

COPY

STATE OF OREGON
BOARD OF CLINICAL SOCIAL WORKERS
BEFORE THE STATE BOARD OF CLINICAL SOCIAL WORKERS

In the Matter of the)
License as a Clinical) FINAL ORDER
Social Worker of)
Ronald C. Slabaugh)

The Board of Clinical Social Workers reviewed the following Proposed Order and any exceptions and does adopt this Order in its entirety on March 31, 1994, as the Final Order of the Board.

On January 5th and 6th, 1994, a contested case hearing was held under the provisions of Oregon Revised Statutes (ORS) 675.510-600 and Oregon Administrative Rules (OAR) Chapter 877, in Salem, Oregon. The purpose of the hearing was to consider the proposed revocation of the license of Ronald C. Slabaugh, as a licensed Clinical Social Worker. Respondent, Ronald C. Slabaugh, license #1033, appeared with counsel, Patrick J. Stimac, Attorney at Law. Representing the Board of Clinical Social Workers (Board) was J. Kevin Shuba, Assistant Attorney General. Paul Hegstrom presided as the Hearings Officer.

THE ISSUE

On December 9, 1992, the Board issued a Notice of Proposed License Revocation. The Order proposed to revoke Respondent's license pursuant to ORS 675.540(1)(d), 675.540(2)(a) and 675.595(3). An Amended Notice of Proposed License Revocation was issued on October 29, 1993.

Respondent is charged with the following:

1. Having a dual relationship with a client, ~~_____~~ ^{CT} ~~_____~~ ^(Client) ~~_____~~, in contravention of OAR 877-30-005(2)(d);
2. Having sexual relations with a client, ~~_____~~ in contravention of OAR 877-30-005(2)(c), constituting gross negligence in the practice of social work under ORS 675.540(1)(d);

PATRICK J STIMAC
ATTORNEY AT LAW
515 W OLIVE ST
NEWPORT OR 97365

3. Failure to serve client, [REDACTED] with the maximum application of professional skill and competence under OAR 877-30-005(2)(a).

THE ACTION

The Board proposes to revoke Respondent's license to practice as a clinical social worker in this state under ORS 675.540(2)(a), 675.595(3) and OAR 877-30-020.

ARGUMENTS OF COUNSEL FOR THE BOARD

Counsel for the Board argues that Respondent admits that he violated the rule prohibiting dual relationships by asking ^{Client} [REDACTED] to be his bookkeeper. That Respondent admits violation of the "No sex with clients rule" in spirit, but not in actuality. It is Respondent's position that ^{Client} [REDACTED] was a former client at the time they had sexual relations. Counsel believes the record is unclear as to how ^{Client} [REDACTED] became a former client. In her deposition, ^{Client} [REDACTED] maintains that she received therapy from Respondent while she was involved in a sexual relationship with Respondent.

Counsel cites OAR 877-30-005, which sets forth the ethical responsibility of social workers to their clients. Such ethical responsibilities remain in effect until such time as the relationship is terminated by either party. Counsel argues that a communicated termination is the missing link. Although Respondent did not consider ^{Client} [REDACTED] to be a client, ^{Client} [REDACTED] was still receiving therapy and still relied on Respondent to help her with her problems. It was Respondent's responsibility to ensure that professional boundaries pursuant to his profession were not violated. Counsel argues that Respondent did not do that.

Counsel also argues that Respondent possesses some poor business practices. He discussed cases with his wife without the permission of the client. His irregular billing of insurance companies by billing one family member for the therapy of another member, changing dates on billings to fall within eligibility for insurance coverage, allowing his wife to bill under his name, failing to correct false assumptions by insurance companies that he has a PhD in psychology, which he does not, and billing insurance companies for therapy that he did not provide to the named insured. Although these factors

are not the reasons for the present Board action, counsel contends these business behaviors show what Respondent "Really is."

Counsel argues that this was not a one time negligent act. The sexual relationship of concern here began in October, 1989, and continued into late Spring, 1992. Each time ^{Client} [REDACTED] came to Respondent's office and did his books or had sexual relations, the problem was compounded. Respondent had a responsibility to re-establish professional boundaries, which he did not do.

Counsel argues that Respondent was grossly negligent in his actions. Counsel cites Britton v. Board of Podiatry Examiners, 53 Or App 544 (1981), for guidance.

Attorney for the Board claims that the Respondent did not know what he did was wrong at the time he did it, but he should have. It is clear in the ethical rules of the Board.

Finally, regarding the damage that was done to ^{Client} [REDACTED] by Respondent's acts: She is a fragile woman, diagnosed as having schizotypo-personality disorder, depression and anxiety with phobias. When considering this in context of the profession, where the basic rule or building block is trust, where there is no trust, there is no progress. ^{Client} [REDACTED] condition was exacerbated by the actions of Respondent. This is not a case of dollars, but rather a case of a member of the public who was injured by Respondent. ^{Client} [REDACTED] now has a barrier to overcome which is trust of therapists. Therefore, the proposed revocation should be upheld.

ARGUMENTS OF COUNSEL FOR RESPONDENT

Counsel for Respondent argues that ^{Client} [REDACTED] was not a client at the time sexual relations started with Respondent and since this matter has been brought to light, Respondent has been honest about the situation. Respondent admits that he had a dual relationship with ^{Client} [REDACTED]. Having admitted the charges, Respondent argues that the Hearings Officer can apply any of a series of sanctions in lieu of revoking his license to practice. Respondent believes the spirit of the Board's rules are not about punishment. Even if they were, Respondent has experienced substantial punishment. Respondent lost friends and his wife; he has had to face his other professional clients about the matter, many of whom left his services; and he

has had to face his colleagues. He has suffered embarrassment and humiliation, he has lost a substantial part of his business, as well as an apartment building and his house on the beach. The only thing Respondent has left is where he now lives and his professional office. Respondent argues that if punishment is what this is all about, then punishment has occurred.

Respondent also argues that the original complaint was filed more than a year prior to this hearing. Respondent has had this hanging over his head for too long. He has been unable to get on with his life because of this action due to a lawsuit and the Board's action. No other complaints of this nature have been filed against Respondent in his 25 years of practice and this is a one-time event. He argues that revocation, as additional punishment, is not necessary to get the punishment point across.

Respondent believes that the rules are to regulate the profession to protect the public from harm. Respondent knows that ^{Client} [REDACTED] has been harmed by what had happened. However, she has had redress having filed and settled a lawsuit against Respondent. Respondent contends that the purpose of this hearing is to protect the public from future harm from Respondent. He argues that certainly one way is to revoke Respondent's license; however, there is no evidence that Respondent would not be able to continue his practice. And if his license is revoked, the Board will not be able to supervise his practice.

Respondent has learned a valuable lesson and has taken steps to ensure that something like this does not happen again. He asks that he be allowed to keep his license, that he be put on probation and be supervised. Respondent will abide by any conditions the Board feels necessary.

FINDINGS OF FACT

1. Respondent has been a licensed clinical social worker in this state since February 16, 1987. Respondent was previously licensed in the state of Massachusetts.
2. Respondent practiced clinical social work in Newport, Oregon, with his wife, ^{MRS.} [REDACTED] Slabaugh, at their business, Bayfront Family Therapy.
3. ^{Client} [REDACTED] was released from psychiatric hospitalization in March, 1987.

4. On August 17, 1987, Respondent entered into a client-provider relationship with ~~Client~~ ^{Client} ~~Client~~ ^{Client} was referred to Respondent by Dr. Peter Cookson. ~~Client~~ ^{Client} reportedly exhibited psychotic symptoms and was taking Lithium sometime since March, 1987. ~~Client~~ ^{Client} was also taking Valium.

5. Respondent counseled ~~Client~~ ^{Client} on a weekly basis from August 17, 1987, to June 11, 1992. ~~Client~~ ^{Client} either paid monies or performed bookkeeping for therapy sessions.

6. In early March or April, 1988, Respondent hired ~~Client~~ ^{Client} as a bookkeeper for his business, Bayfront Family Therapy.

7. In October, 1989, Respondent and ~~Client~~ ^{Client} became sexually intimate. This intimacy involved intercourse, interspersed with sexual behavior. About the time these sexual encounters began, Respondent became separated from his wife.

8. On July 13, 1990, Respondent referred ~~Client~~ ^{Client} for a Social Security disability evaluation. In the evaluation done by Dr. Suzanne Paulson, M.D., it was concluded that ~~Client~~ ^{Client} insight was extremely poor, her judgment was moderately impaired, and that she was not likely to improve appreciably with time due to her severe distrust of others and her "unique ways" of thinking.

9. From about October, 1989, to June, 1992, ~~Client~~ ^{Client} would attend a two- to three-hour therapy session with Respondent on a weekly basis. During these sessions, ~~Client~~ ^{Client} received therapy, did bookkeeping and began engaging in sexual behavior and intercourse with Respondent. ~~Client~~ ^{Client} had very little income and paid for the therapy sessions by doing bookkeeping for Respondent or performing sexual services in lieu of payments for therapy.

10. Through June, 1992, ~~Client~~ ^{Client} was not referred for therapy elsewhere by Respondent.

11. In June 1992, ~~Client~~ ^{Client} self-referred herself to the care of Dr. Bruce Bundy, Clinical Psychologist. When Dr. Bundy met with ~~Client~~ ^{Client} ~~Client~~ ^{Client} was confused, agitated, moderately depressed, ambivalent and was thinking of suicide. Dr. Bundy's initial diagnosis was that ~~Client~~ ^{Client} had a personality disorder.

12. ^{Client} [redacted] continues under the care of Dr. Bundy through the date of this hearing. His current diagnosis is that ^{Client} [redacted] has depressive neurosis, anxiety disorder, social phobia, obsessive compulsive disorder and a schizotypo disorder.

13. Dr. Bundy's current prognosis of ^{Client} [redacted] is that her personality disorder, like many others of similar nature, is not especially good. ^{Client's} [redacted] case is a difficult case to treat for two reasons. First, because of her degree of disturbance and transference. Second, the sexual abuse by her previous therapist has brought another difficulty, a distrust of therapists. ^{Client} [redacted] also discussed her sexual relationship with Respondent and believed that she was still in therapy when the sexual encounters took place.

14. On October 1, 1992, ^{Client} [redacted] filed a complaint report bringing this matter to the attention of the Board.

15. On September 3, 1992, a civil lawsuit was filed by ^{Client} [redacted] in Lincoln County Circuit Court against Respondent. The lawsuit was subsequently settled between the parties in the amount of \$50,000.00.

16. Respondent is not a medical doctor.

17. Respondent discussed specifics of ^{Client} [redacted] case with his wife without a release authorization from ^{Client} [redacted].

18. Respondent and his wife were in therapy with Twylah Faye Olson, M.S., from March 27, 1992, through the date the lawsuit was filed against Respondent, for marriage counselling. After the lawsuit was filed, Respondent's wife left him and he continued further in therapy and case supervision.

19. Respondent billed insurance companies misrepresenting that he was a PhD in cases where the insurance company would only pay for services of a clinical psychologist and not a licensed clinical social worker.

20. "A time or two" ^{Mrs.} [redacted] Slabaugh submitted billings under Respondent's name for her practice.

21. Respondent submitted bills to insurers in the names of persons who did not receive the service. Respondent had the practice of billing the insurance company of another member of the family for services provided to a

family member whose insurance ran out. He also has delayed submission of billings until such time as the person qualified for third-party payer status.

22. A series of witnesses testified to Respondent's good character. Clients testified that they are aware of Respondent's situation and that they were continuing or would continue therapy with Respondent. Others testified as to his importance in the community and the fact that Respondent is a fine professional.

CONCLUSIONS OF LAW

1. Respondent violated OAR 877-30-005(2)(d), by having a dual relationship; client and bookkeeper, with ~~Client~~ *Client*.
2. Respondent violated OAR 877-30-005(2)(c), by engaging in sexual acts with a client, ~~Client~~ *Client*.
3. Respondent violated OAR 877-30-005, by not providing client, ~~Client~~ *Client* with the maximum application of professional skill and competence.
4. The respondent has violated ORS 675.540(1)(d).
5. Respondent is subject to disciplinary action under OAR 877-30-020, ORS 675.595(3) and 675.540(2)(a) for gross negligence in the practice of clinical social work.

ANALYSIS

Respondent has experienced numerous consequences as the result of his relationship with ~~Client~~ *Client*. These consequences include loss of income, friends, clients, wife, and property. Respondent also suffered embarrassment and humiliation. These are certainly factors to consider when applying a sanction in this case.

Alternatively, as characterized by Dr. Bundy, Respondent's sexual behavior with ~~Client~~ *Client* was a massive betrayal of the profession. A therapist's major responsibility is to help the people that they can and certainly not to harm a person if possible. The lack of trust caused by Respondent's actions has been a problem in treating ~~clients~~ *clients* pre-existing condition.

The Hearings Officer does not read the rules of the Board to be punishment of violators; however, most sanctions also have a degree of

punishment. The rules set forth standards of conduct and the statute supplies the sanctions.

Respondent violated several ethical standards of the profession as set forth by rule. He engaged in sexual acts with a client, he had a dual relationship with the client. He exploited relations with the client to personal advantage. These behaviors were not singular events, but rather happened over a period of two years.

Respondent's business practices, also, do not speak well of his credibility to his profession. Although limited by this record, Respondent's statement that over half of those in his profession bill other family members for services to another family member does not make the practice right. This may well be a practice of the profession, but it is wrong.

OAR 877-30-000(1)(b), requires a clinical social worker to maintain standards of personal conduct in the capacity as a clinical social worker and shall not participate in, condone or be associated with dishonesty, fraud, deceit or misrepresentation. Respondent violated this standard by his professional billing practices.

Although not specifically challenged by Respondent, the Hearings Officer is required to evaluate whether Respondent's behavior was grossly negligent in the practice of social work.

In Britton, supra, the court held that gross negligence depends largely on how obvious the error committed should have been to a person in the profession. There also must be an articulation of the bases for inferring wilful indifference as opposed to repeated negligence. There is no question that Respondent was aware of and willfully violated ethical rules. His only defense to the violations is that he knows he did wrong. Respondent consciously and willfully was indifferent to the standards of the profession. Respondent knew he had a dual relationship with his client. To a lesser degree, and contrary to the findings in this case, he did not believe that ~~Client~~ ^{Client} was a client at the time sexual relations began. Colored with his attitude about billing insurance companies, Respondent knew he was acting beyond the boundaries of professional conduct.

For these reasons, the Board is entitled to impose its professional judgment and invoke the maximum sanction allowed by law, revocation.

Under its' authority, the Board must also weigh whether a revocation would serve the public interest. This record has established that Respondent clearly violated the laws as well as the rules of the Board and the professionalism of others of the profession.

ORDER

Respondent's license to practice as a clinical social worker is revoked.

Signature on File in Board Office

Elizabeth A. Buys
Administrator

ISSUANCE AND MAILING DATE

March 31, 1994

NOTICE OF RIGHT TO APPEAL

Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within sixty (60) days from the service of the final order. Judicial review is pursuant to the provisions of ORS 183.482.