

**BEFORE THE STATE OF NEW MEXICO
BOARD OF SOCIAL WORK EXAMINERS**

IN THE MATTER OF:)	
)	
BALAZS ZOLTAN BATYKA)	CASE NO. SW-2008-12-27
LICENSE NO. I-06488)	
)	
Respondent.)	

DECISION AND ORDER

THIS MATTER came before a quorum of the Board of Social Work Examiners ("Board") during their regularly scheduled meeting on July 16, 2010 for a decision in the above referenced case.

FINDINGS OF FACT

The Board, having familiarized themselves with the record of the proceedings, including the Hearing Officer's Report, hereby adopts the Hearing Officer's Recommended Findings of Fact in their entirety by a unanimous vote. A copy of the Hearing Officer's Report is attached hereto.

CONCLUSIONS OF LAW

Based on the findings of fact, the Hearing Officer's Recommended Conclusions of Law are adopted in their entirety by unanimous vote.

As such, the Board finds that while, Respondent's license revocation in the State of Arizona is grounds upon which his New Mexico renewal application may be denied and his current license revoked, the Board will exercise their discretion and allow Respondent to continue to practice as a social worker.

ORDER

Based on the Findings of Fact and Conclusions of Law, the Board unanimously votes in the affirmative and renders this Decision and Order:

IT IS ORDERED that Respondent's renewal application shall be accepted.

IT IS FURTHER ORDERED that Respondent's current license shall be placed on probation for a period of one (1) year from the date of entry of this Order, subject to the following terms and conditions:

1. During the probationary period, Respondent shall practice subject to direct supervision of a supervising, licensed social worker;
2. Respondent shall notify the Board in writing of the name of the supervising social worker within ten (10) days of the supervising social worker's initial acceptance of the supervisory responsibilities;
3. The supervising social worker shall monitor the training and guidance of the Respondent and shall provide direct supervision of Respondent;
4. The supervising social worker shall submit a monthly report to the Board, noting Respondent's work and behavior;
5. Failure to comply with any provision of this Order shall be grounds for further disciplinary action against the Respondent.

FOR THE NEW MEXICO
BOARD OF SOCIAL WORK EXAMINERS

DATE: 7/29/10

Mabel Marquez
Board Member

**BEFORE THE STATE OF NEW MEXICO
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IN THE MATTER OF:)

BALAZS ZOLTAN BATYKA)
LICENSE NO. I-06488)

CASE NO. SW-2008-12-27

Respondent.)

HEARING OFFICER'S REPORT

COMES NOW the New Mexico Board of Social Work Examiners' duly appointed Hearing Officer, LeeAnn Werbelow, who convened a hearing in this matter on May 10, 2010 in Roswell, New Mexico and hereby timely submits this Hearing Officer's Report.

Gloria I. Lucero, Assistant Attorney General represented the Board of Social Work Examiners ("Board"). Respondent, Balaza Zoltan Batyka appeared in person and was represented by Andrew J. Cloutier, Esq.

The following exhibits were admitted through stipulation:

- 1) Exhibit 1 – Copy of the Notice of Contemplated Action with attachments
- 2) Exhibit 2 - Certified copy of the Arizona Board of Behavioral Health Examiners Modified Findings of Fact, Conclusions of Law and Order of Revocation in Complaint No. 2007-0159
- 3) Exhibit 3 - Certified copy of the Arizona Board of Behavioral Health Examiners Order of Revocation in Complaint No. 2007-0159

- 4) Exhibit A - Correspondence from Respondent and Affidavit of Balazs Batyka
- 5) Exhibit B – Correspondence from Andrew J. Cloutier, Esq.

The Respondent, in his case in chief, presented testimony from the Respondent Balaz Batyka, Ann Anderson, Ginger Bowman, Chuck Dawe, Robert Phillips, Henry Dickson, and Vincent Masters.

FINDINGS OF FACT

Based upon either stipulation by the parties or facts entered through testimony at hearing, the Hearing Officer hereby submits the following findings of fact:

1. Respondent is licensed by the Board to practice as a Licensed Independent Social Worker in the State of New Mexico under License Number I-06488.
2. Respondent received his New Mexico licensure in 2006 and shortly thereafter began working at Counseling Associates Inc. in Roswell, New Mexico.
3. On or about June 13, 2008, Respondent submitted a renewal application to the New Mexico Board.
4. As part of his renewal application, Respondent self-reported to the Board that he had disciplinary action taken (revocation) against his licenses in the State of Arizona.
5. This matter proceeds from notice of the Arizona revocation.
11. The Board issued and served Respondent with a Notice of Contemplated Action (“NCA”).
12. The NCA notified Respondent of the allegations and notified that the Board had sufficient evidence, which if not rebutted or satisfactorily explained at a

formal hearing, would justify the Board in taking disciplinary action against Respondent.

13. Pursuant to the NCA, Respondent requested a hearing on this matter.
6. Respondent admits that the Arizona Board revoked his license to practice as an Independent Substance Abuse Counselor and revoked his license to practice as a Clinical Social worker in Arizona.
7. Respondent requests that the Board exercise it's discretion in enforcing the New Mexico Social Work Examiners' reciprocity statute.
8. Respondent received licensure in Arizona in 2001 to practice as a Master of Social Work and Independent Substance Abuse Counseling.
9. In September 2004, Respondent submitted a renewal application to the Arizona Board of Behavioral Health Examiners ("Arizona Board").
10. As part of his renewal application, Respondent failed to disclose to the Arizona Board that he had been terminated from his employment.
11. In September 2006, Respondent submitted a renewal application to the Arizona Board.
12. As part of his renewal application, Respondent reported to the Arizona Board that he had been terminated from his previous employment.
13. The Arizona Board subsequently commenced an investigation of Respondent.
14. On February 1, 2008, the Arizona Board held a formal hearing regarding Respondent's Arizona licensure.
15. Despite being properly noticed, Respondent did not appear for the hearing.

16. On or about February 13, 2008, the Arizona Board issued an Order of Revocation that administratively revoked License No. LISA-10370, which authorized Respondent to practice as an Independent Substance Abuse Counselor.
17. On or about February 13, 2008, the Arizona Board issued an Order of Revocation that administratively revoked License No. LCSW-10631, which authorized Respondent to practice as a Clinical Social Worker.
18. The Board, by way of stipulation, introduced into evidence a certified copy of the Order of Revocation.
19. On March 14, 2008, the Respondent submitted a Request for Review or Rehearing regarding the Arizona Board's Order of Revocation.
20. As part of his Request, Respondent submitted a letter from a female client, from which he believes it was alleged that he had a dual relationship with.
21. As part of his Request, Respondent submitted an affidavit, explaining his attempt to console a colleague over a death.
22. As part of his Request, Respondent submitted letters from two female colleagues who corroborate Respondent's denial of sexual harassment.
23. As part of his Request, Respondent submitted an affidavit where Respondent concedes that he has a cultural habit of sometimes touching people on the arm or shoulder when speaking to them and realizes that some people may be uncomfortable with such contact.

24. On May 2, 2008, the Arizona Board met to consider Respondent's Request for Review or Rehearing and his subsequently submitted Request for Continuance. Respondent was not present.
25. The Arizona Board denied Respondent's Request for Continuance and granted the Request for Review and issued a Modified Findings of Fact and Conclusions of Law.
26. On or about May 13, 2008, the Arizona Board in Complaint No. 2007-0159 issued the Modified Order of Revocation affirming the revocation of License No. LISAC-10370 and No. LCSW-10631.
27. The Board by way of stipulation entered into evidence a certified copy of the Modified Order of Revocation.
28. Within said Modified Order of Revocation, the Arizona Board of Behavioral Health Examiners found that Respondent failed to obtain a medical referral before sending a medical patient for an outpatient psychiatric evaluation.
29. The Arizona Board also found that Respondent proposed a dual relationship by offering to provide counseling services to his co-workers.
30. The Arizona Board found that Respondent engaged in a dual relationship by continuing to serve a client who had named Respondent as a beneficiary in his will.
31. The Arizona Board found that Respondent engaged in sexual harassment of his co-workers.
32. The Arizona Board found that Respondent engaged sexual conduct with a client or former client.

33. The Arizona Board concluded that Respondent engaged in a dual relationship that could impair the licensee's objectivity or be harmful to the client and that his conduct impaired his ability to safely and competently practice his behavioral health profession.

14. Respondent did not appeal the Modified Order of Revocation.

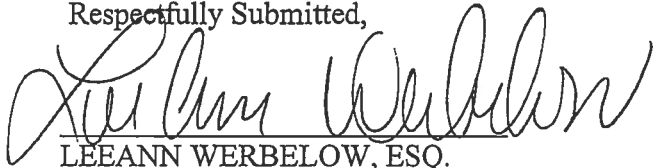
CONCLUSIONS OF LAW

Based on the findings of fact, the Hearing Officer hereby reaches the following conclusions of law:

1. Respondent is subject to the jurisdiction of the Board pursuant to the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to -33; the Social Work Practice Act, NMSA 1978, Sections 61-31-1 to -25; and the New Mexico Board of Social Work Examiners Rules and Regulations, Title 16, Chapter 63, NMAC.
2. Section 61-31-17(A)(9) of the Social Work Practice Act provides in relevant part that in accordance with procedures contained in the Uniform Licensing Act [§§ 61-1-1 to -31, NMSA 1978], the board may deny, revoke or suspend any license held or applied for under the Social Work Practice Act upon grounds that the licensee or applicant "has had a license to practice social work revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for acts of the licensee similar to acts described in this subsection. A certified copy of the record of the jurisdiction, territory or possession of the United States or another country making such revocation, suspension or denial shall be conclusive evidence thereof."

3. The Arizona Board revoked Respondent's licenses for acts that are similar to acts that are prohibited by NMSA 1978, Section 61-31-17 of the Social Work Practice Act.
4. The Arizona certified copy of Order of Revocation and Modified Order of Revocation are conclusive evidence that Respondent's license to practice as a Master of Social Work and Independent Substance Abuse Counseling in the State of Arizona was revoked.
5. Respondent's license revocation in the State of Arizona is grounds upon which his New Mexico renewal application may be denied and his license revoked.
6. Section 61-31-17 uses the word "may," thus allowing the Board discretion in whether to deny, revoke or suspend any license held or applied for.

Respectfully Submitted,



LEEANN WERBELOW, ESQ.
Hearing Officer