

Jeremiah W. (Jay) Nixon
Governor
State of Missouri

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DIVISION OF PROFESSIONAL REGISTRATION

Department of Insurance
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STATE COMMITTEE FOR SOCIAL WORKERS
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Tom Reichard
Executive Director

Meeting Notice

June 19, 2014
10:00 a.m.

State Committee for Social Workers
Holiday Inn Columbia East
915 Port Way
Columbia, MO 65201

Notification of special needs as addressed by the Americans with Disabilities Act should be forwarded to the State Committee for Social Workers, 3605 Missouri Blvd, Jefferson City, MO 65102 or by calling (573) 751-0885 to ensure available accommodations. The text telephone for the hearing impaired is (800) 735-2966.

Except to the extent disclosure is otherwise required by law, the State Committee for Social Workers is authorized to close meetings, records and votes, to the extent they relate to the following: Chapter 610.021 subsections (1), (3), (5), (7), (13), (14), and Chapter 324.001.8 and 324.001.9 RSMo.

The State Committee for Social Workers may go into closed session at any time during the meeting. If the meeting is closed, the appropriate section will be announced to the public with the motion and vote recorded in open session minutes.

**Tentative Agenda
OPEN SESSION
June 19, 2014
10:00 a.m.**

**State Committee for Social Workers
Holiday Inn Columbia East
915 Port Way
Columbia, MO 65201**

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Introduction of Guests
- V. Approval of Minutes
 - December 12, 2013
 - March 31, 2014 Mail Ballot
- VI. Disciplinary Hearings
 - Michael Armstrong @ 11:00 a.m.
 - Theresa Schilling @ 11:30 a.m.
- VII. CLOSED SESSION- Closed session as per Section 610.021 Subsection (1) for the purpose of discussion of confidential or privileged communication between this agency and its attorney; Section 610.021 Subsection (14) and Section 324.001.8 for the purpose of discussing applicants for licensure. Closed under Sections 610.021 for the purpose of reviewing and approving the closed minutes of one or more previous meetings. Closed under Sections 610.021(14) and 324.001.8, RSMo, for the purpose of discussing investigative reports and/or complaints.
- VIII. Adjournment

**Open Minutes
December 12, 2013**

**State Committee for Social Workers
Division of Professional Registration
3605 Missouri Boulevard
Jefferson City, Missouri**

Members Present

M. Jenise Comer, Chairperson
Terri Marty, Secretary
Kathie Miller (via conference call)
Laura Neal
Ellen Burkemper
Sharon Sorrell
Jane Overton, Public Member

Staff Present

Tom Reichard, Executive Director
Elizabeth Willard, Processing Technician II
Sarah Ledgerwood, Legal Counsel

Guests Present

Michael Cherba, Attorney General's Office
Tamitha Price, NASW-Missouri Chapter
Steve Franklin, Missouri Society for Clinical Social Work (via conference call)
Terry Iven, MO HealthNet
Pam Groose, Missouri Committee of Psychologists
Lori Kessler, Missouri Committee for Professional Counselors
Don Eggen, Central Investigation Unit

Call to Order- M. Jenise Comer, Chairperson

The State Committee for Social Workers' open session meeting was called to order by M. Jenise Comer, chairperson, at 10:00 a.m. on December 12, 2013 at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, Missouri.

Approval of Agenda

A motion was made by Jane Overton and seconded by Laura Neal to approve the open session agenda. Ms. Comer, Ms. Marty, Ms. Miller, Ms. Neal, Ms. Burkemper, Ms. Sorrell, and Ms. Overton voted in favor of the motion.

Approval of Minutes

September 5, 2013

A motion was made by Laura Neal and seconded by Ellen Burkemper to approve the September 5, 2013 open session minutes as amended. Ms. Comer, Ms. Marty, Ms. Miller, Ms. Neal, Ms. Burkemper, Ms. Sorrell, and Ms. Overton voted in favor of the motion.

October 24, 2013

A motion was made by Terri Marty and seconded by Laura Neal to approve the October 24, 2013 open session minutes. Ms. Comer, Ms. Marty, Ms. Miller, Ms. Neal, Ms. Burkemper, Ms. Sorrell, and Ms. Overton voted in favor of the motion.

Executive Director Report

Mr. Reichard reported that there are currently 6613 actively licensed social workers. Of those, there are 5056 active licensed clinical social workers, 481 inactive licensed clinical social workers, 1021 licensed master social workers, 54 licensed baccalaureate social workers (8 of which have independent practice designations), and 1 licensed advanced macro social worker. He also stated there are 548 clinical social workers under supervision under the new regulations and 161 under the old regulations.

Mr. Reichard presented information regarding the annual FARB Forum and stated to let staff know if anyone was interested in attending.

Mr. Reichard informed the Committee that he attended the 2013 ASWB Fall Meeting where they discussed various topics including mobility of licensure, how to handle the application process, and various states' jurisprudence exams.

At the September 2013 meeting, the Committee instructed Mr. Reichard to research other states' clinical exam requirements. He presented information that thirty-four states and Washington D.C. require completion of supervised experience before allowing applicants to sit for the exam and four states allow applicants to sit for the exam at any time.

Clinical Exam Requirements

A motion was made by Terri Marty and seconded by Jane Overton to make a rule change to allow persons under clinical or advanced macro supervision to take their required examinations as soon as they have completed at least seventy-five percent of their required supervision hours. Ms. Comer, Ms. Marty, Ms. Miller, Ms. Burkemper, Ms. Sorrell, and Ms. Overton voted in favor of the motion. Ms. Neal voted against the motion.

Recordkeeping Requirements for Supervisors

A motion was made by Jane Overton and seconded by Ellen Burkemper to rescind 20 CSR 2263-3.040 (11) (G). Ms. Comer, Ms. Marty, Ms. Miller, Ms. Neal, Ms. Burkemper, Ms. Sorrell, and Ms. Overton voted in favor of the motion.

ASWB Spring 2014 Meeting

Discussion was postponed until the next meeting.

NASW- Missouri Chapter Update

Ms. Price spoke to the Committee regarding legislation they will be working on during the 2014 legislative session. She stated their office has been receiving a lot of phone calls regarding providing supervision to impaired licensees.

Disciplinary Hearing- Abdullah Ali

A disciplinary hearing was conducted on December 12, 2013 at 11:16 a.m. for Mr. Abdullah Ali, case number 13-0264 SW. Mr. Ali was not present. Roll call was taken by Ms. Comer, all members were present and no member recused themselves. Ms. Comer stated the Committee will issue an order when the committee has completed deliberations and a copy of the order will be mailed to Mr. Ali.

Probation Violation Hearing- Tracyne Caumartin

A probation violation hearing was conducted on December 12, 2013 at 11:42 a.m. for Ms. Tracyne Caumartin, case number PV-2005025567. Ms. Caumartin was not present. Roll call was taken by Ms. Comer, all members were present and no member recused themselves. Ms. Comer stated the Committee will issue an order when the committee has completed deliberations and a copy of the order will be mailed to Ms. Caumartin.

Closed Meeting

A motion was made by Laura Neal and seconded by Ellen Burkemper to move to closed session as per Section 610.021 Subsection (1) for the purpose of discussion of confidential or privileged communication between this agency and its attorney; Section 610.021 Subsection (14) and Section 324.001.8 for the purpose of discussing applicants for licensure. Closed under Sections 610.021 for the purpose of reviewing and approving the closed minutes of one or more previous meetings. Closed under Sections 610.021(14) and 324.001.8, RSMo, for the purpose of discussing investigative reports and/or complaints. By roll call vote, Ms. Comer, Ms. Marty, Ms. Miller, Ms. Neal, Ms. Burkemper, Ms. Sorrell, and Ms. Overton voted in favor of the motion.

Open Session

The Committee reconvened in open session at 1:32 p.m. on December 12, 2013.

MO HealthNet Discussion

Terri Iven with MO HealthNet spoke to the Committee regarding common billing errors that they see during audits of social workers and provided the Committee with an overview of what to look at when reviewing an overpayment letter for licensees. She also informed the Committee that they hold all providers responsible for their own billing even if they have someone do their billing for them.

Closed Meeting

A motion was made by Laura Neal and seconded by Jane Overton to move to closed session as per Section 610.021 Subsection (1) for the purpose of discussion of confidential or privileged communication between this agency and its attorney; Section 610.021 Subsection (14) and Section 324.001.8 for the purpose of discussing applicants for licensure. Closed under Sections 610.021 for the purpose of reviewing and approving the closed minutes of one or more previous meetings. Closed under Sections 610.021(14) and 324.001.8, RSMo, for the purpose of discussing investigative reports and/or complaints. By roll call vote, Ms. Comer, Ms. Marty, Ms. Miller, Ms. Neal, Ms. Burkemper, Ms. Sorrell, and Ms. Overton voted in favor of the motion.

Open Session

The Committee reconvened in open session at 4:00 p.m. on December 12, 2013.

Adjournment

A motion was made by Laura Neal and seconded by Jane Overton to adjourn the meeting. Ms. Comer, Ms. Marty, Ms. Miller, Ms. Neal, Ms. Burkemper, Ms. Sorrell, and Ms. Overton voted in favor of the motion.

The meeting was adjourned at 4:04 p.m. on December 12, 2013.

**Open Minutes
March 31, 2014
Electronic Mail Ballot**

**State Committee for Social Workers
Professional Registration
3605 Missouri Boulevard
Jefferson City, Missouri 65109**

Members Present

M. Jenise Comer, Chairperson
Terri Marty, Secretary
Kathie Miller
Laura Neal
Ellen Burkemper
Sharon Sorrell

Staff Present

Tom Reichard, Executive Director
Elizabeth Willard, Processing Technician II

CLOSED SESSION- Closed session as per Section 610.021 Subsection (1) for the purpose of discussion of confidential or privileged communication between this agency and its attorney; Section 610.021 Subsection (14) and Section 324.001.8 for the purpose of discussing applicants for licensure. Closed under Sections 610.021 for the purpose of reviewing and approving the closed minutes of one or more previous meetings. Closed under Sections 610.021(14) and 324.001.8, RSMo, for the purpose of discussing investigative reports and/or complaints.

BEFORE THE
MISSOURI STATE COMMITTEE FOR SOCIAL WORKERS
STATE OF MISSOURI

In The Matter Of:)	
)	
Missouri State Committee for Social Workers,)	
)	
Petitioner,)	
v.)	AHC Case No. 09-1531 SW
)	
Michael Armstrong,)	License No. 002611
)	
Respondent.)	

FIRST AMENDED NOTICE OF DISCIPLINARY HEARING

PLEASE TAKE NOTICE THAT:

On November 13, 2009, the Missouri State Committee for Social Workers (“Committee”) filed a Complaint before the Administrative Hearing Commission seeking a determination as to whether the clinical social work license, license number 002611 of Michael Armstrong is subject to disciplinary action; and,

On September 10, 2013, the Administrative Hearing Commission issued its “Decision on Remand” and found that Michael Armstrong’s license, license number 002611, is subject to discipline under Sections 337.630.2 (5) and (13), RSMo.

No answer or responsive pleading to this notice of disciplinary hearing is required. No Board rules exist regarding discovery in this matter.

The Committee shall, pursuant to Section 337.630.4 and Section 621.110, RSMo, hold a hearing to determine the level of appropriate discipline, if any, to impose upon Michael Armstrong’s clinical social worker license, license number 002611. **The hearing will be held at 11:00 a.m. on Thursday, June 19, 2014, or as soon thereafter as possible, at the Holiday Inn Columbia East, 915 Port Way, Columbia, Missouri.** Please be advised that the failure of Michael Armstrong to appear at the hearing at the above-noted time and place

will result in the hearing being held in the absence of Michael Armstrong. All parties should prepare a minimum of 10 copies of all exhibits to be presented during the hearing.

All parties have the right to be represented by legal counsel and to a full, fair and open hearing as provided for in Chapter 536, RSMo, and Section 621.110, RSMo.

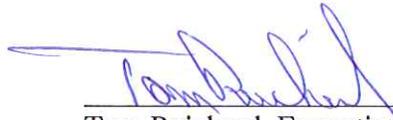
Dated this 18th day of March, 2014.



Tom Reichard, Executive Director
Missouri State Committee for Social Workers

CERTIFICATE OF SERVICE

On this 18th day of March, 2014, I hereby certify that a true and complete copy of the foregoing Notice of Disciplinary Hearing was forwarded via Certified Mail No. 7196 9008 9111 6139 2999, Return Receipt Requested, and U.S. Mail to Michael Armstrong at Route 4 Box 1042, Ava, Missouri 65608.



Tom Reichard, Executive Director
Missouri State Committee for Social Workers

000152 JUN -3 2

May 30, 2014

Tom Reichard

Executive Director

State Committee for Social Workers

I said I was not inappropriate with K.B.. I was ignored.

Nimrod T. Chapel, Jr. said drop it. He was ignored.

I explained the logic of a two year old being repeatedly raped, vaginally and anally, by her mother's boyfriends would have medical results and logic was ignored, because she said there was no medical intervention.

She eventually changed her story and said there was medical intervention. I explained that logic would indicate this was not possible, as the doctors would be required to report it, resulting in her mother being imprisoned for many years.

K.B. said she became uncomfortable with me early on, but mysteriously felt compelled to recommend me to her friends. She declared herself to be virgin, but reported she often provided oral sex for several boys. While I agree it is difficult to follow the trail of her stories, they all seem to lead to a lack of continuity and or credibility.

Over the past two years, I have experienced six apparent mini strokes. A result of this is that I do not travel well. As my personal involvement has had little to no impact on these

"hearings" in the past, I have determined that they could continue without my presence. I retired several years ago and do not plan to change this.

A handwritten signature in black ink, appearing to read 'Michael E. Armstrong', with a stylized flourish at the end.

Michael E. Armstrong

Before the
Administrative Hearing Commission
State of Missouri



RECEIVED
SEP 12 2013
MISSOURI
ATTORNEY GENERAL

MISSOURI STATE COMMITTEE)
FOR SOCIAL WORKERS,)
)
Petitioner,)
)
vs.)
)
)
MICHAEL ARMSTRONG,)
)
Respondent.)

No. 09-1531 SW

DECISION ON REMAND

Michael Armstrong is subject to discipline as a licensed clinical social worker.

Procedure

On November 13, 2009, the Missouri State Committee for Social Workers (“the Committee”) filed a complaint to establish cause to discipline Armstrong. On January 5, 2010, we served Armstrong with our notice of complaint/notice of hearing and a copy of the complaint by certified mail. On January 26, 2010, Armstrong filed an answer. We held a hearing on April 12, 2010. Assistant Attorney General Ronald Q. Smith represented the Committee. Armstrong appeared on his own behalf. The case became ready for our decision when the last brief was filed on September 7, 2010.

On March 30, 2011, we issued our decision that Michael Armstrong is not subject to discipline. On April 28, 2011, Petitioner filed a notice of appeal to the Circuit Court of Cole County. On December 20, 2011, the circuit court issued its judgment in case no. 11AC-CC00266. The circuit court reversed in part, finding cause to discipline Armstrong for incompetency and violation of a professional trust or confidence. Accordingly, we do not make findings of fact or conclusions of law with regard to those allegations. The circuit court also remanded in part, finding that this Commission's findings of fact upon which it relied in its decision on the allegations of misconduct and violation of the Committee's regulations were not supported by the record. The circuit court remanded for new findings consistent with the record on these allegations. Accordingly, we make new findings and issue our decision on the remanded allegations.

On May 7, 2013, the Committee filed a document styled "Decision" that, according to a cover letter accompanying it, is a proposed decision in the case. Because it advocates the Committee's position with regard to proposed findings of fact and conclusions of law, we treat it as a supplemental brief, and refer to it as the "proposed decision."

Findings of Fact

1. The Committee licensed Armstrong to practice clinical social work on August 21, 1992. Armstrong's license was current and in good standing from then until the date of the hearing.
2. Armstrong was employed at Ava Counseling Services at all relevant times.
3. K.B., who was 16 years old at the time, started seeing Armstrong for counseling on February 19, 2007.
4. K.B. saw Armstrong for counseling from the beginning of January 2007 until the end of April 2007.

5. Armstrong told K.B. about his previously being accused of statutory rape and sodomy of a client. He told K.B. that the charges were dismissed because the alleged victim couldn't state whether Armstrong had or had not been circumcised.

6. Armstrong also told K.B. that he had married a younger woman, which was advantageous for him sexually because he got to lay there while she did all the work.

7. During a counseling session, Armstrong told K.B. that she needed to experiment with sex in order to have a satisfying sexual relationship with her husband after she got married.

8. Armstrong asked K.B. if she would be willing to have anal sex. When she said no, he asked her if she had been anally violated and, when she said yes, he stated that that would explain her lack of willingness.

9. Armstrong asked K.B. if she had had her tongue pierced for purposes of having oral sex. She said no.

10. Once during a counseling session, K.B. told Armstrong about a scar on her breast that concerned her. While telling Armstrong about her scar, K.B. pulled her shirt over to the side to show Armstrong the scar. Armstrong suggested putting ointment on it.

11. K.B.'s last counseling session with Armstrong was on May 28, 2007.

12. K.B. told her foster mother that she did not want to see Armstrong anymore as a result of the sexual discussions, particularly one where she said that Armstrong asked her to "write a letter to my boyfriend telling him what I wanted him to do in detail on our honeymoon."¹

13. Armstrong took progress notes of his sessions with K.B.

14. Armstrong's progress notes only obliquely mention sexual issues at all, and do not mention the discussions he had with K.B. on sexual matters.

¹Tr. at 33. The honeymoon discussion is also discussed under "Comments of a sexual nature" below.

15. K.B.'s foster parents lodged a complaint against Armstrong with the Child Advocacy Center in Springfield, Missouri, on June 15, 2007. This disciplinary proceeding arose from that action.

Conclusions of Law

We have jurisdiction of the complaint.² The Committee has the burden to prove facts for which the law allows discipline.³ Regulations are interpreted as follows:

Regulations are interpreted under the same principles of construction as statutes. The goal is to ascertain the intent from the language used and to give effect to that intent if possible. Words are given their plain and ordinary meaning. Particular provisions or subsections of a regulation shall not be read in isolation but examined in light of the entire regulation and, if possible, harmonized with that regulation. All of the language contained in the regulation must be given effect; none shall be disregarded.⁴

The Committee contends on remand that Armstrong's statements are cause for discipline under § 337.630.2 for:

(5) [M]isconduct...in the performance of the functions or duties of a social worker licensed pursuant to this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.600 to 337.689, or of any lawful rule or regulation adopted pursuant to sections 337.600 to 337.689;

* * *

(15) Being guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.

The Committee must prove the grounds for discipline by a preponderance of the evidence.⁵

“Preponderance of the evidence” is defined as that degree of evidence that “is of greater weight or more convincing than the

²Section 621.045. Statutory references are to RSMo Supp. 2012.

³*Missouri Real Estate Comm'n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

⁴*Beverly Enters.-Missouri, Inc. v. Department of Soc. Servs., Div. of Med. Servs.*, 349 S.W.3d 337, 352 (Mo. App., W.D. 2008) (internal citations omitted).

⁵*State Board of Nursing v. Berry*, 32 S.W.3d 638, 642 (Mo. App., W.D. 2000).

evidence which is offered in opposition to it; that is, evidence which as a whole shows the fact to be proved to be more probable than not.”^{6]}

The Committee contends that Armstrong's actions violated ethical standards in 20 CSR 2263-3.020, which provides in relevant part:

(6) A member of the profession shall not engage in any activity that exploits clients, students or supervisees, including sexual intimacies (which means physical or other contact by either the member of the profession or the client) including, but not limited to:

* * *

(E) Exhibitionism and voyeurism (exposing one's self or encouraging another to expose him/herself); and

(F) Comments, gestures, or physical contacts of a sexual nature.

Misconduct

The Committee's complaint, brief, and proposed decision all allege that "Armstrong's conduct...constitutes misconduct in the performance of the functions or duties of a clinical social worker in that [he] acted willfully for his own benefit rather than for the benefit of his client."⁷ The Missouri definition of "misconduct," however, is "the willful doing of an act *with a wrongful intention[;] intentional wrongdoing.*"⁸ (Emphasis added.) With regard to intentional wrongdoing, the Committee's expert, Jonathan Finck, testified as follows:

Q (by Mr. Smith) Now, if the discussions took place as testified to by K.B., would it be your opinion that these discussions by Mr. Armstrong are a willful doing of an act with a wrongful intention, in other words, that is to say is this an intentional wrongdoing by Mr. Armstrong?

A As K.B. --

Q Presented?

A-- presented, yes.^{9]}

⁶32 S.W.3d at 642.

⁷ Complaint, ¶ 23; Committee's proposed findings of fact, conclusions of law, and brief, p. 23.

⁸*Missouri Bd. for Arch'ts, Prof'l Eng'rs & Land Surv'rs v. Duncan*, No. AR-84-0239 Mo. Admin. Hearing Comm'n Nov. 15, 1985) at 125, *aff'd*, 744 S.W.2d 524 (Mo. App., E.D. 1988).

⁹ Tr. 71.

By the time Finck gave that testimony, K.B. had testified, but Armstrong had not. Armstrong disputed material portions of K.B.'s testimony, specifically that he did not start the sexual discussions as K.B. testified, but that they were instituted by questions or topics K.B. brought to the sessions to discuss with Armstrong.¹⁰ As we state below under "Violation of Committee regulations," there were matters where KB alleged that Armstrong said something and Armstrong neither admitted nor denied the allegation.

As we stated in our original decision, we found both parties to be, generally, credible. We think the wiser course of action here is to admit that the truth of what was said by whom lies somewhere in the territory between the parties' testimony. And, since the Committee's allegation of misconduct depends on K.B.'s testimony being entirely true and Armstrong's testimony being false to the extent it conflicts with K.B.'s, we cannot say that the Committee has proven that Armstrong acted willfully with a wrongful intention with regard to what Armstrong said.

However, in its proposed decision, the Committee's only argument for misconduct was that it was misconduct for Armstrong *not* to write about the sexual nature of the discussions in his practice notes, as follows:

It is not credible that a person of Armstrong's intellect and experience would not document his doubts about K.B.'s reported history of sexual abuse, nor document K.B.'s questions of a sexual nature given her reports of this abuse, especially if these discussions had been initiated by K.B. as Armstrong claims. **The only credible explanation is that Armstrong thought he could engage K.B. in these discussions for his own amusement and get away with it.**^[11]

The Committee's argument is puzzling: how did Armstrong's *failure* to document the sexual nature of the discussions constitute the commission of a willful act with wrongful intention?

¹⁰ Tr. 130, 8-16; *see also* Tr. 131, 17-25.

¹¹ Committee's proposed decision, p. 29 (emphasis added).

There seems to be a piece of the argument that is missing (and, having noticed its absence, we reviewed the Committee's complaint and its written arguments to ensure that we did not miss it): how did the failure to document constitute misconduct?

We think the Committee has returned to the global argument it made in its complaint—that the entirety of Armstrong's actions with K.B. constituted misconduct. However, the only testimony supporting the misconduct allegation is Finck's, and it depends on K.B.'s testimony about the sexual discussions being credible and ignoring or disbelieving Armstrong's testimony. Therefore, as before, we find that grounds do not exist to discipline Armstrong's license for misconduct.

Violating a Lawful Rule/Committing Unethical Conduct

The Committee alleges that Armstrong violated the profession's ethical rules, 20 CSR 2263-3.020(6)(E) & (F), by committing voyeurism and making comments of a sexual nature. If Armstrong violated these rules, then he would be subject to discipline under § 337.630.2(6) and (15). As we believe K.B. generally, so too do we believe her testimony that Armstrong's comments and encouraging K.B. to talk about sex made her uncomfortable¹²—but that is not the measure of whether Armstrong violated the ethical rules. Instead, both are measured by the conduct of the licensed professional.

Voyeurism

The Committee's charge of voyeurism arises from K.B.'s allegation that, in the incident during a counseling session, when she told Armstrong about the scar on her breast that she said was caused by prior sexual abuse, then pulled the top of her shirt away from her body to look at it, Armstrong got up out of his recliner and looked down her shirt. Armstrong denied he did such a thing. As with the misconduct allegation, where the Committee's case turns on whether K.B.,

¹² Tr. 15, 1-11.

and not Armstrong, told the truth, we are asked to decide whether discipline is warranted, based on the parties' divergent recounts of what happened.

What is different here is that in this case, the alleged fact (did Armstrong stand up to look, or not?) is more specific. However, that fact is not dispositive of the issue. Armstrong was not charged with standing up out of his chair, or even of looking down K.B.'s top, but of voyeurism. The Committee has provided its own definition of "voyeurism" in 20 CSR 2263-3.020(6)(E): "encouraging another to expose him/herself." To see whether that happened, we reviewed K.B.'s testimony regarding the event, and set it out below:

Q (by Mr. Smith) Did you have an occasion to discuss a scar that you have?

A Yes.

Q Can you describe for me what that conversation was?

A We were talking about scars physically metaphorically like emotional scars, and we were talking about like getting rid of scars. I said I have one from whenever I was raped that I've always had that I would like to get rid of.

Q Then what happened?

A He asked me where it was. I told him it was on my breast.

Q And then did he respond in any way?

A Well, he said like how bad was the scar.

Q And what did you say?

A I said it's not -- I said it's fairly bad. I just remember that he asked me about it. I looked down my shirt to see because we were talking about it so I looked down my shirt to see.

Q What did he do at that point?

A He stood up out of his recliner and looked down my shirt.

Q Where were you sitting in relation to each other when that occurred?

A I was sitting on the couch in his office. He was sitting in his recliner.

Q About how far away was he?

A Probably about 4 feet.

Q And when you pulled out your shirt to look at your scar, can you describe how you did that?

A Yes, I was looking down and I had a V-neck shirt with an undershirt. I just pulled it out to where I could look down. I pulled it out absentmindedly.

Q Can you describe what Mr. Armstrong did when you pulled your shirt out? Now, did you pull it a long way out? About how far away from your chest did you pull it?

A Just enough to where I could see down it. He was sitting in his recliner and stood up and stood over me. It was like well, let me see how bad it is and looked at it. He's like that's not bad, Mederma could take care of that.

Q What was your response when he did that?

A I thought it was weird.

Q Describe you said you had a V neck on?

A Yes.

Q And an undershirt under it?

A Yes.

Q Can you describe about how many inches maybe below your neck that the V neck went?

A It was about four fingers. So 5 inches maybe.

Q Where was the undershirt beneath that in relation to the V neck?

A It came up the V neck about an inch or two.

Q What else were you wearing?

A I believe I was wearing a skirt.

Q About how long would the skirt have been?

A Ankle length.

Q Was your outfit revealing at the top at all?

A No.

Q When Mr. Armstrong stood up to look at the scar, did he ask your permission --

A No.

Q -- to see it?

A No.

Q Had you offered to show him the scar?

A No.

Q Could the scar have been seen without your pulling the shirt out?

A No.^[13]

There is no evidence in that testimony, or anywhere else, that Armstrong *encouraged* K.B. to expose herself. We conclude that Armstrong did not commit voyeurism by the Committee's definition.

Comments of a sexual nature

However, Armstrong made comments of a sexual nature to K.B. While Armstrong defends his conduct by saying he was only answering questions, we note two problems with this argument. First, Armstrong does not cite (and we are not aware of) any obligation he had to

¹³ Tr. 28-31.

answer all of K.B.'s questions, regardless of the topic. Rather (and particularly with a minor client such as K.B.), we believe that he had an obligation to guide the discussion so as to keep it away from salacious or prurient areas. Put another way, it would be foolish for a teenager's counselor to let the teenager dictate how sexual their discussions were.

Furthermore, Armstrong appeared to let the sexual discussion go on without supervision, and to be given the chance to talk about his own sexual history and practices. K.B. alleged that the topics she discussed with Armstrong included premarital sexual experimentation,¹⁴ oral sex,¹⁵ anal sex,¹⁶ whether she was a "technical virgin,"¹⁷ and whether K.B. had had her tongue pierced for purposes of oral sex.¹⁸ K.B. alleged that Armstrong brought up all of those issues. He denied having brought up some of them, but said nothing about the others.

Armstrong volunteered information about his own sexual experience, including a prior statutory rape and sodomy charge brought against him (that, he asserted, had been defeated because the victim could not say whether or not he had been circumcised),¹⁹ and that he had had the good fortune to marry a younger woman, which enabled him to lie there "while she did all the work."²⁰ Also, K.B. alleged that he asked her to write a letter describing, in full detail, what she wanted to do with her boyfriend on the night of their honeymoon.²¹ Armstrong's version was that he had asked K.B. to write down a fantasy version of what her wedding (not her wedding night, or honeymoon) would be like.²²

Regardless of the specifics of the discussions, we conclude that Armstrong did make comments of a sexual nature to K.B. Furthermore, we conclude that the comments he made

¹⁴ Tr. 25, 20-25.

¹⁵ Tr. 26, 6-22.

¹⁶ Tr. 27, 2-14; Tr. 31, 10-12.

¹⁷ Tr. 27, 21-25, Tr. 28, 1-15.

¹⁸ Tr. 44, 17-24.

¹⁹ Tr. 37, 15-17.

²⁰ Tr. 35-36.

²¹ Tr. 46-47.

²² Tr. 135, 1-3.

were, at least, questionable. But did they *exploit* K.B.? Unlike “voyeurism,” where the Committee provided a definition, where a word is not defined in statute (or in this case, a regulation), we give it its common sense, dictionary meaning.²³ The non-legal dictionary definition of “exploit” is, “to make use of meanly or unfairly for one’s own advantage.”²⁴

The only evidence supporting the Committee’s claim of exploitation is Finck’s testimony, as follows:

Q (by Mr. Smith) If the conduct was as presented by K.B., is it your opinion that it appears to have been therapeutic or solely for Mr. Armstrong's own gratification?

A It would appear to be for self gratification.[²⁵]

Again, Finck’s testimony was offered before Armstrong had the chance to give his side of the discussions he held with K.B. And to be sure, Armstrong provided explanations for much of his conduct. He asserted that the sexual discussions were driven by what K.B. wanted to talk about and the questions she asked him. His reason for bringing up the accusations of statutory rape and sodomy against him was so she would hear about it from him first. He didn’t ask her to share a fantasy of her wedding night, but of her wedding.

But even assuming that everything Armstrong said was true, there is no doubt but that he encouraged K.B. to discuss sex with him. He didn’t deny that:

- he told her that she needed to experiment with sex in order to have a satisfying sex life with her husband;
- he had married a younger woman, which was advantageous for him sexually because he “got to lay there while she did all the work;”
- he told her that she needed to experiment sexually, so as to have a satisfying sex life with her husband once she married;

²³ *State v. Trotter*, 5 S.W.3d 188, 193 (Mo. App., W.D. 1999).

²⁴ MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 441 (11th ed. 2004).

²⁵ Tr. 72.

- he asked her whether she had had anal sex; and
- he asked her whether she had had her tongue pierced for purposes of oral sex.

We agree with Finck that these discussions had no therapeutic purpose. What is left is to determine whether we agree with his conclusion that he did them for self-gratification, and whether that constitutes exploitation. It is tempting to simply agree with Finck (and the Committee), simply because we find Armstrong's role in the discussions to be not only non-therapeutic, but inappropriate.

But the ethical standard forbidding exploitation of clients includes within the scope of exploitation sexual intercourse, sodomy, kissing, touching of the client's body, exhibitionism, and gestures or physical contacts of a sexual nature, in addition to comments of a sexual nature. Applying the statutory rule of construction *noscitur a sociis*, that a word is known by the company it keeps, we must conclude that Armstrong's sexual comments did not rise to the level of egregious behavior set out by the other acts listed in 20 CSR 2263-3.020(6)(F). Furthermore, a review of cases from other states yields no cases whose facts are related to those here, i.e., that the professional's mere words constituted sexual exploitation. Therefore, we cannot say that Armstrong exploited K.B. according to the Committee's regulation.

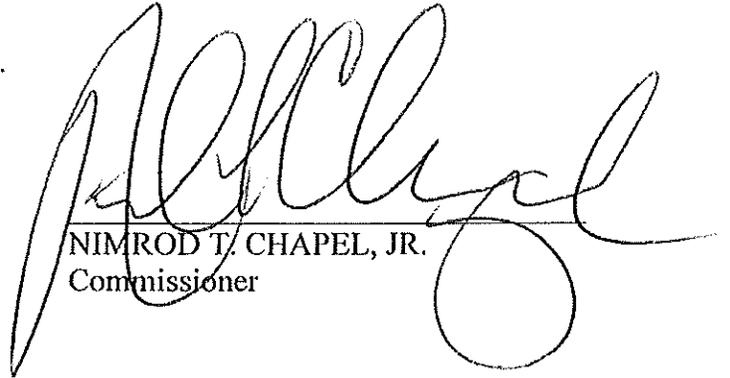
We therefore find no cause for discipline under § 337.630.2(5), (6), or (15).

Summary

Armstrong is not subject to discipline for misconduct, violating a lawful rule, or committing unethical conduct as defined in the ethical standards for clinical social workers adopted by the Committee by rule and filed with the Secretary of State. As previously held by

the Circuit Court, he is subject to discipline for incompetency and violation of a professional trust or confidence.

SO ORDERED on September 10, 2013.



NIMROD T. CHAPEL, JR.
Commissioner

BEFORE THE
MISSOURI STATE COMMITTEE FOR SOCIAL WORKERS
STATE OF MISSOURI

In The Matter Of:)	
)	
MISSOURI STATE COMMITTEE FOR)	
SOCIAL WORKERS)	
)	
Petitioner,)	
v.)	AHC Case No. 13-0692 SW
)	
THERESA J. SCHILLING)	License No. 2006038492
)	
Respondent.)	

FIRST AMENDED NOTICE OF DISCIPLINARY HEARING

PLEASE TAKE NOTICE THAT:

On May 1, 2013, the Missouri State Committee for Social Workers (“Committee”) filed a Complaint before the Administrative Hearing Commission seeking a determination as to whether the clinical social work license, license number 2006038492 of Theresa Schilling is subject to disciplinary action; and,

On January 31, 2014, the Administrative Hearing Commission issued its “Decision” and found that Theresa Schilling’s license, license number 2006038492, is subject to discipline under Sections 337.630.2 (6) and (15), RSMo.

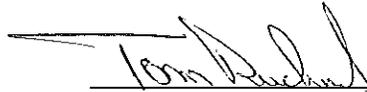
No answer or responsive pleading to this notice of disciplinary hearing is required. No Committee rules exist regarding discovery in this matter.

The Committee shall, pursuant to Section 337.630.4 and Section 621.110, RSMo, hold a hearing to determine the level of appropriate discipline, if any, to impose upon Theresa Schilling’s clinical social work license, license number 2006038492. **The hearing will be held at 11:30 a.m. on Thursday, June 19, 2014, or as soon thereafter as possible, at the Holiday Inn Columbia East, 915 Port Way, Columbia, Missouri.** Please be advised that the failure of Theresa Schilling to appear at the hearing at the above-noted time and place will

result in the hearing being held in the absence of Theresa Schilling. All parties should prepare a minimum of 10 copies of all exhibits to be presented during the hearing.

All parties have the right to be represented by legal counsel and to a full, fair and open hearing as provided for in Chapter 536, RSMo, and Section 621.110, RSMo.

Dated this 18th day of March, 2014.



Tom Reichard, Executive Director
Missouri State Committee for Social Workers

CERTIFICATE OF SERVICE

On this 18th day of March 2014, I hereby certify that a true and complete copy of the foregoing Notice of Disciplinary Hearing was forwarded via Certified Mail No. 7196 9008 9111 6139 3002, Return Receipt Requested, and U.S. Mail to Theresa Schilling at 474 Hungry Hollow Road, Anderson, Missouri, 64831.



Tom Reichard, Executive Director
Missouri State Committee for Social Workers

Before the
Administrative Hearing Commission
State of Missouri



MISSOURI STATE COMMITTEE FOR
SOCIAL WORKERS,

Petitioner,

v.

THERESA J. SCHILLING,

Respondent.

No. 13-0692 SW

DECISION

Petitioner State Committee for Social Workers has cause to discipline Respondent Theresa J. Schilling's clinical social worker license.

Procedure

The Committee filed its complaint on May 1, 2013 and Ms. Schilling answered on May 21, 2013.

On September 25, 2013, we denied both the Committee's motion for summary decision, and Ms. Schilling's motion to dismiss.

We held a hearing on November 5, 2013. The Committee was represented by its counsel, Stephen Doerhoff. Ms. Schilling appeared in person and represented herself. This matter became ready for decision on January 22, 2014, when the parties filed their respective post-hearing briefs.

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MO. ATTORNEY GENERAL

In making our Findings of Fact below, we observe that this Commission must judge the credibility of witnesses, and we have the discretion to believe all, part, or none of the testimony of any witness. *Harrington v. Smarr*, 844 S.W.2d 16, 19 (Mo. App. W.D. 1992). When there is a direct conflict in the testimony, we must make a choice between the conflicting testimony. *Id.*

Findings of Fact

1. Theresa J. Schilling¹ is licensed by the State Committee for Social Workers as a clinical social worker. Her license was current and active at all times relevant to this proceeding.
2. Ms. Schilling practiced clinical social work, including the provision of psychotherapy, at a clinic, ACCESS Family Health Care, in Neosho, Missouri from June 2011 until April 2012.
3. During the time Ms. Schilling was working at ACCESS, her license was on probationary status as a result of a settlement previously reached by her and the Committee.² As part of that settlement, she was to be supervised by a clinical social worker. Her supervisor was Kelli Farmer. Ms. Schilling and Ms. Farmer met about twice a month from July 2011 to April 2012.
4. From August 2011 until February 2012, over the course of nine appointments and in her capacity as a clinical social worker, Ms. Schilling provided psychotherapy services for the treatment of mental and emotional conditions to a client, L.S., at ACCESS.
5. On February 6, 2012, Ms. Schilling met with Ms. Farmer. Ms. Schilling said she had met a client at ACCESS; there was an immediate, mutual attraction between her and the

¹ Respondent took the surname "Schilling" in July 2012. Before that time, she was known by the surname "Smith." Some exhibits herein refer to Respondent as "Theresa Smith," because they were created prior to July 2012. For simplicity, we will refer herein to Respondent by the surname Schilling.

² The issue that prompted the parties to enter that settlement agreement is unrelated to the issue that prompted the Committee to file the instant complaint.

client; and they were interested in pursuing a relationship, which Ms. Farmer gathered was of a romantic nature. Ms. Schilling said she had decided not to establish a therapeutic relationship with the client, and did not establish one. She did not tell Ms. Farmer that she had already provided professional counseling services to the client for several months. Ms. Farmer did not tell Ms. Schilling that it would be alright to pursue a personal relationship with L.S. even if a therapeutic relationship had already been established.

6. Ms. Schilling and L.S. terminated their professional relationship on or about February 15, 2012. She did not provide professional counseling services to him after that time.

7. On March 17, 2012, Ms. Schilling signed a lease with L.S. to rent a room in his trailer, and moved in with him in early April 2012. Under the terms of the lease, she made a security deposit and small pet deposit, and paid \$250 per month in rent.

8. ACCESS terminated Ms. Schilling from employment in April 2012, based on her relationship with L.S.

9. Ms. Schilling and L.S. married on July 23, 2012, and after their marriage engaged in a sexual relationship.

Conclusions of Law

We have jurisdiction. §§ 337.630.2 and § 621.045, RSMo.³

The Committee is responsible for the licensure and discipline of clinical social workers. §§ 337.612 and 337.630. The Committee bears the burden herein of proving that cause for discipline exists, § 337.630.2, and must do so by a preponderance of the evidence, *see Kerwin v. Mo. Dental Bd.*, 375 S.W.3d 219, 229-230 (Mo. App. W.D. 2012) (dental licensing board demonstrated “cause” to discipline by showing preponderance of evidence). A preponderance of

³ References to RSMo are to the Revised Statutes of Missouri (Supp. 2012), unless otherwise noted.

the evidence is evidence showing, as a whole, that “the fact to be proved [is] more probable than not.” *Id.* at 230 (quoting *State Bd. of Nursing v. Berry*, 32 S.W.3d 638, 642 (Mo.App. W.D. 2000)).

The Committee’s complaint provides notice of the grounds for discipline. *See Duncan v. Mo. Bd. for Architects*, 744 S.W.2d 524, 539 (Mo. App. E.D. 1988). We cannot impose discipline on grounds not adequately pleaded. *Id.*

The Committee claims cause exists to discipline Ms. Schilling under three subdivisions of § 337.630.2:

The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any license required by sections 337.600 to 337.689 or any person who has failed to renew or has surrendered the person’s license for any one or any combination of the following causes:

* * *

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a social worker licensed pursuant to this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provisions of sections 337.600 to 337.689, or of any lawful rule or regulation adopted pursuant to sections 337.600 to 337.689;

(15) Being guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.⁴]

⁴ The Committee additionally cited subsection (13) of § 337.630.2, violation of professional trust or confidence, in its Complaint, p. 4, ¶ 8. But the Committee did not address that ground in its post-hearing briefing, and in its conclusion therein asked only that we find cause for discipline under subsections (5), (6) and (15). *See* Petitioner’s Proposed Findings of

The factual bases alleged by the Committee in its complaint all center on Ms. Schilling's relationship with L.S.

I. Section 337.630.2(5)

Subsection (5) provides for discipline in the case of "misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a social worker[.]" The Committee argues in its post-hearing briefing that discipline lies under this subsection because "Ms. Schilling was deceitful to her supervising clinical social worker when she lied about her relationship with" L.S.⁵

As noted above, a complaint provides notice of the grounds for discipline, and we cannot impose discipline on grounds not pleaded. *Duncan*, 744 S.W.2d at 539. "[A] bare recitation of [a] statute, *without factual support*, is insufficient to satisfy due process." *Moheet v. State Bd. of Regis. for Healing Arts*, 154 S.W.3d 393, 400 (Mo. App. W.D. 2004) (*citing Mo. Dental Bd. v. Cohen*, 867 S.W.2d 295, 296-297 (Mo. App. W.D. 2003)) (emphasis in original).

Here, the Board recited and cited § 337.630.2(5), but provided no factual support for a claim of misconduct based on deceiving a supervisor. Ms. Schilling's supervision, and what she told her supervising clinical social worker, are not mentioned in the complaint at all. Accordingly, the complaint did not provide adequate notice to Ms. Schilling that the Committee was pursuing discipline on such grounds.

The Committee makes no other argument with respect to discipline under subsection (5).

No cause for discipline exists under § 337.630.2(5).

Fact, Conclusions of Law, and Argument, p. 11. Accordingly, we deem any claim under subsection (13) to have been abandoned by the Committee.

⁵ Petitioner's Proposed Findings of Fact, Conclusions of Law, and Argument, p. 9.

II. Sections 337.630.2(6) and (15)

Subsection (6) provides for discipline for the violation of “any lawful rule or regulation adopted pursuant to sections 337.600 to 337.689.” Subsection (15) provides for discipline when the licensee is “guilty of unethical conduct as defined in the ethical standards for clinical social workers adopted by the committee by rule and filed with the secretary of state.”

The Committee alleged⁶ that Ms. Schilling violated 20 C.S.R 2263-3.010(1)⁷, which generally provides that “the ethical standards/ disciplinary rules for members of the [clinical social worker] profession...are mandatory.” The regulation further provides that “failure of a member of the profession to abide by any ethical standard/disciplinary rule in” Chapter 3, Title 20, Division 2263 of the Code of State Regulations “shall constitute unethical conduct and be grounds for disciplinary proceedings.” *Id.*

As for ethical standards and disciplinary rules, the Committee alleged⁸ that Ms. Schilling violated 20 C.S.R 2263-3.040(1), an ethics regulation addressing relationships between social workers and their clients, which provides:

A member of the profession shall not enter into or continue a dual or multiple relationship, including social relationship, business relationship, or sexual relationship, as defined by the committee, with a current client or with a person to whom the member has at any time rendered psychotherapy (clinical social work) or other professional social work services for the treatment or amelioration of mental and emotional conditions.⁹

⁶ Complaint, p. 2, ¶ 5; and p. 5, ¶ 15.

⁷ All references to “CSR” are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

⁸ Complaint, pp. 2-3, ¶ 6; and p. 5, ¶ 18.

⁹ The Committee also alleged a violation of subsection (5) of 20 C.S.R 2263-3.040, which prohibits a licensee from entering into a professional relationship when her objectivity or competency could be called into question, for example, when the licensee already has a social relationship with the person. The Committee does not brief or even mention the subsection in its post-hearing briefing. Accordingly, we deem any claim related to 20 C.S.R 2263-3.040(5) to have been abandoned by the Committee.

The Committee also pointed to 20 CSR 2263-1.010(1)¹⁰, which provides a definition of dual or multiple relationships:

(F) "Dual relationship" or "multiple relationships" occur when members of the profession relate to clients in more than one (1) relationship, whether professional, social, or business. Dual or multiple relationships can occur simultaneously or consecutively.

The Committee claims that Ms. Schilling engaged in prohibited dual or multiple relationships, whether simultaneously or consecutively. We conclude she engaged in such prohibited relationships, consecutively.

In her capacity as a clinical social worker, Ms. Schilling provided psychotherapy services to a client, L.S., for about nine months. That relationship was a professional one. At some point during that relationship, and it is not clear in the record when, the two developed a romantic interest in each other. The professional relationship ended in February 2012.

In March 2012, Ms. Schilling and L.S. entered into a business relationship when Ms. Schilling entered into a lease with L.S. to rent a room in L.S.'s trailer.

In July 2012, Ms. Schilling and L.S. married and entered into a sexual relationship.

The Committee has demonstrated by a preponderance of the evidence that Ms. Schilling, a licensee, has related and relates to L.S. in more than one relationship, and in fact, at least three addressed by regulation: professional, business, and social¹¹. The Committee failed to demonstrate by a preponderance of the evidence that the professional relationship existed at the same time as a business or social relationship, *i.e.*, simultaneously. But the Committee did demonstrate that the relationships were consecutive.

¹⁰ *Id.*, p. 3, ¶ 7.

¹¹ We construe Ms. Schilling's and L.S.'s sexual relationship to be the equivalent of a social one, as contemplated by the definitional regulation, inasmuch as the relationship is consensual and commenced when they married.

“Consecutive” means:

1 a : following esp. in a series : one right after the other often with small intervening intervals : SUCCESSIVE, SEQUENT... b : having no interval or break : CONTINUOUS...[.]

WEBSTER’S THIRD NEW INT’L DICTIONARY UNABRIDGED 482 (1986).

According to the first part of the definition, which the Committee relies on, consecutively means sequentially, often with small intervening breaks. Here, the professional, business and social relationships at issue were sequential, and whether there was a break or interval does not matter—they were consecutive, according the first part of the dictionary definition.

Ms. Schilling relies on the second part of the definition, arguing that if there was a break between the professional and other relationships, then the Committee’s claim fails because consecutive means continuous and without breaks. We think the better reading of the regulation is to apply the first part of the dictionary definition, treating consecutive as sequential, with or without small intervening breaks, for at least two reasons.

First, the plain language of the regulation supports the Committee’s interpretation. The rules of construction used to interpret statutes apply equally to interpretation of regulations. *State ex rel. Evans v. Brown Builders Elec. Co.*, 254 S.W.3d 31, 35 (Mo. banc 2008). Under such rules, we ascertain the intent of the drafter by looking at the language used, giving effect to that intent if possible, and considering the words used in their plain and ordinary meaning. *Id.* (internal quotations and citations omitted). We also consider the words in context, and in *pari materia* with other sections of the statute, or regulation, as well as cognate sections. *Id.* (internal quotations and citations omitted).

The drafters of the definitional regulation, 20 CSR 2263-1.010(1)(F), in identifying simultaneous *or* consecutive relationships, intended that the two concepts mean different things.

Simultaneous relationships overlap, while consecutive ones do not. Reading that regulation together with a cognate section, 20 C.S.R 2263-3.040, demonstrates that the concept of “consecutive” does not require relationships to be continuous and without breaks. Under 20 C.S.R 2263-3.040(1), a dual or multiple relationship is prohibited “with a current client or” a former one, that is, “a person to whom the member has at any time rendered” professional social work services. (Emphasis added.) We construe “at any time” by looking at the language used, and read the words to mean just that. “At any time” means at any point in time, and does not require relationships to be continuous and without breaks in order to be prohibited dual or multiple relationships. The regulations were drafted to cast a wide net, in furtherance of their purpose to protect, at minimum, the clients served by the profession.

An additional reason why we agree with the Committee’s interpretation is based on evidence it offered through Terri Marty, a licensed clinical social worker, and member of the State Committee for Social Workers. Ms. Marty has more than 25 years of experience as a social worker and a master’s degree in social work. Her practice has included the provision of services in an in-patient setting, and supervision of the provision of such services in the in-patient setting.¹² Ms. Marty explained that the purpose of the Committee is to protect the public from unethical or inappropriate social work practice.¹³

Based on her training, knowledge, and experience, Ms. Marty testified that social relationships with former clients are inappropriate: “Social workers hold as a general belief...that once a person has been a client they are always a client; that you have responsibility to maintain that professional relationship even if it has ended[.]”¹⁴ Once the therapeutic

¹² Tr. 102-103; Petitioner’s Exhibit J.

¹³ Tr. 103.

¹⁴ Tr. 106.

relationship begins, the social worker has an advantage over a client, in the form of a disproportionate share of information about the client “that makes the relationship always unequal.”¹⁵

Ms. Marty further explained that social relationships with former clients risk interpersonal harm to the client, and can damage the reputation of the profession.¹⁶ The social worker also risks liability for harm to the client, and Ms. Marty is aware that social workers have been sued because of the development of personal relationships with clients.¹⁷

The passage of time or a break between a professional and personal relationship does not, in Ms. Marty’s mind, ameliorate the problems associated with a social worker engaging in a personal relationship with a former client.¹⁸ She would still consider the relationship inappropriate and impermissible.¹⁹

We conclude, in short, that the risks associated with the maintenance of a social relationship between a social worker and former client appear to exist whether the social relationship is established on the heels of a professional one, or with an interval of time in between.

In view of the foregoing, we conclude that a dual or multiple relationship can exist, for purposes of 20 C.S.R 2263-3.040(1) and the definitional regulation, 20 CSR 2263-1.010(1)(F), even if there is a break between the professional and other relationships. Here, notwithstanding any break between Ms. Schilling’s and L.S.’s professional relationship, and business and social

15 *Id.*
16 *Id.*
17 *Id.*
18 Tr. 107.
19 *Id.*

relationships, Ms. Schilling engaged in consecutive dual or multiple relationships in violation of regulations and statute.

Cause for discipline exists under § 337.630.2(6) and (15), because Ms. Schilling violated 20 C.S.R 2263-3.040(1) (as defined in part by 20 CSR 2263-1.010(1)(F)), and 20 C.S.R 2263-3.010(1).

III. Ms. Schilling's remaining arguments

We have addressed Ms. Schilling's argument about the definition of consecutive, above, and rejected it.

Ms. Schilling also argues that Ms. Farmer, her supervisor, approved of the relationship with L.S., and so she (Ms. Schilling) cannot be disciplined for engaging in it. In our Findings of Fact, ¶ 5, above, we found that Ms. Farmer did not tell Ms. Schilling it would be alright to pursue a personal relationship with L.S. even if a therapeutic relationship had already been established. Accordingly, we reject Ms. Schilling's argument.

We have reviewed the remainder of Ms. Schilling's arguments, and conclude they lack merit.

Summary

Ms. Schilling is subject to discipline under §337.630.2 (6) and (15), but not under § 337.630.2(5).

SO ORDERED on January 31, 2014.


ALANA M. BARRAGÁN-SCOTT
Commissioner