

**STATE OF NEW MEXICO
BEFORE THE NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS**

**IN THE MATTER OF:
TRAINER MONICA M. ARCHULETA,
AKA MONICA MARIE ORTIZ-ARCHULETA
LICENSE NO. B-09895,**

Case No. SW -18-6-APP

DECISION AND ORDER

THIS MATTER came before duly appointed Hearing Officer Sandra Turner, LCSW, LISW, upon the filing of the Notice of Contemplated Action ("NCA") dated December 12, 2018, by the Board of Social Work Examiners (the "Board"). Respondent received the NCA and requested a formal hearing on the matter. An evidentiary hearing was held on March 6, 2019, at the 2550 Cerrillos Road, in Santa Fe, New Mexico. The Hearing Officer presided over the hearing, and was advised by the Board's counsel. The state appeared through administrative prosecutor Assistant Attorney General Olga Serafimova, Esq. Respondent appeared in person and represented herself pro se at the hearing. Pursuant to the New Mexico Uniform Licensing Act, NMSA 1978, Sections 61-1-1 through -34 (1957, as amended through 2017) ("the ULA"), having familiarized itself with the recording of the March 6, 2019 hearing, the Hearing Officer's Report, and the exhibits admitted into evidence, the Board hereby accepts the hearing officer's Findings of Fact and Conclusions of Law as follows:

SUMMARY OF THE ALLEGATIONS

On April 4, 2017, the Respondent was granted a Baccalaureate Social Worker License by the Board. In July 2018, the Respondent submitted a renewal application for her license with the Board, at which time the Board became aware that the Respondent's failing test scores had been confused with another applicant's passing test scores, and the Respondent never passed the exam required for licensure. Upon realizing this error, the Board Administrator contacted the

Respondent to inform her that the license she was issued in April 2017 was not valid since she did not pass the required national exam for licensure in the State of New Mexico. On December 12, 2018, the Board issued an NCA to the Respondent after the Respondent failed to provide the Board Administrator with the necessary documentation to show that she had passed the required national exam. The Respondent refused or neglected to relinquish the license that was issued in error. Upon the issuance of the NCA, the Respondent requested a hearing before the Board to rebut the allegations in the NCA.

FINDINGS OF FACT

1. Respondent took and failed three ASWB exams on the following dates: November 17, 2014, June 30, 2015, and January 5, 2017. [Exhibits 5, 4, and 3]; [Audio Recording of Hearing ("Audio") at 28:48].
2. Respondent was issued a baccalaureate social worker license (B-09895) by the Board on April 4, 2017. [Exhibit 1].
3. Danielle Jimenez testified that RLD issued license B-09895 to the Respondent in error when the Respondent's test scores were confused with another baccalaureate social worker applicant with the same first and last name as the Respondent. [Audio at 9:58].
4. Danielle Jimenez testified that the erroneously issued license was not discovered until the Respondent applied to renew her license in July 2018. [*Id.* at 9:41].
5. Danielle Jimenez testified that the Board has no documents showing a passing ASWB exams completed by the Respondent. [*Id.* at 12:18].
6. Danielle Jimenez testified that as soon as the error was discovered, she contacted the Respondent to tell her that her license was issued in error, that she did not have a valid license because she did not pass the required exam for licensure, and asked the Respondent to send the Board proof that she had passed the ASWB exam. Ms. Jimenez

testified that the Respondent told her that she would provide the pass score, but she never did. [*Id.* at 14:28].

7. Danielle Jimenez testified that the licensing team contacted the ASWB to request the Respondent's test results, and was informed that the Respondent had failed the exam three times. [*Id.* at 14:56].
8. In December 2018, the Board issued an NCA to the Respondent. See attached NCA.
9. In a letter dated December 15, 2018, the Respondent replied to the NCA, requesting a hearing. In this letter, the Respondent stated that she was not aware that she failed the January 2017 ASWB exam, and stated that she was not aware at the time of writing the letter that her license was issued in error. The Respondent also stated in this letter that when she requested the numerical results from the January 2017 exam she was told they could not be found by the state. The Respondent testified to the same during the hearing. See attached Letter from Respondent; [Audio at 25:41].
10. The Respondent testified that she misplaced her test scores that showed she received a 111 out of 150 on the exam and passed, and she was unsuccessful in obtaining a copy of these test scores from ASWB. [Audio at 22:49].
11. The Respondent testified that she believed the Board lost her results based on an email between Jessica Gutierrez and ASWB, in which Ms. Gutierrez contacted ASWB in attempt to locate a passing ASWB test score for the Respondent after the last fail score the Board had from January 2017. [Exhibit 6]; [Audio at 27:10].
12. The Respondent testified that the most recent exam she took for social work was in January 2017. [Audio at 27:52].
13. The Respondent testified that she spoke with Danielle Jimenez when she was unable to renew her license online, and that is when she was informed that her test scores were

- mixed up with another person with the same name, and that the Respondent did not in fact pass the ASWB exam. The Respondent stated that it was at that time that she submitted a paper application to renew her license. [*Id.* at 34:43].
14. The Respondent testified that she is aware that it is her responsibility under the Board's rules to establish that she passed the ASWB exam. [*Id.* at 35:24].
 15. The Respondent testified that she did not have any documentation to show that she passed the ASWB exam, because the ASWB told her they would not give her such documentation unless she had a passing score. The Respondent also states that in her communication with ASWB that she was told that she did not have a passing score. [*Id.* at 35:50].
 16. The Respondent testified that when she received the notice for the hearing held on March 6, 2019 that she was asked to return the license to the Board. The Respondent stated that this was the first time that she was asked to return the license to the Board "on paper" and states she was never asked to return the license in any phone conversations. [*Id.* at 36:21].
 17. The Respondent testified that she was aware of the issue with her license in September, but that she took no action to return the license to the Board. [*Id.* at 37:13].
 18. The Respondent testified that she is not using the license that was issued in New Mexico in another state, but rather that her acquisition of a master's degree is what is allowing her to practice in another state. [*Id.* at 38:38].
 19. The Respondent also stated that she cannot transfer her New Mexico license to another state until it is shown that she did pass the exam. [*Id.* at 39:30].
 20. The Respondent testified that she worked in Albuquerque as a licensed social worker in New Mexico while under the impression that she was licensed to do so. [*Id.* at 42:52].

CONCLUSIONS OF LAW

- A. The Respondent was, at all relevant times, subject to the jurisdiction of the Board.
- B. Pursuant to Section 61-1-3 of the ULA, the Board held a proper hearing on the matter after previously providing Respondent with proper notice of the general nature of the allegations and evidence against her. *See* Exhibit 1 (Notice of Contemplated Action, SW-18-6-APP) (December 12, 2018).
- C. Respondent was provided timely notice of the hearing and advised of her rights.
- D. Based on testimony and the exhibits admitted at the formal evidentiary hearing in this matter, including the statements of the Respondent, a preponderance of the evidence supports the findings that the Respondent has not earned a passing score on the ASWB Exam, which is required for licensure under the Social Work Practice Act. 16.63.3.12 NMAC.
- E. The Board finds that the license issued in error is void due to the Respondent's failure to meet the minimum licensure requirements pursuant to 16.63.3.12 NMAC.
- F. Upon finding that a licensee has violated the Act or the Board's rules, the Board is authorized to take disciplinary action. See 16.34.15.8(A) and (E) NMAC (providing, "any person who violates any provisions of the act or any rule adopted by the board may incur, in addition to any other penalty provided by law, a civil penalty in an amount of less than one thousand dollars (\$1,000) for each violation.")

ORDER

IT IS THEREFORE ORDERED that:

- 1.) Respondent's license issued in error is void and was never valid;
- 2.) If not already done, original license issue must be returned to the Board within seven calendar days.

IT IS SO ORDERED.

Date: 06/03/19

Chairman Reed: 