COPY

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

In the Matter of

HOMER SAMUEL ADAMS, III, LCSW,

Licensee.

FINAL ORDER

Case Nos. 2001-01, 2002-14, and 2002-25

HISTORY OF THE CASE

On August 6, 2002, the Board of Clinical Social Workers (Board) issued a Notice of Intent to Discipline Licensee Homer Samuel Adams, III (Licensee) under ORS 675.540(2)(a), Case No. 2001-25/2002-01. The Board proposed to revoke Licensee for engaging in a sexual relationship with a client, A. O., in violation of OAR 877-030-0070(4), committing unprofessional conduct in the practice of clinical social work under ORS 675.540(1)(d); and failing to cooperate with the Board's investigation, in violation of OAR 877-030-0090(2).

On August 23, 2002, the Board issued an Emergency Suspension Order, Case No. 2002-14, involving client K. P., suspending Licensee on the grounds that Licensee's continued practice as a clinical social worker presents a serious danger to the public health or safety. The Emergency Suspension Order was issued pursuant to ORS 183.430(2).

On August 23, 2002, the Board issued a second Notice of Intent to Discipline Licensee under ORS 675.540(2)(a), Case No. 2002-14. The Board proposed to revoke Licensee for engaging in unprofessional conduct in the practice of clinical social work with a client K.P. under ORS 675.540(1)(d) and in violation of OAR 877-010-0040(2) (dishonest, fraud, deceit or misrepresentation) and OAR 877-030-0070(4) (sexual relationship, sexual or seductive communications).

On February 14, 2003, the Board issued an Amended Emergency Suspension Order, Case No 2002-14, involving clients K. P., A. O. and J. O., suspending Licensee on the grounds that Licensee's continued practice as a clinical social worker presents a serious danger to the public health or safety. The Emergency Suspension Order was issued pursuant to ORS 183.430(2). The Notices and Emergency Suspension Orders notified Licensee of the right to be represented by an attorney at the hearing.

On October 23, 2002, the Board referred the case to the Office of Administrative Hearings.[1] On October 24, 2002, the Board sent Licensee a Notice of Contested Case Rights and Procedures informing Licensee of his rights under ORS 183.413, including his right to be represented by an attorney. This matter was scheduled for a telephone prehearing conference before Administrative Law Judge Paul Hegstrom on November 18, 2002.

[1] The Board uses throughout this Final Order the title of "Administrative Law Judge" for the Hearing Officer and "Office of Administrative Hearings" for the agency formerly known as the Hearing Officer Panel in accordance with HB 2526, which was enacted May 22, 2003. *See* Or Laws 2003, ch ____, §§ 3,4 (HB 2526 Enrolled).

On November 14, 2002, the Administrative Law Judge postponed the prehearing conference at the request of Licensee to provide him with the opportunity to process the case with the legal firm handling the situation.

On February 28, 2003, the Administrative Law Judge held a prehearing conference wherein the parties agreed upon a hearing date of April 30, 2003. The Administrative Law Judge notified Licensee at the prehearing conference of the right to be represented by an attorney and that the hearing would not be postponed for Licensee to obtain an attorney. The Administrative Law Judge further indicated that if Licensee did intend to obtain counsel that should occur as soon as possible because the hearing would not be postponed for that purpose.

Also, on February 28, 2003, the Administrator for the Board sent a letter to Licensee after the conclusion of the prehearing conference wherein she reiterated what the Administrative Law Judge told Licensee at the prehearing conference, specifically "...that if you [Licensee] plan to be represented by legal counsel, *you must retain an attorney immediately...*" (*emphasis* added).

On April 8, 2003, the Office of Administrative Hearings sent a Notice of Hearing to the Board and Licensee informing them of the date, time, and location of the hearing.

The Licensee did not, at any time between February 28, 2003, the date of the prehearing conference, and April 30, 2003, the date of hearing, contact the Board or the Administrative Law Judge to inform them of his purported attempts to secure counsel. The only communication or document that Licensee did submit to the Board was his Exhibits and witness list for the April 30, 2003 hearing, which were submitted to the Board on April 21, 2003. Nowhere in these April 21, 2003, documents did License ever mention any attempt to obtain counsel.

A hearing was held on April 30, 2003 at the Board Office in Salem, Oregon. Paul Hegstrom, from the Office of Administrative Hearings, presided as the Administrative Law Judge. Licensee appeared in person and represented himself. The Board was represented by Caren Rovics, Assistant Attorney General. Also present for a portion of the hearing was Elizabeth Buys, Board Administrator.

Testifying on behalf of the Board were K. P., A. O. and J. O. Licensee testified at the hearing, along with Licensee's witness, V[redacted] S[redacted].

On June 27, 2003, the Administrative Law Judge issued a Proposed Order in this matter recommending that the Emergency Suspension Orders be affirmed and Licensee's license to practice as a clinical social worker in Oregon be revoked. The Proposed Order notified Licensee of the right to file exceptions, but included an inadvertent clerical error in the sentence informing Licensee of the time period in which the exceptions must be filed to be considered by the Board. On July 22, 2003, the Board by letter notified Licensee of the error and granted Licensee additional time until August 11, 2003, to file exceptions. On August 6, 2003, the Board received written notice that attorney Bert P. Krages II now represented Licensee in connection with this matter and a request for an extension of the August 11, 2003, deadline for Licensee to file exceptions. On August 6, 2003, the Board denied Licensee's request for an extension. On August 11, 2003, Licensee timely filed exceptions (Exceptions) to the Proposed Order. The Board has considered Licensee's Exceptions in issuing this Final Order.

In accordance with Oregon Laws 1999, Chapter 849, § 12, and OAR 137-003-0665(3) & (4), the Board identifies and explains herein those modifications to proposed findings of historical fact and which change the outcome or basis for this Final Order from that in the Proposed Order. The Board has made other changes to fully, adequately, or correctly set forth the material evidence in the record and to clarify, correct, amend, or explain the Board's findings, conclusions, and opinion. The Board has also made changes to correct spelling, grammar, textual placement, and other similar errors.

ISSUES

1. Whether Licensee's practice as a clinical social worker has posed and continues to pose a serious danger to the public health or safety such that his license to practice as a clinical social worker in Oregon was properly suspended without a hearing.

2. Whether Licensee's license as a clinical social worker in Oregon should be revoked.

EVIDENTIARY RULINGS

The Board offered Exhibits A1-A9, which were admitted without objection. Licensee offered Licensee's Exhibit A, which included the notice of the hearing, a proposed witness list and 20 pages from a web page from the Law Offices of John D. Winer involving a company profile and significant cases handled by the law firm. Counsel for the Board objected to the exhibit on the basis of relevance. The Administrative Law Judge determined that the exhibit was not relevant to any of the matters at issue in the hearing and the Board adopts his ruling sustaining the objection.

Licensee proposed to offer the testimony of two other witnesses, T[redacted]M[redacted] and D[redacted]R[redacted]. Neither T[redacted] M[redacted] or D[redacted]R[redacted] were ever clients of Licensee.

T[redacted]M[redacted] was hired as a security officer at Licensee's office in response to a civil complaint against Licensee made on December 14, 2001. The Board adopts the Administrative Law Judge's ruling, after questioning Licensee, that T[redacted]M[redacted]'s testimony would not be relevant to any issues at hearing, inasmuch as T[redacted]M[redacted] does not know either K. P. or A. O.

The Board also adopts the Administrative Law Judge's ruling that the proposed testimony by D[redacted]R[redacted] would not be relevant since, although she may have been involved in some corollary matters surrounding this case, any testimony she could have offered would not be material to the issues here.

FINDINGS OF FACT

(1) Homer Samuel Adams III, Licensee, was and is licensed by the Board to practice as a clinical social worker in the State of Oregon. Licensee practices at his office at 5319 SW Westgate Drive, Suite 246, Portland. Licensee has a separate room in the office for sessions and the door to the room is closed during sessions with clients. There is a separate area or room in the office, with a door, where V[redacted]S[redacted] has a work station as Licensee's office manager. There is a window from the therapy room to the waiting area, which is covered by a blind,

although the blind does not cover approximately one and a half inches of the window. V[redacted] S[redacted] never sat in a session with Licensee and either K. P. or A. O. (Test. of S[redacted].)

(2) On or about July 12, 2001, Licensee's wife filed for divorce. On June 6, 2002, the divorce became final. (Test. of Licensee.)

A. O. and J. O.

(3) In about October 1997, A. O., wife and J. O., husband, were in joint therapy with Licensee for marriage counseling. They were married in 1994. They sought counseling for conflicts in their marriage. Licensee conducted joint (couples) therapy sessions with A. O and J. O. for about six months, on a weekly basis. In the Fall of 1998, Licensee suggested individual sessions, saying that he could help them both better in separate (individual) sessions. A. O. did not think that it was necessary, but agreed to separate sessions. From that point on, A. O. and J. O. attended individual sessions with Licensee. (Test. of A. O. and J. O.)

(4) After individual sessions started, Licensee began to complement A. O. more than he had before and he started to confide secrets with her. (Test. of A. O.)

(5) In December 1999, A. O's mother was raped in Bend, Oregon. A. O. brought the event to the attention of Licensee at subsequent sessions and Licensee was "very supportive." A. O. felt her feelings were being "validated" and Licensee helped her deal with her emotions. A. O. began to feel a more intimate friendship with Licensee. A. O. began feeling closer to Licensee than to her husband. (Test. of A. O.)

(6) At one session, A. O. discussed with Licensee a dispute involving A. O. and J. O., regarding the schooling of their daughter. Licensee made disparaging remarks about J. O's position in the dispute to A. O. On numerous subsequent sessions, Licensee would continue to negatively comment about J. O. Licensee would say to A. O. that because J. O. worked out at the athletic club that J. O. was "Narcissistic" and Licensee connected homosexuality with men who went to the club a lot. (Test. of A. O.)

(7) On about December 16, 1999, A .O. had a session at Licensee's office and Licensee had sex with A. O. About a week later, at the next session, they had sex in the office again and continued to have sex, weekly or twice weekly, from that point forward. (Test. of A. O.)

(8) During his individual sessions, J. O. did not believe that Licensee was helping him much, but wanted to stay in counseling for A. O's benefit. J. O. also continued the sessions because Licensee thought it was important to inquire of J. O. about his ongoing relationship with A. O. Licensee told J. O. that he was treating A. O. for borderline personality disorder and that possibly she had histrionic personality disorder and split or multiple personalities. Licensee had J. O. believe that it was J. O's continuing duty to give Licensee information about what A. O. was doing, and that he was to keep his diagnosis of A. O from her. Licensee also told J. O. that the problems in his relationship with A. O. were entirely because of A. O's mental issues. (Test. of J. O.)

(9) Throughout J. O's continuing sessions with Licensee, Licensee told J. O. that it takes a long time to treat borderline personality disorder. Despite A. O's interest in stopping the counseling at various points during counseling with Licensee, J. O. encouraged A. O. to continue with the sessions because he believed Licensee was treating A. O. for her mental disorder, a secret he was to keep from A. O. (Test. of J. O.)

(10) A. O. had sexual relations with Licensee at her residence six or seven times over a two-year period. During those visits, J. O. was away on business trips. On one visit, A. O. mentioned a negative comment about her body that had been made to her by J. O. Licensee was very supportive of A. O. and told her that J. O. was probably a "closet gay." Because Licensee had made many similar comments in previous sessions, A. O. began to believe that J. O. may be gay. (Test. of A. O.)

(11) Although Licensee had continually made disparaging remarks about J. O. to A. O., during their sessions, Licensee was not supportive of A. O's separation from her husband. Licensee indicated to her that it would be better for her to stay with J. O., for the time being, until Licensee could get over certain "Humps" in his life. Licensee also said he did not want A. O. to be hurtful to J. O. (Test. of A. O.)

(12) When A. O. told Licensee that she wanted to stop counseling and that she did not want to be a "patient," Licensee told A. O. that he would be there for the rest of her life and that you cannot separate counseling from sex and that he wanted to remain her counselor. (Test. of A. O.)

(13) During the relationship with Licensee, A. O. did things to hide her relationship with Licensee from her husband. She bought a cell phone so she could call Licensee and they could talk in private. She obtained her own post office box so she could correspond with Licensee in secret. A. O. was enamored with Licensee and A. O. would give him or send him romantic cards, weekly. At one point, J. O. found one of the romantic cards at their residence which A. O. had yet to give to Licensee. A. O. lied to J. O. and told him she had got the card for him, but had not yet given it to him. (Test. of A. O.)

(14) In the Summer of 2001, A. O. began nursing school. A. O. took a course in nursing fundamentals, which included professional ethics. In the course, A. O. learned that it was unethical to sleep with patients or to get too close. A. O. at first thought the principle could not be true. Eventually, A. O. began to understand the ethical reasons for the prohibition. (Test. of A. O.)

(15) After understanding the ethical principle and reasons for the prohibition of having sex with a patient, A. O. raised the matter with Licensee at a therapy session. A. O. told Licensee that she was willing to end the sexual relationship, but wanted to continue counseling. Licensee agreed to continue counseling, without sex. (Test. of A. O.)

(16) At the next session, Licensee made strong advances towards A. O. and she reminded Licensee that there was to be no sex, only counseling. Licensee told A. O. that you can not separate sex and counseling. A. O. ended up agreeing with Licensee and they had sex. (Test. of A. O.)

(17) A. O. started scheduling fewer sessions. A. O. and Licensee had sex twice more, one time at a motel. The close relationship between Licensee and A. O. began to diminish. They had their last had sexual relations on September 11, 2001. (Test. of A. O.)

(18) On or about September 26, 2001, A. O. went to the Licensee's office to discuss ethics and to see if something could be worked out. A. O. had hoped that Licensee would "See the light" and understand that what they had been doing was wrong. A. O. cared very much for Licensee and felt that she was in love with him and wanted to continue some type of relationship with him, but not therapy. Once inside the office, she did not see anyone in the office. She looked through a window into the room through the small area that the blind did not cover where Licensee performed therapy sessions. Through the window, A. O. saw Licensee with a woman, kissing, and Licensee had his hands up the woman's blouse. A. O. got very angry, stomped around, made a scene, and left the office. Shortly thereafter, A. O. started seeing a new therapist, Myriam Coppens, at OHSU, and she was encouraged to report Licensee to the Board. (Test. of A. O.)

(19) On about October 8, 2001, A. O. began drafting a letter on her computer to document her relationship with Licensee and report his sexual activities to the Board. A. O. felt that her soul had been "scraped clean." J. O. continued to have sessions with Licensee and was not aware of the sexual relationship of A. O. with Licensee. On October 4, 2001, J. O. attended his last session with Licensee. (Test. of A. O. and J. O.)

(20) On October 11, 2001, J. O. discovered A. O's draft letter to the Board on the computer and he became extremely upset about the sexual relationship of A. O. with Licensee. Prior to that time, J. O. had feelings, off and on again, that A. O. was having another sexual relationship for some time. J. O. had felt that A. O. had been becoming more distant from him and he had noticed that she had been taking better care of herself. He had been aware that A. O. had been doing a lot more "Secret things." (Test. of J. O.)

(21) Later in the day, when A. O. arrived home, they had a verbal argument about the relationship A. O. was having with Licensee. A. O. told J. O. that she had broken off the relationship with Licensee and was now seeing a new therapist. J. O. told A. O. that it, their relationship, was over, and he left the residence to go stay with a friend. (Test. of J. O.)

(22) J. O. talked later that night with A. O., by phone, and they agreed to meet with Myriam Coppens, the next day, to discuss termination of the marriage. After the first joint session with Myriam Coppens, J .O. and A. O. had both continued have individual and joint sessions with her to sort out the damage to their marriage caused by Licensee. J. O. ultimately obtained his own personal therapist, Dr. William Newton. (Test. of J. O.)

(23) J. O. had insurance coverage which paid for a part of his and A. O's therapy costs for sessions with Licensee. After J. O. and A. O. discontinued seeing Licensee, Licensee continued to bill J. O's insurance carrier for six additional sessions.[2] J. O. did not call Licensee to notify Licensee of the unauthorized billings because "[H]e didn't want to see his face, again." A. O. and J. O. are still married. (Test of J. O. and A. O.)

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[2] As far as the unauthorized billings to J. O's insurance company, Valerie Schneider, the officer manager, testified that it was a simple billing error where she had confused two similar names.

K. P.

(24) In November 2001, K. P. entered into a clinical relationship with Licensee. K. P. was married to her husband at the time. K. P. sought therapy regarding marriage issues, involving an affair she had a year earlier and her guilt and depression surrounding that affair. K. P. and her husband agreed that K.P. should have individual therapy before they entered into joint therapy. (Test. of K. P.)

(25) K. P. began therapy with Licensee, having one session a week, at Licensee's office. As the sessions progressed, Licensee started sharing his personal matters with her, for instance, Licensee's girlfriend in high school had been a model and he discussed her breast size with K. P., and how beautiful K. P. was to Licensee. Licensee told K. P. that when he was young, he would go to the grocery store and look at the melons and think of them as breasts. As the sessions continued, K. P. felt that Licensee was helping her with her depression issues and she felt increasing friendship with Licensee. Licensee told K. P. that that lack of sexual relations between her and her husband was because there was something wrong with her husband and that maybe he was gay. (Test. of K. P.)

(26) During another session with Licensee, K. P. discussed with Licensee the possibility that she had a borderline personality disorder. Licensee told her that he did not think she had the disorder, but that if she wanted to be something, be a nymphomaniac, because that would be useful to society. K. P. passed off the comment as a sick joke. At another session where K. P. was discussing with Licensee that fact that she and her husband had stopped being intimate, Licensee told her that if he was her husband, that K. P. would have to call Dear Abby and complain and say that she couldn't stop her husband from "humping" her. K. P. thought the comment by Licensee was another sick joke. (Test. of K. P.)

(27) Although K. P. had some concerns about some of Licensee's sexual comments, she felt that she needed therapy, feeling that she was getting the help she needed and that she needed to keep seeing Licensee. (Test. of K. P.)

(28) In the spring of 2002, K. P. began working as an officer manager at a chiropractic clinic. K. P. had access to patient files. While looking in the files, K. P. recognized Licensee's wife's name. K. P. became "jealous" and "confused." (Test. of K. P.)

(29) At the next session with Licensee, K. P. discussed her feelings about Licensee's wife. Prior to the session, K. P. had done some reading about transference and counter-transference. K. P. told Licensee that her feelings of jealousy about Licensee's wife could possibly interfere with their therapeutic relationship and maybe she should be referred to another therapist. Licensee told K. P. that he did not want to assign K. P. to another therapist because he was the best therapist and he wanted K. P. to have the best care. He also asked K. P. if it would make her feel better to know that he and his wife were separated. K. P. told Licensee that she was attracted to him and had romantic feelings about him. Licensee responded by saying that he too was attracted to K. P. During subsequent sessions, K. P. and Licensee talked more about their attraction and romantic feelings about each other and Licensee told her that this had never happened before with any other patient. Licensee told K. P. that feelings of transference in young woman was normal. (Test. of K. P.)

(30) In subsequent sessions with Licensee, his relationship with K. P. became physical. During one scheduled session, K. P. was sitting on the couch and Licensee was sitting in a chair, close to K. P. They started to hold hands. While holding hands, Licensee made a happy moan and K. P. kissed his cheek. K. P. then kissed Licensee on the cheek and Licensee continued his happy moan. K. P. kissed Licensee on the mouth. (Test. of K. P.)

(31) At another session, Licensee was sitting in his chair by the couch and K. P. was sitting in his lap and facing Licensee. Licensee unhooked K. P's. bra and put his hands up K. P's shirt and felt her breast. Licensee saw that K. P. felt uncomfortable and he told her that it was part of the desensitization process and that she would become more comfortable with it over time. During sessions, Licensee would tell K. P. that her husband had carried the ball as far as he could and it was time for her husband to pass the ball to a real man and that her husband was not a real man. (Test. of K. P.)

(32) At a subsequent session, at Licensee's office, at around 8:00 or 9:00 p.m., on a Friday or Saturday night, K. P. had a session with Licensee that lasted until about midnight. K. P. normally had sessions on Tuesdays or Thursdays, usually in the mornings. During the session, K. P. and Licensee had sex. They had sex, one time on the floor and one time on the couch. No one else was in the office during the session. Licensee told K. P. that if she needed to explain why she was so late to her husband, to tell him that it was emergency therapy because she was feeling suicidal. (Test. of K. P.)

(33) At a daytime session with Licensee, a week or two after having had sex, K. P. and Licensee had sex again. No one else was in the office during the session. Licensee told K. P. not to tell anybody about having had sex with Licensee. (Test. of K. P.)

(34) At another session, Licensee told K. P. that some "Crazy Woman" patient of his was having him investigated and was saying he was coming to therapy sessions on drugs. Licensee said he was being investigated by the Board and was under enormous pressure. He also told her that if she told anyone about their activities, the fact that he was already under investigation would be the kiss of death. (Test. of K. P.)

(35) After this session, K. P. took an extended trip. Prior to the trip, K. P. told an intern-minister at her church about her sexual relations with Licensee and the intern-minister told her to immediately terminate her therapy with Licensee. (Test. of K. P.)

(36) After returning from her trip, K. P. had another session with Licensee. At the session, K. P. told Licensee that this would be the last session. Licensee told her that would be stupid, but if K. P. wanted to be stupid, he could not stop her. K. P. asked Licensee for a referral. Licensee told her that he could not refer her to anyone else for therapy and that he wanted to be her therapist and that was most important. After the session K. P. did not see Licensee again. (Test. of K. P.)

(37) Also, after returning from her trip, K. P. had e-mailed a friend in New York about her sexual experiences with Licensee. At some point later, K. P's husband inadvertently came across her e-mail to her friend. K. P's husband confronted K. P. about the situation and forced her to report Licensee, although she did not want to do so because she did not want to get Licensee in trouble and did not want to hurt him. (Test. of K. P.)

(38) K. P's complaint against Licensee was made on August 12, 2002, when she also became aware of A. O's sexual complaint against Licensee. After being provided with the a copy of A. O's complaint and seeing the other complaint involved an alleged sexual relationship with Licensee, K. P. became angry, sad, felt being lied to, felt used, pity, and hatred. K. P. felt that she hurt both herself and her husband. (Test. of K. P.)

(39) K. P. later sued Licensee, but discovered that his malpractice insurance had lapsed, in December 2001. K. P. dropped the suit because Licensee has "Nothing." K. P., however, assisted the other complainants, A. O. and J. O., in their suit against Licensee. K. P. did not want them to lose their suit and wanted to help them in any way possible. (Test. of K. P.)

(40) K. P. is now divorced. (Test of K. P.)

Investigation by the Board

(41) On June 13, 2002, the board notified Licensee that in the continued review of the complaint filed against Licensee by A. O. and J. O., further information was requested from Licensee. Licensee was requested to provide copies of his records on J. O. and A. O. and to submit those copies by June 28, 2002. Licensee did not comply with the request. (Ex. A-9, pg. 1.)

(42) Subsequently, a Subpoena Duces Tecum was served on Licensee, commanding him to appear at the offices of the Board on August 7, 2002, by 5:00 p.m. Licensee was commanded to bring all chart notes and treatment reports involving A. O. and J. O. Licensee was noticed that he could avoid personal appearance by providing the information prior to the date and time he was commanded to appear. (Ex. A-9, pg. 2.)

(43) On August 13, 2003, an unidentified person delivered a package to the offices of the Board that contained paperwork from Licensee. The paperwork was provided beyond the time set by the Subpoena Duces Tecum. (Ex. A-9, pg. 3.)

CONCLUSION OF LAW

1. Licensee's practice as a clinical social worker has posed and continues to pose a serious danger to the public health or safety such that his license to practice as a clinical social worker in Oregon was properly suspended without a hearing.

2. Revocation of Licensee's license to practice as a clinical social worker in Oregon is warranted.

OPINION

The issues in this case are whether Licensee's conduct makes his continued practice as a clinical social worker a serious danger to the public and whether revocation of his license is warranted. In that regard, the Board has the burden of proving the allegations by a preponderance of the evidence. *See* ORS 183.450(2) and (5); *Gallant v. Board of Medical Examiners,* 159 Or App 175 (1999). Proof by a preponderance of evidence means that the fact

finder is persuaded that the facts asserted are more likely true than false. *Riley Hill General Contractors v. Tandy Corp.*, 303 Or 390 (1989). The Board has met its burden of proof.

The central factual dispute is whether Licensee had sexual relations with clients A.O. and K.P. Licensee denies that he had any sexual relations with either A.O. or K. P. Licensee's witness, V[redacted] S[redacted], testified in generalities about always having someone present in the office when clients met with Licensee and how noises in the office made by a person, for instance walking, could be heard by others in the office. It is implied by Licensee, that under these circumstance, that sexual relations with clients would have been noticed and that they could not have happened. Mrs. S[redacted] testified that she never had seen Licensee have an unethical relationship with A. O. She further testified that Licensee would never break a rule, is a good Christian, does not take drugs, and is admired.

Except for the explanation about the billing error, the testimony of Mrs. S[redacted] holds little weight in this proceeding. Her testimony was in generalities about office activities and about her respect for Licensee. A.O. and K.P., however, provided specific information, dates, and locations where sex with Licensee did occur. There is also circumstantial evidence in the record of the events, both leading up to the sexual incidents and afterwards, that supports the testimony of A.O. and K.P. There is no doubt, under this record, that Licensee had sexual relations during his therapeutic relationship with both K. P. and A. O. The record further establishes by a preponderance that Licensee had sex with K. P. twice and with A. O. numerous times over a period of about two years.

Merits of the Emergency Suspension Orders

The Board asserts both in the initial Emergency Suspension Order and in the Amended Emergency Suspension Order that Licensee's practice as a clinical social worker has posed and continues to pose a serious danger to the public health or safety in Oregon.

ORS 675.540 provides in part that:

> (1) The State Board of Clinical Social Workers may impose any or all of the sanctions specified in subsection (2) of this section, upon proof, after a hearing pursuant to the provisions of ORS 183.310 to 183.550 relating to a contested case, that a person:
>
> *****
>
> (d) Has been grossly negligent or has engaged in unprofessional conduct in the practice of clinical social work. ***
>
> (2) Pursuant to the provisions of subsection (1) of this section, the board may:
>
> (a) Deny, suspend, revoke or refuse to renew any certificate or license issued under ORS 675.510 to 675.600.

ORS 675.510(6) defines "unprofessional conduct" as:

> "Unprofessional conduct" includes, but is not limited to, any conduct or practice contrary to recognized standards of ethics of the social work profession or any conduct that constitutes or might constitute a danger to the health or safety of a client or the public or in any other manner fails or might fail to adhere to the recognized standards of the profession.

The Board has adopted rules that set forth recognized standards of ethics in Oregon for the social work profession in OAR Chapter 877, Division 30. The standards alleged to have been violated in this matter are OAR 877-030-0040(2), 877-030-0070(4), and 877-030-0090(2).

OAR 877-030-040(2) states in relevant part that:

> Clinical Social Workers may not participate in, condone, or be associated with dishonesty, fraud, deceit, or misrepresentation.

OAR 877-030-0070(4) states in relevant part that:

> Clinical Social Workers may not, under any circumstances, engage in or solicit sexual acts or engage in any conduct, verbal behavior or other communications with or towards a client that may reasonably be interpreted as sexual, seductive or sexually demeaning. This prohibition applies to current clients and to clients to whom the Clinical Social Worker has at anytime within the previous three years provided clinical social work services. The client's consent to, initiation of, or participation in, sexual behavior with a Clinical Social Worker does not change the prohibited nature of the conduct.

OAR 877-030-0090(2) states in relevant part that:

> Clinical Social Workers must cooperate with the Board, its investigations, or any of its committees in any investigation it may make under OAR Chapter 877.

The record establishes that Licensee, during therapeutic relationships with K.P. and A.O., engaged in conduct that reasonably could be interpreted as sexual and seductive and that Licensee manipulated K. P and A. O. in a manner that placed them under the seductive powers of Licensee. Licensee further participated in sexual intercourse with K. P. twice and A. O. numerous times over a period of two years, and took efforts to cloak his activities through dishonesty, deceit, and misrepresentation. The Board concludes that Licensee's conduct violated OAR 877-030-0040(2) and 877-030-0070(2). The Board further considers such misconduct to be egregious in nature such that Licensee's practice as a clinical social worker constitutes a serious danger to the health or safety of his clients and the public.

The record also establishes that Licensee has not been cooperative with the Board in the investigation of the complaint filed by A. O. Licensee failed to comply with a June 13, 2002, request for records for A. O. and J. O. by the deadline of June 28, 2002. Licensee also subsequently failed to comply with a Subpoena Duces Tecum for all chart notes and treatment reports involving A. O. and J. O. by August 7, 2002. The Board concludes that Licensee's conduct violated OAR 877-030-0090(2).

The Board concludes that Licensee, having violated OAR 877-030-0040(2), 877-030-0070(4), and 877-030-0090(2), and committed conduct that constitutes a serious danger to the health or safety of a client, has engaged in unprofessional conduct within the meaning of ORS 675.510(6) and is subject to sanction under ORS 675.540(1)(d).

ORS 183.430(2) provides in part that:

> In any case where the agency finds a serious danger to the public health or safety and sets forth specific reasons for such findings, the agency may suspend or refuse to renew a license without hearing.

The Emergency Suspension Orders were authorized under ORS 183.430 under the facts previously set forth. The Board concludes, based on the foregoing, that Licensee's practice as a clinical social worker has posed and continues to pose a serious danger to public health or safety in Oregon such that his license to practice as a clinical social worker was properly suspended without a hearing and hereby confirms the emergency suspension.

Merits of the Notices of Intent to Discipline (License Revocation)

The Board asserts in the Notices of Intent to Impose Discipline that Licensee, in connection with clients K.P. and A.O., violated OAR 877-030-0040(2), 877-030-0070(4), and 877-030-090(2), and committed unprofessional conduct within the meaning of ORS 675.510(6), such that his license as a clinical social worker should be revoked under ORS 675.540(1)(d) and 675.540(2)(a).

As described above, the record establishes that Licensee, during therapeutic relationships with both A.O. and K.P., made statements which were reasonably interpreted as sexual or seductive. Licensee also engaged in sexual intercourse with both A.O. and K.P., and took efforts to cloak his activities through dishonesty, deceit and misrepresentation.

The record also establishes that Licensee made misrepresentations to and was dishonest with A.O., which lead to A.O. having sexual intercourse with Licensee. The record establishes that Licensee continued to make misrepresentations to and engage in conduct that was dishonest or deceitful with both A.O. and her husband J.O. to keep A.O. in therapy and having sex with Licensee. The record establishes that Licensee was similarly dishonest with K. P. Licensee led K. P. to believe that their feelings for each other were real, despite the fact that he was married. He made sexual and seductive statements to K. P., which led to sexual intercourse. He encouraged K. P. to make untruthful excuses to her husband about their relationship and to not disclose their relationship because he was under investigation by the Board. In addition, he misled K. P. about the purpose of the Board investigation he was undergoing.

The Board concludes that Licensee violated OAR 877-030-0070(4) by engaging in sexual acts and conduct, verbal behavior, and other communications with clients A. O. and K. P. The Board concludes that Licensee violated OAR 877-030-0040(2) by having participated in, or engaged in behavior associated with, dishonesty, deceit, or misrepresentation. The Board further considers the nature and extent of such misconduct by Licensee to be egregious such that Licensee's practice as a clinical social worker constitutes a serious danger to the health or safety of his clients and the public.

The record establishes that Licensee has not cooperated with the Board during its investigation by failing to comply with a June 13, 2002, request for records and by failing to timely comply with a Subpoena *Duces Tecum* properly issued and served. The Board concludes that such lack of cooperation by Licensee violated OAR 877-030-0009(2).

The Board concludes, based on the foregoing, that Licensee has engaged in unprofessional conduct within the meaning of ORS 675.510(6) by engaging in practices that are contrary to recognized standards of ethics of the social work profession or by engaging in conduct that constitutes or might constitute a danger to the health or safety of a client or the public.

The Board concludes, under the facts of this case, that Licensee is properly subject to a sanction under ORS 675.540(1)(d) for having engaged in unprofessional conduct in the practice of clinical social work. The Board further concludes that the severity and nature of the violations and unprofessional conduct committed by Licensee in this matter warrant revocation, pursuant to ORS 675.540(2)(a), as proposed by the Administrative Law Judge.

Licensee's Exceptions

On August 11, 2003, Licensee filed exceptions to the Proposed Order. The Board has considered Licensee's exceptions and determined that said exceptions are without merit because of the following reasons, among others:

Licensee's first exception is that the hearing should have been set over to provide the Licensee with an opportunity to obtain an attorney to represent him at the hearing. This exception is without merit because Licensee had been previously notified in the notices, emergency suspension order, and notice of contested case rights of the right to be represented by an attorney in this proceeding and given ample opportunity to obtain representation. In addition, the Administrative Law Judge postponed the initial prehearing conference at the request of Licensee in November, 2002, to provide Licensee with the opportunity to process the case with the legal firm then handling the situation for Licensee. The Administrative Law Judge also notified Licensee during the prehearing conference on February 28, 2003, that the agreed upon hearing date of April 30, 2003, would not be postponed to allow Licensee further time to obtain representation. Licensee was also informed in writing by the Administrator for the Board that he "must retain an attorney immediately" on February 28, 2003. During the nearly two months that transpired between the prehearing conference of February 28, 2003 and the hearing date of April 30, 2003, Licensee never indicated that he was attempting to retain counsel.

Licensee's second exception, that the Administrative Law Judge failed to develop an adequate record, is without merit. The Board considers the Administrative Law Judge to have made a full and fair inquiry prior to issuing the Proposed Order. The Board further rejects Licensee's exception because his exception raises facts that are not based upon evidence in the record.

Licensee's third and fourth exceptions are that the testimony of Licensee's witnesses T[redacted] M[redacted] and D[redacted] R[redacted] should have been admitted into evidence. The Board considers this exception to be without merit and has adopted the Administrative Law Judge's rulings, which are supported by a preponderance of evidence in the record, that the testimony of these witnesses would not have been relevant to any of the material issues in this case. The Board further rejects Licensee's exceptions because his exceptions raise facts that are not based upon evidence in the record.

Licensee's fourth exception is that the allegations of sexual misconduct in this case are not supported by a preponderance of the evidence in the record. The Board, having fully considered this matter, disagrees with Licensee and concludes that a preponderance of evidence in the record does support the Board's actions. The Board further rejects Licensee's exception because his exception raises facts that are not based upon evidence in the record.

FINAL ORDER

Based on the foregoing, **IT IS HEREBY ORDERED** that the Emergency Suspension Orders and Notices of Intent to Discipline Licensee issued on August 6, 2002, August 23, 2002, and February 14, 2003, are **CONFIRMED** and that the Oregon clinical social worker license of Homer Samuel Adams, III is hereby **REVOKED** effective immediately.

Dated and Issued this 10th day of September, 2003.

BOARD OF CLINICAL SOCIAL WORKERS
State of Oregon

Signature on File in Board Office

By: _____
John F. Langenwalter, Administrator

APPEAL RIGHTS

NOTICE: You are entitled to judicial review of this order pursuant to the provisions of ORS 183.480. Judicial review may be obtained by filing a petition in the Oregon Court of Appeals. The petition must be filed within 60 days from the date of service of this order.

GENG6366