



STATE OF MARYLAND

DHMH

Maryland Department of Health and Mental Hygiene

*Larry Hogan, Governor - Boyd Rutherford, Lt. Governor - Dennis R. Schrader, Secretary*

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October 25, 2017

**BY FIRST CLASS AND CERTIFIED MAIL**  
**CERTIFIED MAIL NO.: 7001 2510 0006 0265 6562**

James Preston Davis  
32 Solar Circle, Apt. K  
Parkville, Maryland 21234

**Re:** Order Denying Application  
Case Number: 2015-04

Dear Mr. Davis:

Enclosed is the Order Denying Application in the above-referenced matter.

If you or your attorney has any questions about the enclosed Order, please contact the Administrative Prosecutor, K. F. Michael Kao, Assistant Attorney General, Maryland Office of the Attorney General, at (410) 767-1881.

Sincerely yours,

Risa Ganel, LCMFT  
Chair  
State Board of Professional Counselors  
and Therapists

Enclosure

cc: Nicholas Johansson, Principal Counsel, HOPL  
Rosalind M. Spellman, Administrative Officer, HOPL  
Ari Elbaum, Assistant Attorney General, Board Counsel  
K. F. Michael Kao, Assistant Attorney General, Administrative Prosecutor

IN THE MATTER OF  
JAMES PRESTON DAVIS  
Applicant

\* BEFORE THE MARYLAND  
\* STATE BOARD OF PROFESSIONAL  
\* COUNSELORS AND THERAPISTS  
\* Case Number: 2015-04

\* \* \* \* \*

On the 23<sup>rd</sup> day of June, 2017, the Maryland State Board of Professional Counselors and Therapists (the "Board") notified **JAMES PRESTON DAVIS** (the "Applicant") of its intent to deny his Application for Certified Supervised Counselor Alcohol and Drug (the "Application") under the Maryland Professional Counselors and Therapists Act (the "Act"), Md. Code Ann., Health Occ. II, ("Health Occ. II") §§ 17-101 *et seq.* (2014 Repl. Vol.).

Specifically, the Board based its action on the Applicant's violation of the following provisions of the Act:

**§ 17-509. Denials, probation, suspension or revocation of certificate applicant or holder.**

Subject to the hearing provisions of § 17-511 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license or certificate to any applicant, place any licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license of any licensee or a certificate of any certificate holder if the applicant, licensee, or certificate holder:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or certificate for the applicant, licensee, or certificate holder or for another;
- (6) Willfully makes or files a false report or record in the practice of counseling or therapy;
- (8) Violates the code of ethics adopted by the Board;

- (10) Is convicted of or pleads guilty or nolo contendere to a felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (13) Violates any rule or regulation adopted by the Board; [and]
- (16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy[.]

With respect to Health Occ. II § 17-509(8) and (13), the Board alleged that the Applicant violated the following code of ethics and regulation adopted by the Board under Md. Code Regs. ("COMAR"):

**COMAR 10.58.03.04 - Ethical Responsibility**

B. A counselor may not:

- (2) Participate in dishonest, fraudulent, or deceitful activity in the capacity of a counselor[.]

In its Notice, the Board informed the Applicant that he had the opportunity to request a hearing before the Board by submitting a request in writing to the Board's Executive Director within thirty days of service of the Notice. More than thirty days have elapsed since the service of the Notice on the Applicant, and the Applicant has not requested a hearing.

**FINDINGS OF FACT**

The Board makes the following findings of fact:

**I. BACKGROUND**

1. The Applicant is not and has never been licensed or certified as an alcohol and drug counselor in Maryland or in any other jurisdiction. On or about January 5, 2011, the Board authorized the Applicant to practice as an Alcohol and Drug Trainee in Maryland. That authorization expired on January 1, 2016.

2. On or about October 13, 2015, the Board received the Applicant's Application to become a certified supervised counselor alcohol and drug.

3. In the Application under Section III D, the Applicant checked "No" in response to the following question:

Have you pled guilty to, nolo contendere, or been convicted of or received probation before judgment of any criminal act (excluding traffic violations)?

4. An audit of the Applicant's Application revealed that the Applicant had a lengthy criminal history, which he failed to disclose in his Application.

## **II. BOARD INVESTIGATION**

5. As part of the investigation, the Board's investigator also reviewed the Trainee Application (the "Trainee Application") the Applicant filed in or around 2010. In the Trainee Application under Question C, the Applicant checked "No" in response to the following question:

Have you pled guilty, nolo contendere, or been convicted of or received probation before judgment or any criminal act (excluding traffic violations)?

6. The Board's investigator obtained the Applicant's criminal court records from the Circuit Court for Baltimore City, Maryland. The court records revealed that the Applicant had a lengthy criminal history, none of which was disclosed in his Application or his Trainee Application. A summary of the Applicant's criminal history is as follows:

A. On or about July 12, 1988, the Applicant was charged with making a false statement to a peace officer in the District Court of Maryland for Baltimore City under Case Number 00649763C2. On or about

October 1, 1988, the Court found the Applicant guilty and granted him probation before judgment ("PBJ") with one year of probation.

- B. On or about January 27, 2002, the Applicant was charged with possession of controlled dangerous substance ("CDS") - not marijuana in the District Court of Maryland for Baltimore City under Case Number 3B01425903. On or about May 21, 2002, the Court found the Applicant guilty of the charge and granted him PBJ with one year of probation.
- C. On or about March 29, 2002, the Applicant was charged with one count of possession of CDS - not marijuana and one count of attempted manufacturing/distribution of narcotics in the District Court for Baltimore City under Case Number 1B01438963. On or about April 29, 2002, the Court found the Applicant guilty of both charges and granted him PBJ on both counts with probation for two years.
- D. On or about January 8, 2003, the Applicant was charged with possession of CDS - not marijuana in the District Court of Maryland for Baltimore City. The Applicant requested a jury trial, which transferred his case to the Circuit Court for Baltimore City under Case Number 803009006. On or about January 10, 2003, the Applicant pleaded guilty to and was convicted of the charge. The Court issued a \$50 fine.

- E. On or about January 30, 2004, the Applicant was charged with theft less than \$500 in the District Court of Maryland for Baltimore City under Case Number 0C00195419. On or about August 18, 2004, the Applicant pleaded guilty to the charge and was granted PBJ with eight months of unsupervised probation.
- F. On or about June 24, 2004, the Applicant was charged with possession of CDS - not marijuana in the District Court of Maryland for Baltimore City under Case Number 5B01623641. On or about November 15, 2004, the Applicant was convicted of the charge and sentenced to one-year incarceration, all of which was suspended.
- G. On or about May 26, 2006, the Applicant was charged with possession of CDS - not marijuana in the District Court of Maryland for Baltimore City under Case Number 6B01736643. On or about June 26, 2006, the Applicant was convicted of the charge and given a monetary fine.
- H. On or about December 5, 2013, the Applicant was charged with malicious destruction of property over \$1000 in the District Court of Maryland for Baltimore City under Case Number 5C00392124. On or about February 23, 2015, the Applicant pleaded guilty to and was convicted of the charge. The Court sentenced the Applicant to five days of incarceration.

### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that Applicant's willful failure to disclose his criminal history in his Application and Trainee Application, as set forth above, constitutes: fraudulently or deceptively obtaining or attempting to obtain a certificate for the Applicant, in violation of Health Occ. II § 17-509(1); willfully making or filing a false report or record in the practice of counseling, in violation of § 17-509(6); violating the code of ethics adopted by the Board, *i.e.* COMAR 10.58.03.04B(2), in violation of § 17-509(8); violating a rule or regulation adopted by the Board, *i.e.* COMAR 10.58.03.04B(2), in violation of § 17-509(13); and committing an act of immoral or unprofessional conduct in the practice of nonclinical counseling, in violation of § 17-509(16).

The Board further concludes that the Applicant's plea of guilty to theft less than \$500 on or about August 18, 2004, in the District Court of Maryland for Baltimore City, Case Number 0C00195419, constitutes pleading guilty to a crime involving moral turpitude, in violation of § 17-509(10).

### ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is, by the affirmative vote of a majority of the Board considering this case:

**ORDERED** that the Applicant James Preston Davis's Application for Certified Supervised Counselor Alcohol and Drug be and hereby is **DENIED**; and it is further

**ORDERED** that the Applicant is prohibited from practicing alcohol and drug counseling in the State of Maryland; and it is further

**ORDERED** that this Order is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101 *et seq.* (2014).

October 20, 2017  
Date

Risa Ganel / LCFMT  
Risa Ganel, LCFMT  
Board Chair  
Maryland State Board of Professional  
Counselors and Therapists

**NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Code Ann., Health Occ. II § 17-512(b)(2014 Repl. Vol.), you have a right to take a direct judicial appeal. A Petition for Judicial Review must be filed within thirty (30) days of service of this Order and shall be made as provided for judicial review of a final decision in the Md. Code Ann., State Gov't II §§ 10-201 *et seq.* (2014 Repl. Vol.) and Title 7, Chapter 200 of the Maryland Rules.