no basis to deviate from the suggested sanctions contained in the Agreement. Accordingly, the Board determines that **revocation** of license is the appropriate sanction.

It is **ORDERED** that Jessica Donaho's social work credential is revoked for three (3) years from the date this Order is signed. Ms. Donaho may reapply for a social work credential in three (3) from the date this Order is signed, and meet all requirements for the credential in which she is applying in accordance with the Louisiana Social Work Practice Act. In addition to

meeting the requirements of the social work credential for which she is applying and before her application is approved, Ms. Donaho shall:

1. Pay the remaining legal and investigative costs of Complaint #2011-39 in the amount of \$773.50;
2. Pay the costs of adjudicating Complaint #2012-28 in the amount of \$873.65;
3. Obtain an evaluation for the Board's Impaired Professional Program; and if deemed necessary,
4. Sign a Participation Agreement with the Impaired Professional Program.

Jessica Donaho may comply with the requirements of sanctions 1 and 2 at any time during the period of revocation. The evaluation for the IPP shall be obtained by a board-approved evaluator and shall not be obtained more than 90 days prior to the date Ms. Donaho applies for a social work credential.

July 3, 2012

Date



Lisa L. Lipsey, LCSW

Chairperson