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STATE OF WISCONSIN

BEFORE THE SOCIAL WORKER SECTION

MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING AND SOCIAL WORK
EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION
: AND ORDER
KATHLEEN I. SCHREMP, : LS0302212SOC
RESPONDENT. :

The State of Wisconsin, Social Work Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Social Work Examining Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 24th day of April, 2003.

George J. Kamps

STATE OF WISCONSIN
BEFORE THE SOCIAL WORKER SECTION

MARRIAGE AND FAMILY THERAPY, PROFESSIONAL COUNSELING AND SOCIAL WORK EXAMINING
BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS	:	PROPOSED FINAL DECISION
	:	AND ORDER
KATHLEEN I. SCHREMP,	:	LS0302212SOC
RESPONDENT.	:	

PARTIES

The parties to this action for the purposes of s. 227.53 Stats., are:

Kathleen I. Schremp
2416 Keith Street
Eau Claire, WI 54701

John R. Zwieg
Division of Enforcement

P. O. Box 8935
Department of Regulation & Licensing

Madison, WI 53708-8935

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on March 31, 2003, before Administrative Law Judge William A. Black. The Division of Enforcement appeared by attorney John R. Zwieg. The respondent, Kathleen I. Schremp, did not appear and did not file an answer to the complaint.

Based on the entire record of this case, the undersigned administrative law judge recommends that the Social Worker Section, Marriage and Family Therapy, Professional Counseling and Social Work Examining Board adopt as its final decision in this matter, the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Kathleen I. Schremp, Respondent, date of birth September 28, 1947, was certified by the Social Worker Section as a social worker in the state of Wisconsin pursuant to certificate number 189, which was first granted August 2, 1993.
2. The respondent received her certification under the grandparenting provisions of Wis. Adm. Code § SFC 3.03 and the nonstatutory provisions of section 21 of 1991 Wisconsin Act 160 and therefore was not required to take and pass the examinations currently required for certification as a social worker.
3. The respondent has not renewed her certification since it expired on June 30, 2001, but could renew it pursuant to § 440.08(3)(a), Stats. and Wis. Adm. Code § MPSW 1.08(2) [formerly SFC 1.08(2)], by payment of fees and proof of completion of continuing education requirements.
4. The respondent's last address reported to the Department of Regulation and Licensing is 2416 Keith Street, Eau Claire, WI 54701.
5. During the events of this matter, the respondent was employed as a social worker by the Chippewa County Department of Human Services.
6. On March 8, 1999, the respondent was on duty in her role as a social worker. The respondent's appointment calendar for that day showed she was scheduled to be in the office for paper work from 8:00 a.m. to 11:00 a.m. and was to perform three home visits that afternoon.
7. At approximately 2 p.m. on that date, during the time the respondent was on duty, the respondent was the driver in a one vehicle accident in which she struck a tree at an intersection in the City of Chippewa Falls.

8. Analysis of the respondent's blood drawn at the hospital shortly after the accident on March 8, 1999, disclosed a blood alcohol concentration of .301 grams per 100m. That concentration is in excess of three times the legal allowable limit for operating a motor vehicle.
9. As a result of the accident, the respondent was charged and convicted of operating a motor vehicle while intoxicated and of having open intoxicants in a vehicle.
10. Chippewa County Department of Human Services terminated the respondent's employment as a social worker on March 23, 1999. The basis of the termination was the consumption of alcoholic beverages during scheduled work hours.
11. The respondent was an inpatient at the L. E. Phillips – Libertas Center at St. Joseph's Hospital in Chippewa Falls from March 15, 1999 through April 6, 1999. The discharge diagnosis was alcohol dependence.
12. The respondent received outpatient treatment at the Luther/Midelfort Behavioral Health Clinic from April 7, 1999 through July 21, 1999.
13. The respondent was an inpatient at the Betty Ford Center in Rancho Mirage, California from January 24, 2000 through February 21, 2000. The discharge diagnosis was alcohol dependence and benzodiazepine dependence. The benzodiazepine dependence was the result of her use of prescribed medications (Xanax). During that hospitalization, the respondent disclosed several previous detoxification episodes and several emergency room visits which resulted from her dependencies. She was discharged with a good prognosis for continued recovery, based on her following the recommendations and arrangements for further treatment.
14. The respondent has not used the title "social worker" since being terminated from employment by Chippewa County Department of Human Services on March 23, 1999.
15. The respondent was properly served with the Notice of Hearing and Complaint on February 21, 2003, as required by law.

CONCLUSIONS OF LAW

1. The Social Worker Section, Marriage and Family Therapy, Professional Counseling and Social Work Examining Board has jurisdiction of this matter pursuant to Wis. Stats. § 457.26 (2).
2. By failing to file an Answer as required by Wis. Admin. Code RL 2.09, and by failing to appear at the hearing, Schremp is in default under Wis. Admin. Code RL 2.14, and the Social Worker Section, Marriage and Family Therapy, Professional Counseling and Social Work Examining Board may make findings and enter an order on the basis of the Complaint and the evidence presented at the hearing.
3. The respondent, by engaging in the above conduct, practiced or attempted to practice while impaired due to the utilization of alcohol or other drugs, which is defined as unprofessional conduct by Wis. Adm. Code § MPSW 20.02(9) [formerly SFC 20.02(9)], and is subject to discipline pursuant to § 457.26(2)(h), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the respondent's right to renew her certificate as a social worker in the state of Wisconsin, certificate number 189, is REVOKED.

IT IS FURTHER ORDERED that costs of this proceeding shall be assessed against the respondent.

OPINION

Section RL 2.14 of the Wisconsin Administrative Code provides that a respondent who fails to answer a complaint or fails to appear at a hearing is in default. If found to be in default, the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence against the respondent. In this case, the respondent did not file an answer to the above-captioned complaint, nor did she appear at the scheduled hearing. As a result, the respondent is in default. The attorney for the complainant moved for an order granting default at the hearing. That motion was granted.

It has been requested that the discipline to be imposed be that of revoking the respondent's right to renew her certificate. After review of the allegations forming the basis for discipline in this case, that request is appropriate.

The respondent suffers from alcohol and benzodiazepine dependence. Her diagnosis dates to early 1999 and there is no evidence regarding a current diagnosis or recovery status. She has endangered the public by consuming alcohol while on duty in the practice of her profession. Moreover, while on duty and after consuming alcohol she was involved in a vehicular accident.

The danger of impaired practice by persons such as the respondent is too great not to require the revocation of the right to renew their certificate.

It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*, 41 Wis. 2d 481, 485 (1969).

There is nothing in the record to suggest that imposing any discipline short of revocation of the right to renew would protect the public, have a rehabilitative effect on the respondent, or deter other licensees from engaging in similar conduct.

The respondent simply chose not to respond to the Social Worker Section to answer this complaint, present evidence of rehabilitation, or offer other evidence in mitigation. The respondent has not come forward to show remorse, an explanation, or cooperation with the section in this matter, so as to allow any other option to shape discipline short of what is imposed.

Costs

Section 440.22(2), Stats., provides in relevant part as follows:

In any disciplinary proceeding against a holder of a credential in which the department or an examining board, affiliated credentialing board or board in the department orders suspension, limitation or revocation of the credential or reprimands the holder, the department, examining board, affiliated credentialing board or board may, in addition to imposing discipline, assess all or part of the costs of the proceeding against the holder. Costs assessed under this subsection are payable to the department.

The presence of the word "may" in the statute is a clear indication that the decision whether to assess the costs of this disciplinary proceeding against the respondent is a discretionary decision on the part of the disciplining agency, and that the agency's discretion extends to the decision whether to assess the full costs or only a portion of the costs. The ALJ's recommendation that the full costs of the proceeding be assessed is based primarily on fairness to other members of the profession.

The Department of Regulation and Licensing is a "program revenue" agency, which means that the costs of its operations are funded by the revenue received from its licensees. Moreover, licensing fees are calculated based upon costs attributable to the regulation of each of the licensed professions, and are proportionate to those costs. This budget structure means that the costs of prosecuting cases for a particular licensed profession will be borne by the licensed members of that profession. It is fundamentally unfair to impose the costs of prosecuting a few members of the profession on the vast majority of the licensees who have not engaged in misconduct. Rather, to the extent that misconduct by a licensee is found to have occurred following a full evidentiary hearing, that licensee should bear the costs of the proceeding.

Date: April 3, 2003

William Anderson Black
Administrative Law Judge