



COPY

**STATE OF OHIO
COUNSELOR AND SOCIAL WORKER BOARD**

ADJUDICATION ORDER
in the Matter of:

Krista Ziegenbusch
217 East Street, Apt. D-1
Springfield, Ohio 45505

IN THE MATTER OF THE ELIGIBILITY OF KRISTA ZIEGENBUSCH TO BE LICENSED AS A SOCIAL WORKER IN THE STATE OF OHIO.

THE MATTER OF KRISTA ZIEGENBUSCH CAME BEFORE THE OHIO COUNSELOR AND SOCIAL WORKER BOARD AT ITS MAY 1998 MEETING.

FINDINGS, ORDER, AND JOURNAL ENTRY

This matter came for consideration after a Notice of Opportunity for Hearing was issued to Krista Ziegenbusch by the Counselor and Social Worker Board on December 1, 1997. An administrative hearing was held on February 27, 1998, at 9:00 a.m. in the offices of the Ohio Counselor and Social Worker Board, 77 S. High Street, Columbus, Ohio 43266, pursuant to Chapter 119 and Section 4757 of the Ohio Revised Code. The State was represented by Assistant Attorney General Jonathan M. Bowman. Krista Ziegenbusch was present and represented by counsel, William E. Huber.

The Board has reviewed the Hearing Officer Report and Recommendations prepared in this case following the administrative hearing. The Board has also reviewed the Objections to the Hearing Officer Report and Recommendations submitted by Ms. Ziegenbusch through his counsel. The Board adopts in their entirety the Findings of Fact and Conclusions of Law in the Hearing Officer Report and Recommendations. A copy of the Hearing Officer Report and Recommendations is attached to this Adjudication Order. The Board is modifying the Hearing Officer's Recommendation since the Board does not feel that a three (3) to six (6) month suspension would be appropriate in this case as this suspension would not allow for correction of Ms. Ziegenbusch's unprofessional behavior. Ms. Ziegenbusch needs formal supervision over a period of time focusing on boundaries and the development of her professional demeanor, goals and objectives.

THEREFORE, it is hereby ORDERED that for the reasons outlined in this ORDER and in the attached Hearing Officer Report and Recommendations which is hereby incorporated, by reference, into this ORDER, the license of Krista Ziegenbusch (S-22289) to practice as a Social Worker in the State of Ohio is

A. Suspended for a period of 24 months

1. Such suspension is **stayed** the entire 24 month period if Ms. Ziegenbusch receives formalized supervision by a supervisor, pre-approved by the Board. Supervision will be done on a weekly basis and will focus on boundaries and the development of professional self. The supervisor will provide quarterly reports directly to the Board by mailing the reports to the attention of the Investigative Supervisor in the Board's offices. It is the responsibility of Ms. Ziegenbusch to find an adequate supervisor. Once this is done the Board will review the proposed supervisor's credentials for approval. Failure to present a proposed supervisor to the Board by **June 30, 1998**, will reflect Ms. Ziegenbusch's lack of intent to comply with this and her license to practice social work will be actively suspended. This ORDER was approved by unanimous vote of the Members of the Board who reviewed this case, save for one abstention.

Motion carried by order of the Counselor and Social Worker Board.

It is hereby certified by this Board that the above language is incorporated into the Board's journal in this matter.

APPEAL RIGHTS

Pursuant to Section 119.12 of the Ohio Revised Code, you may appeal from this Order. Such an appeal may be taken to the court of common pleas in the county in which your place of business is located or to the court in the county in which you reside. If you do not have a place of business in Ohio and are not a resident of Ohio, you may appeal to the Court of Common Pleas in Franklin County, Ohio.

Such an appeal, setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State of Ohio Counselor and Social Worker Board and the appropriate Court within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

By Order of the State of Ohio Counselor and Social Worker Board.



ROBERT L. MOORE
Chairman

Certification

I hereby certify that a true and accurate copy of this Adjudication Order of the State of Ohio Counselor and Social Worker Board was mailed return receipt requested to Krista Ziegenbusch through her counsel this 2nd day of June 1998.

Beth Farnsworth
Beth Farnsworth
Executive Director

June 2, 1998
Date

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Certified Mail Number
Return Receipt Requested

STATE OF OHIO

COUNSELOR AND SOCIAL WORKER BOARD

IN THE MATTER OF THE
LICENSURE OF

Krista Ziegenbusch

AS A SOCIAL WORKER
IN THE STATE OF OHIO

REPORT AND RECOMMENDATION OF
HEARING EXAMINER

April 9, 1998

FOR THE LICENSEE:

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HEARING EXAMINER:

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FINDINGS OF FACT:

1. The hearing on this matter was held on Friday, February 27, 1998 commencing at 9:00 a.m. in the offices of the Counselor and Social Worker Board, 77 South High Street, Columbus, Ohio. The Board was represented by Jonathan Bowman, and Ms. Ziegenbusch was represented by William E. Huber. The hearing allowed the opportunity for direct and cross examination of witnesses, the submission of documents, and for arguments to be made. The Respondent's counsel moved for the separation of witnesses, and the motion was granted.
2. The Board has proposed disciplinary action against Krista Ziegenbusch's license to practice social work because of alleged violations of the Ohio Revised Code pertaining to the practice of social work, and for alleged violations of the Code of Ethics of the National Association of Social Workers, adopted by the Ohio Board at Rule 4757-21-01(B) of the Ohio Administrative Code. She is alleged to have committed these violations while employed at the AIDS Task Force Regional Co-operative, Inc. in Lima, Ohio. The Board listed three grounds for its proposed action in the Notice of Opportunity for Hearing sent to Ms. Ziegenbusch, dated December 1, 1997. (State's Exhibit 1) The Board cites R.C. 4757.13(A), which gives it the authority to take disciplinary action against a licensee for any violations of Chapter 4757 or the administrative rules enacted under it. Ms. Ziegenbusch requested a hearing through her counsel on or about December 8, 1997. (State's Exhibit 2) Ms. Ziegenbusch and her counsel were given notices of the initial hearing date, two continuances of that date, and the hearing ultimately held on February 27, 1998. (State's Exhibits 5-9)
3. The first charge against Ms. Ziegenbusch in the Notice of Opportunity is that between October and May 1997, she violated social worker professional boundaries by taking clients to lunch, buying them presents, and discussing her personal life with them. The Board contends that this conduct violates Rule 4757-21-01(B)(1) which provides, in pertinent part, "Dual relationships with clients that might impair the social worker's objectivity and professional judgment (such as with close friends or relatives, or sexual intimacies with any client) much be avoided . . ." The Board also proposes that this conduct violates Section II(F)(4) of the Code of Ethics of the National Association of

Social Workers. That section provides that the social worker should avoid relationships or commitments that conflict with the interests of clients.

4. In support of the first charge, the State presented the testimony of Linda Garrick, HIV Case Management Coordinator, and Richard Aleshire, the supervisor of the HIV Client Programs for the Ohio Department of Health. Ms. Garrick and Mr. Aleshire testified that they met with Ms. Ziegenbusch on February 4, 1997 to discuss issues that had been raised about her performance. (Tr. p. 69) Rosalie Stluka, Ms. Ziegenbusch's clinical supervisor, and AIDS Task Force Board member Perry Hux, M.D. were also present for at least part of that meeting. (State's Exhibit 14) Ms. Garrick and Mr. Aleshire spoke with Ms. Ziegenbusch about boundary problems such as taking clients to lunch, sharing personal information with clients, and going to social events at places where clients were known to go, and she did not deny having done these things. (Tr. pp. 19, 47) Ms. Garrick testified that Ms. Ziegenbusch made a comment of a sexual nature to her while they were meeting as professionals, and that she saw the comment as a "red flag." (Tr. pp. 45, 58-59) Ms. Garrick testified that she believes Ms. Ziegenbusch admitted that she had taken clients to lunch and that she had shared information with a client concerning her period and whether or not she could be pregnant. (Tr. pp. 17, 46-47) Mr. Aleshire also testified that at that meeting, Ms. Ziegenbusch admitted that she sometimes met with clients at restaurants and occasionally paid for their meals. (Tr. p. 70.) In addition, Ms. Garrick's notes from an audit that she conducted of Ms. Ziegenbusch's files indicate that one of the files itself included Ms. Ziegenbusch's note that she had had dinner with a client before a support group meeting. (State's Exhibit 20, p. 4) Mr. Aleshire testified that Ms. Ziegenbusch admitted at the meeting that she met with clients at a local bar because she thought they would feel more comfortable there, and that she had bought soft drinks for them. (Tr. p. 76) Ms. Garrick wrote a letter to Ms. Ziegenbusch following this meeting to summarize the issues that they discussed. (State's Exhibit 14)

5. Also in support of the first charge, the State presented the testimony of Perry Hux, M.D., an AIDS Task Force Board member and chairman

of its personnel committee. (Tr. pp. 147-148) He testified that some of the other Board members had expressed concern to him about Ms. Ziegenbusch's taking clients to lunch, meeting at a local bar, and possibly discussing client concerns in a bar. (Tr. pp. 151-152) He further testified that some of Ms. Ziegenbusch's clients were Task Force Board members. (Tr. p. 158) The State also presented Browning Payne as a witness. Mr. Payne was the president of the now disbanded "Positive A.C.T.I.O.N.S.," the AIDS Coalition for the Hancock County area at the time that Ms. Ziegenbusch was the Ryan White funding representative for that organization's clients. (Tr. pp. 78-79) He testified that one of his agency's clients had complained that Ms. Ziegenbusch had made inappropriate comments about her own personal life to him, such as about having had an abortion, or about people that she had dated or lived with. Mr. Payne testified that this same client also told him that Ms. Ziegenbusch had gone to lunch with him, bought him small gifts, and discussed another client's T-cell count with him at a restaurant in downtown Findlay. (Tr. pp. 82-83, 87-88)

6. Finally, in support of the first charge, the State called Rosalie Stluka as a witness. Ms. Stluka was the L.I.S.W. who served as Ms. Ziegenbusch's clinical supervisor during the relevant time period. (Tr. p. 178) She testified that she met with Ms. Ziegenbusch about two hours each week for case consultation and to give guidance and direction, and that they shared a good working relationship. (Tr. pp. 178, 181) Ms. Stluka testified that Ms. Ziegenbusch admitted having taken clients to lunch, and having had dinner with a client who was also a Task Force Board member. (Tr. pp. 179-198, 213) She testified that she believes Ms. Ziegenbusch had admitted telling clients things about her personal life that were not appropriate. (Tr. p. 208) She also testified that she was aware of one time when Ms. Ziegenbusch had taken a client to get a facial, and that she was not sure if that was a present to the client or not. (Tr. p. 199) She testified that she believed Ms. Ziegenbusch was well-motivated, but sometimes didn't understand why certain things were inappropriate. (Tr. pp. 198, 180-181, 211)

7. The second charge against Ms. Ziegenbusch is that while she was employed at the AIDS Task Force Regional Cooperative between January 1996 and May 1997, she acted unprofessionally by making inappropri-

ate comments, withholding funds and professional services from clients, and by not making appropriate documentations in client files. (State's Exhibit 1) The Board cites Rule 4757-21-01(B), quoted above, and also proposes that this conduct violates Sections I(B) and II(F) of the Code of Ethics of the National Association of Social Workers. Section I(B) is titled "Competence and Professional Development," and provides that the social worker should strive to become and remain proficient in professional practice and the performance of professional functions. Section II(F) is titled "Primacy of Clients' Interests," and includes subsection (4) which directs the social worker to avoid relationships or commitments that conflict with the interests of clients.

8. In support of the second charge, the State offered the testimony of Linda Garrick, who conducted two audits of Ms. Ziegenbusch's files pursuant to her role as Case Management Coordinator. (Tr. pp. 24, 28) Ms. Garrick testified that audits are scheduled in advance, and that the case manager gets a fax one hour ahead of time to advise which files should be pulled for review. (Tr. p. 32) The procedure for the audit conducted on May 6, 1996 was to choose 10 files at random to audit, using case numbers rather than client names. (Tr. p. 32) The procedure for the second audit, conducted on April 29, 1997 was that 15 files were randomly chosen by case number, and then 10 of those files were audited. (Tr. pp. 28, 31-32) Ms. Garrick identified State's Exhibit 19 as the notes from the audit that was conducted in 1996, and testified that since Ms. Ziegenbusch had only begun working there in January 1996, much of the documentation in these files had been done by previous case managers. (Tr. pp. 33, 51-52) She nonetheless reviewed the deficiencies with Ms. Ziegenbusch following that audit. (Tr. p. 32, 53) Ms. Garrick testified that many deficiencies still existed by the time of the 1997 audit, and that the documentation reviewed in this audit was mostly Ms. Ziegenbusch's. (Tr. p. 51) She was able to identify which documentation had been completed by Ms. Ziegenbusch because of her signatures and credentialing, and also because she was familiar with her handwriting. (Tr. p. 52) The particular deficiencies that still existed at the time of the 1997 audit are detailed in State's Exhibit 20, and include such things as files not having Individualized Service Plans as required, files showing incomplete psychosocial assessments, files lacking release of information forms, and files lacking adequate support for the use of Ryan White

Emergency Assistance. (State's Exhibit 20) Ms. Garrick testified that Ms. Ziegenbusch's caseload was 60-70 clients, and that a case manager should comfortably be able to manage a caseload of 85 clients. (Tr. p. 55) The State also called Ronald Dozier, who succeeded John Collins as Executive Director. He testified that Ms. Ziegenbusch was not able to prepare the necessary year-end and quarterly reports which required significant narrative and statistical work. (Tr. pp. 142)

9. Mr. Dozier also testified concerning the issue of withholding funds or professional services, as stated in the second charge of the Notice of Opportunity. He testified that the agency had vouchers that it gave to clients who could use them to purchase gasoline and food in certain dollar denominations, and that Ms. Ziegenbusch was found to have placed \$300 worth of gas vouchers in one client's file, rather than in a central location where they could be used by other clients. (Tr. pp. 140-142) Mr. Dozier testified that the same thing occurred with food vouchers. (Tr. pp. 140-142) Several other witnesses testified that Ms. Ziegenbusch at times withheld funding from clients who had substance abuse problems, although some of those witnesses believed this was appropriate. Browning Payne of Positive A.C.T.I.O.N.S. testified that one of his agency's clients complained to him that he had called Ms. Ziegenbusch to inquire about funding, but that she had not returned his call, and he believed it was because she was upset with him. (Tr. p. 85) Mr. Payne also testified that Ms. Ziegenbusch had told him personally that she was not going to give one of Positive A.C.T.I.O.N.S.' clients any money for a utility bill because she thought he would use the money to buy illegal drugs. (Tr. p. 86) He testified that Positive A.C.T.I.O.N.S. had to pay the bill instead, although he believed that this would have been an appropriate use of the Ryan White funds that Ms. Ziegenbusch disbursed. (Tr. pp. 86-87) In the case of another client, Mr. Payne testified that Ms. Ziegenbusch decided not to give the client funding because the client had an alcohol problem, and was not "taking care of himself." (Tr. p. 87) However, Mr. Payne admitted that he agreed with Ms. Ziegenbusch's decision in that case.

10. In Linda Garrick's notes of the 1997 audit, she indicates that in an entry dated 9-30-96, Ms. Ziegenbusch threatened to withhold Ryan White rental assistance unless a client went to counseling. (State's

Exhibit 20, p. 4) Ms. Garrick indicated that the counseling was not related to alcohol/drug abuse, and although it would be beneficial to the client, it breached the client's self-determination and was "completely inappropriate." (State's Exhibit 20, p. 4) Clinical supervisor Rosalie Stluka likewise testified that she was aware that Ms. Ziegenbusch would sometimes withhold services of one kind or another if the client had a treatment plan that required certain self-help steps that the client was not doing. However, Ms. Stluka testified that she believed Ms. Ziegenbusch had that discretion. (Tr. pp. 211-212) As for the "inappropriate comments" that make up the remaining part of the second charge, the State offered testimony of witnesses that Ms. Ziegenbusch discussed details of her private life with clients. This testimony has already been summarized in the paragraphs above. The State also introduced into evidence State's Exhibit 20, which documents Linda Garrick's findings of inappropriate comments that Ms. Ziegenbusch made to clients, as indicated in her case file notes. (State's Exhibit 20)

11. The third charge against Ms. Ziegenbusch is that while she was employed at the AIDS Task Force Regional Cooperative between January 1996 and May 1997, she breached client confidentiality by talking to Board members of the Task Force in a public bar and by discussing the HIV status of one client with another. The Board proposes that this violates Rule 4757-21-01(B), quoted above, as well as Section II(H)(1) of the Code of Ethics of the National Association of Social Workers. That section provides that the social worker should respect the privacy of clients and hold in confidence all information obtained in the course of professional service. It permits that social worker to share client confidences with others only when there are compelling professional reasons for doing so.

12. In support of the third charge, the State offered the testimony of Browning Payne, of Positive A.C.T.I.O.N.S. Mr. Payne testified that one of his agency's clients reported to him that Ms. Ziegenbusch had met with him in a restaurant in downtown Findlay and discussed another client's condition with him, particularly about how the other client's T-cell count was at that time. (Tr. pp. 87-90) Dr. Perry Hux testified that Board members had raised complaints to him that Ms.

Ziegenbusch may have discussed client concerns in a bar. (Tr. pp. 151-152) As previously summarized, other witnesses also testified that Ms. Ziegenbusch admitted meeting clients in non-confidential settings such as restaurants or bars. (See, e.g. Tr. pp. 17, 76, 179, 198)

DISCUSSION

I am persuaded by the testimony of the witnesses to find that Ms. Ziegenbusch violated ethical rules by taking clients to lunch or dinner, by discussing inappropriate aspects of her personal life with them, and by meeting with clients in non-confidential settings such as bars or restaurants. Several witnesses testified that Ms. Ziegenbusch admitted to them that she had done these things, and that testimony was not contradicted by any evidence from the Respondent.

The Respondent argues that the State has not proven its case because the evidence is hearsay. It is true that a great deal of hearsay was admitted at the hearing; however, hearsay is admissible in an administrative hearing, and further, most of the hearsay would fall within an exception to the rule that excludes hearsay even in a court of law. Most of the State's charges were supported by the testimony of several supervisors and colleagues that Ms. Ziegenbusch had admitted to them doing things that form the basis of the charges. Ms. Ziegenbusch admitted to Linda Garrick and Richard Aleshire that she took clients to lunch and that she sometimes met with them at restaurants and paid for their meals. (Tr. pp. 17, 70, 76) Ms. Ziegenbusch also admitted to Linda Garrick that she had discussed personal aspects of her own life with clients, such as concerns about whether she might be pregnant. (Tr. pp. 46-47) Likewise, Rosalie Stluka testified that Ms. Garrick admitted having lunch and dinner with clients, taking a client to get a facial, and she believed that she also admitted discussing personal matters that were inappropriate. (Tr. pp. 179, 198, 213, 207-208.) Although this evidence is hearsay, it was uncontradicted by Ms. Ziegenbusch, and it would likely be admissible in a court of law as a series of statements against interest. These charges in and of themselves are serious enough to warrant some kind of Board action, even absent the other charges that make up the Notice of Opportunity.

Some of the other charges were supported by evidence that is hearsay, and probably does not fit within any of the exceptions to the hearsay rule.

However, because Ms. Ziegenbusch's clients, by definition, are all HIV positive, some leniency in allowing hearsay testimony is warranted in this case. It would be unreasonable to require HIV and AIDS patients to come into a public hearing to testify, thereby disclosing their HIV status publicly. As Ronald Dozier testified at the hearing, when a person has HIV, "who knows and who doesn't know can change somebody's life." (Tr. p. 118) People who disclose their HIV status risk losing their jobs, their insurance, their housing, and their relationships. If ever there were a case where the relaxing of the hearsay rules was justified, a case involving HIV patients is it.

Although I found the "double hearsay" contained in one part of Browning Payne's testimony and letter unreliable and I base no part of this report on it, there are other instances where hearsay evidence supports some of the State's charges. Because of the problem with having HIV patients testify at a public hearing, testimony from some of those whose agencies' clients raised complaints or concerns was admitted at the hearing. Browning Payne's testimony that one of his agency's clients (who was also a personal friend of his) reported to him that Ms. Ziegenbusch had met with him in a restaurant in downtown Findlay and discussed another client's T-cell status was one such piece of evidence. Likewise, Mr. Payne testified that this client reported that Ms. Ziegenbusch bought him small gifts. Mr. Payne also testified about his agency's having to pay a client's utility bill because Ms. Ziegenbusch refused to provide funds to that client, since she believed he would use the money for illegal drugs. In addition, Dr. Perry Hux testified that some of the Task Force Board members had expressed concern about Ms. Ziegenbusch's taking clients to lunch, meeting clients at a local bar, and possibly discussing client concerns in a bar. (Tr. pp. 151-152) This too is hearsay, although I nonetheless find it at least marginally reliable because it came to these witnesses as complaints from clients of their agencies, because some of it was corroborated by other witnesses, and because it was uncontroverted by any testimony or any other evidence from the Respondent.

Finally, I find that the State has presented evidence to support the charges concerning improper or inadequate documentation in client files, although I would not recommend disciplinary action based on those charges alone. Those charges are supported by the testimony of Linda Garrick and Ronald Dozier. (See also, State's Exhibits 19 and 20)

The Respondent also advances an argument that the State's charges are ill-founded because some of them may have originated from complaints made

by Jason Collins or by his partner, John Collins, the Executive Director of the AIDS Task Force Regional Cooperative during part of the time when Ms. Ziegenbusch was employed there. It is clear to me from the testimony of the witnesses that Ms. Ziegenbusch and John Collins had a very hostile working relationship, and some of the witnesses testified that Ms. Ziegenbusch's complaints about Mr. Collins were valid ones. For example, Ms. Ziegenbusch filed a grievance concerning Mr. Collins' instructing her to disburse funds to Jason Collins, who was a client of the agency but was also the partner of John Collins. (Tr. pp. 155-156) The Task Force Board had a full hearing on this grievance, and eventually it did terminate Mr. Collins' employment. It is possible that some of these allegations were first reported to the Board by someone acting on a personal vendetta. However, the only concern of this Board should be whether or not those allegations are true, even if their reporting was ill-motivated. Even if I am to assume that all of John and Jason Collins' allegations are unfounded (and incidentally, those allegations were only alluded to during the hearing by the Respondent, and were not actually used as evidence), the allegations are proven by other witnesses, independent of anything reported by either John or Jason Collins. For example, the testimony of Linda Garrick, Rosalie Stluka, and Richard Aleshire concerning Ms. Ziegenbusch's admissions of impropriety to them has nothing whatsoever to do with John or Jason Collins.

Finally, Respondent Ziegenbusch proposes through her counsel that she was overburdened and undertrained in her position at the AIDS Task Force Regional Cooperative. Several of the State's witnesses acknowledged that Ms. Ziegenbusch was the only case manager for sixteen counties in her area, that this was her first job out of college, and that she received very little training from anyone at the agency when she began her employment. (Tr. pp. 117-118, 125-126, 34-35) Although sixteen counties is clearly a large geographical area, it is quite possible that the counties in the Lima area are not those most heavily populated with HIV patients. Indeed, Linda Garrick testified that Ms. Ziegenbusch's caseload ranged between 60-70 clients, and that a case manager should reasonably be able to manage a caseload of 85 clients without having to work overtime. (Tr. p. 55) It is clear that Ms. Ziegenbusch's training at the Task Force was minimal. However, the most serious charges--those involving failure to set boundaries with clients--are aspects of social work that would have been part of her college curriculum.

I found the testimony of Rosalie Stluka unbiased and compelling. As Ms. Ziegenbusch's clinical supervisor, I believe she may have been in the best

position to understand and evaluate Ms. Ziegenbusch's work performance. Although she acknowledged that Ms. Ziegenbusch admitted having done things that were inappropriate, she testified that she believed Ms. Ziegenbusch had good intentions, and truly didn't understand why certain things were improper. (Tr. pp. 198, 180-1, 211) She testified that she was aware of one instance in which Ms. Ziegenbusch had bought a client lunch because the client said he was hungry and hadn't eaten. (Tr. p. 198) However, upon further examination, Ms. Stluka acknowledged that Ms. Ziegenbusch could have given the client a food voucher instead of going out to lunch with him. (Tr. p. 212) Ms. Stluka testified that she believes it is critical to the client/social worker relationship that the social worker keep appropriate professional boundaries with clients, and she described how Ms. Ziegenbusch initially had trouble learning that professional relationships are different than one's relationships with friends or family. (Tr. pp. 207, 202) However, she testified that Ms. Ziegenbusch seemed open to learning about these issues and was working to make changes and develop herself professionally. (Tr. pp. 180-181, 211) In Ms. Stluka's memo to John Collins evaluating Ms. Ziegenbusch's work from January to June 1996, she makes a statement that appears to summarize this case well. (State's Exhibit 15) She writes "[Ms. Ziegenbusch] has a rare quality of openness which has been both an asset and a liability to her." Ms. Stluka further explained in her letter and on the witness stand that Ms. Ziegenbusch's ability to be sensitive and empathetic to her clients enables her to develop a strong rapport with them. On the other hand, she notes that this quality has caused her trouble in establishing appropriate boundaries between her personal and professional life, and that she still occasionally struggles with setting appropriate limits. (State's Exhibit 15, Tr. pp. 184-185)

Linda Garrick likewise testified that when she discussed the boundary issues with Ms. Ziegenbusch, she didn't seem to understand why her conduct was inappropriate. (Tr. p. 18) Ronald Dozier also testified that when he brought the letter of Browning Payne to Ms. Ziegenbusch's attention, she "made light of the allegations." (Tr. p. 133) Because I am concerned that Ms. Ziegenbusch may still lack a complete understanding of what is ethically inappropriate and why, I recommend to the Board that it require her to get additional training in social worker ethics, at her own expense, during a brief suspension period of her license. The Board may do this either by requiring a certain amount of continuing education hours in ethics, in addition to those already required for the renewal of her license, or it may require her to enroll in or audit an ethics course for social workers at

a college or university in her area. The Board members who are experts in social work are in the best position to recommend how many hours are reasonable, since they are aware of how often continuing education courses in ethics are offered, and how many hours each course earns.

I recommend that the Board suspend Ms. Ziegenbusch's license for a short period of time, such as three to six months, during which time she would be required to complete continuing education in the number of hours deemed appropriate by the Board. The Board might also wish to include in its Order some requirement that the courses be pre-approved by one member of the Board to whom it could delegate this authority. Since this Board does not meet every month, it would not be practical to require that Ms. Ziegenbusch get the full Board's approval for each course that she plans to take to meet such a requirement. Finally, the Board may wish to require that after Ms. Ziegenbusch resumes her practice, she make available to the Board quarterly reports from her supervising L.I.S.W. documenting her progress and adherence to the ethical rules regarding professional boundaries with clients, for a period of perhaps one year.

The evidence presented at the hearing demonstrated that Ms. Ziegenbusch is capable of being a very skilled social worker, albeit one who has made some serious mistakes in professional judgment early in her career. I believe that a short suspension during which time she be required to complete additional training in ethics will assure that she understands the Code of Ethics of her profession completely, and can practice without further violations of it.

CONCLUSION OF LAW

I conclude that R.C. 4757.13 authorizes the Board to take action against Ms. Ziegenbusch's social work license because of her violations of the Code of Ethics of the National Association of Social Workers, adopted and incorporated into the Ohio rules at Rule 4757-21-01 of the Ohio Administrative Code. I conclude that Ms. Ziegenbusch violated Section II(F)(4) when she took clients to lunch or dinner, or met with them socially outside of her work, as well as when she discussed her own personal life with them. These activities appear to be one kind of "relationships or commitments that conflict with the interests of clients," that this Section prohibits.

I further find that Ms. Ziegenbusch violated Section II(H)(1) of the

Code of Ethics of the National Association of Social Workers, which prohibits a social worker from sharing client confidences with others without a compelling reason. She violated this section when she met with clients in non-confidential settings, and particularly when she met with the client who reported to Positive A.C.T.I.O.N.S. that she had met with him in a restaurant in downtown Findlay and discussed another client's health condition with him.

Finally, I find that Ms. Ziegenbusch violated Sections I(B) and II(F) of the National Association of Social Workers, in failing to make appropriate documentations in client files and possibly in withholding services or funds to some clients. Section I(B) directs the social worker to become and remain proficient in professional practice and the performance of professional functions. Section II(F) states that the social worker's primary responsibility is to clients, and includes subsections detailing the social worker's duty to serve clients with the maximum application of professional skill and competence. Although I find that the State did prove these allegations, I would not recommend disciplinary action on the basis of this charge alone. Moreover, the Board's experts in social work may disagree with the conclusion that Ms. Ziegenbusch violated ethical rules when she refused funds to clients on the basis that they were not managing their substance abuse problems or going to counseling, for example. The Board may find that a social worker has the discretion to withhold funds from a client who does not participate in his or her treatment plan in this way.

RECOMMENDATION

For the reasons detailed in this report, I recommend that the Board suspend Ms. Ziegenbusch's license for three to six months, and that during that time, it require her to complete additional continuing education in ethics, preapproved by the Board's designated representative, in the number of hours determined by the Board. The continuing education should be required to be taken in addition to the hours normally required for license renewal, and should be taken at Ms. Ziegenbusch's expense. If the Board finds it necessary, I further recommend that it require Ms. Ziegenbusch to submit quarterly reports from her supervising L.I.S.W. for the first year after she resumes her practice, following the suspension. The purpose of the reports would be to document Ms. Ziegenbusch's progress in understanding and complying with the sections of the Code of Ethics concerning professional boundaries with clients.

Ronda S. Shamansky
Ronda S. Shamansky
Hearing Examiner