

LOUISIANA STATE BOARD OF SOCIAL WORK EXAMINERS
DECISION IN THE MATTER OF ADMINISTRATIVE COMPLAINT NO. 2012-24

JUDY SOILEAU, LICENSE NO. 8376

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 Judy Soileau’s non-compliance with the Consent Agreement and Order she entered into with the Board on April 29, 2011. The Consent Agreement and Order contained Judy Soileau’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 #2010-149 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 certified notice was returned marked “unclaimed”, but also included a notice of a new address. The Administrative Record further shows that a second notice was served by certified and regular mail with the signed Administrative Complaint to which was attached the

Agreement entered into in Complaint #2010-149 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 on March 16, 2012 to the address provided by the United State Postal Service for the Respondent.

THE COMPLAINT

The complaint charged that Respondent entered into the April 29, 2011 Agreement with the Board in prior Complaint #2010-149 in which she agreed to be placed on one year probation, and 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 #2010-149 in the amount of \$1,176.00 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 #2010-149.

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.

THE HEARING

Emalie Boyce, Assistant Attorney General, introduced into evidence, Administrative Complaint #2012-24 and Consent Agreement and Order #2010-149 between Judy Soileau and the Board. Emily Efferson, Administrator, was called as a witness to testify regarding notice sent to Judy Soileau regarding notice of complaint and hearing, in addition to the Respondent's compliance with the requirement to make a payment within 30 days towards the legal and investigative costs of Complaint #2010-149 and to subsequently make quarterly payments. Ms. Efferson testified that Respondent made no payments. IPP Manager, Sherril Rudd, LCSW, was called as a witness to testify regarding Ms. Soileau'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 Judy Soileau did not obtain an evaluation for the IPP. Members of the hearing panel had no questions for either witness.

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 were the Administrative Complaint and the attached Agreement in Complaint #2010-149. Paragraph 5 of the Board's Order of the Agreement in Complaint #2010-149 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 unrebutted 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 #2010-149 being signed, failed to make a payment towards the

investigative and legal costs of Complaint #2010-149 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. Soileau was actively engaged in the practice of social work, she had difficulty with a prescribed medication, more specifically, that in the process of adjusting the type and dosage of prescribed medication, she experienced a chemical imbalance in her system.

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 probation). 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 practicing while having difficulty with her medication type and dosage, Ms. Soileau has violated Rule 117(A) of the Rules, Standards and Procedures for Louisiana Social Workers, such conduct which is the cause for disciplinary action pursuant to La. R.S.

37:2717(A)(5).

2. By practicing under a mental or physical condition that may have impaired her ability to safely practice, Ms. Soileau has practiced in a manner detrimental or potentially detrimental to the client, such conduct which is the cause for disciplinary action pursuant to La. R.S.

37:2717(A)(7).

3. By not making payment within 30 days of the Agreement in Complaint #2010-149 and by not making subsequent quarterly payments, Ms. Soileau 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).

4. By not completing an evaluation for the Impaired Professional Program within 30 days of the Agreement in Complaint #2010-149, Ms. Soileau 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 2010-149 which Judy Soileau acknowledged could result from her failure to comply with the terms of the Agreement. Considering Ms. Soileau'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 **revocation** of license is the appropriate sanction.

It is **ORDERED** that Judy Soileau's social work credential is revoked for five (5) years from the date this Order is signed. Ms. Soileau may reapply for a social work credential in five (5) 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. Soileau shall:

1. Pay the legal and investigative costs of Complaint #2010-149 in the amount of \$1,176.00;
2. Pay the costs of adjudicating Complaint #2012-24 in the amount of \$678.75;
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.

Judy Soileau 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. Soileau applies for a social work credential.

July 3, 2012

Date



Lisa L. Lipsey, LCSW

Chairperson