

BEFORE THE IOWA BOARD OF BEHAVIORAL SCIENCE

<p>RE: Mental Health Counselor License of</p> <p>MICHELLE BANKS License No. 091068 Respondent</p>	<p>CASE NO. 21-0014</p> <p>NOTICE OF HEARING, STATEMENT OF CHARGES, AND EMERGENCY ADJUDICATIVE ORDER</p>
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COMES NOW the Iowa Board of Behavioral Science (“Board”) and files this Notice of Hearing, Statement of Charges, and Emergency Adjudicative Order against Michelle Banks (“Respondent”), 1603 Erie Ave, Spirit Lake, IA 51360, pursuant to Iowa Code sections 17A.12(2), 17A.18(3), 17A.18A, and 272C.3(1)(e), and 645 IAC 11.6 and 11.28.

A. TIME, PLACE, AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on December 9, 2021, before the Board. The hearing shall begin at 10:00 a.m. The hearing will be held electronically via the Zoom platform. At the time of the hearing, use the link <https://zoom.us/join>. Please enter the meeting ID number: 835 4843 5331, and then the meeting passcode: 936133. If you prefer to participate telephonically, please use the phone number 1-312-626-6799 and enter the same meeting ID number listed above.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing, Statement of Charges, and Emergency Adjudicative Order you may file an Answer pursuant to 645 IAC 11.12. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Behavioral Science, Lucas State Office Building, 5th Floor, 321 E. 12th St., Des Moines, Iowa 50319, or by email to Tony.Alden@idph.iowa.gov.

Presiding Officer. The Board shall serve as presiding officer at the contested case hearing, but the Board hereby delegates to an Administrative Law Judge from the Department of Inspections and Appeals the authority to make initial rulings on prehearing matters, and requests the administrative law judge be present to assist and advise the Board at the contested case hearing.

Prehearing Conference. Any party may request a prehearing conference in accordance with 645 IAC 11.17 to discuss issues related to the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 645 IAC chapter 11. At the hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at the hearing. If you need to

request an alternative time or date for the hearing, you must comply with the requirements in 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Laura Steffensmeier
Assistant Attorney General
Iowa Attorney General's Office
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Ms. Steffensmeier can also be reached by phone at (515) 281-6690 or by e-mail at laura.steffensmeier@ag.iowa.gov.

Communications. You may not contact individual Board members in any manner, including by phone, letter, or e-mail, regarding this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and the opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 154D, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 147, 154D, and 272C, and 645 IAC chapters 13 and 33.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 645 IAC 11.21.

C. CHARGES

COUNT I

Respondent is charged with making suggestive, lewd, lascivious or improper remarks or advances to a client, and may be disciplined pursuant to Iowa Code section 147.55(3) and 645 IAC 33.2(29)“b”.

COUNT II

Respondent is charged with mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner, and may be disciplined pursuant to Iowa Code section 147.55(2) and 645 IAC 33.2(3)“e”.

COUNT III

Respondent is charged with engaging in unethical conduct or practice harmful or detrimental to the public, and may be disciplined pursuant to Iowa Code section 147.55(3) and 645 IAC 33.2(4).

D. FACTUAL CIRCUMSTANCES

1. Respondent holds mental health counselor license number 091068, which is currently active through September 30, 2022.
2. In January 2021, Respondent sent an inappropriate text message to a client.
3. During this time period, Respondent's discontinuation of prescribed medication adversely impacted her behavior and actions as a mental health counselor.
4. On April 13, 2021, Respondent was charged criminally with supplying alcohol to a person under legal age in Woodbury County. The criminal charge remains pending.
5. The criminal complaint states that Respondent was a passenger in a vehicle where an open container of alcohol and marijuana were located. The criminal complaint indicates Respondent admitted to smoking marijuana and drinking alcohol in the vehicle with the other passengers. The criminal complaint indicates Respondent admitted she purchased the alcohol and that she had prior knowledge of the age of the person to whom she supplied alcohol because she was her therapist.

E. EMERGENCY ADJUDICATIVE ORDER

FINDINGS OF FACT

The Board finds sufficient evidence to support each factual circumstance identified in Section D, above.

CONCLUSIONS OF LAW

Based on these findings of fact, the Board concludes Respondent has violated the laws cited in Counts I, II, and III, identified in Section C, above.

POLICY REASONS

Respondent's license is currently unrestricted. Respondent's conduct as outlined above is egregious and demonstrates she is a risk to potential clients. Respondent's continued ability to practice poses an immediate danger to the public health, safety, and welfare. The only way to ensure that she does not practice as a mental health counselor is to suspend her license.

ORDER

Respondent's license is **INDEFINITELY SUSPENDED**, effective immediately, and until further order of the Board. The Board proceeding is scheduled to take place as set forth in Section A, above.

F. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC 12.1. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Laura Steffensmeier at (515) 281-6690.

G. FINDING OF PROBABLE CAUSE

On September 9, 2021, the Iowa Board of Behavioral Science found probable cause to file this Notice of Hearing, Statement of Charges, and Emergency Adjudicative Order.



Tony Alden, Board Executive
Iowa Board of Behavioral Science

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-0233. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).