

IN THE MATTER OF * BEFORE THE MARYLAND
STEVEN L. FITZGERALD, CAC-AD * STATE BOARD OF PROFESSIONAL
RESPONDENT * COUNSELORS AND THERAPISTS
Certificate Number: AC1864 * Case Number: 2016-68

* * * * *

FINAL ORDER

On or about January 22, 2018, the Maryland State Board of Professional Counselors and Therapists (the “Board”) notified **STEVEN L. FITZGERALD, CAC-AD** (Certified Associate Counselor – Alcohol and Drug) (the “Respondent”), Certificate Number AC1864, of its intent to revoke his CAC-AD certificate based on violations of the Maryland Professional Counselors and Therapists Act, codified at Md. Code Ann., Health Occ. II (“Health Occ.”) §§ 17-101 *et seq.* (2014 Repl. Vol.).

The Board based its intent on the following provisions of law:

Health Occ. § 17-509. Denial, 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:

....
(16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy[.]

More than thirty (30) days elapsed since the Respondent was notified of the Board’s intent to revoke her certificate, and the Respondent failed to timely request a hearing.

FINDINGS OF FACT

The Board finds the following facts.

Background

1. At all times relevant to this Notice, the Respondent was certified to practice as a CAC-AD in the State of Maryland. The Respondent was initially certified on or about February 16, 2012, under Certificate Number AC1864, and his certificate is current through January 31, 2018.

2. On or about December 14, 2016, the Board received a complaint (the "Complaint") from the Respondent's former supervisors (together, the "Complainant")¹ at a drug and alcohol counseling facility in Cumberland, Maryland (the "Cumberland Facility"). In the Complaint, the Complainant stated that the Respondent had been employed as a counselor at the Cumberland Facility approximately from May 2016 until his termination in August 2016.

3. According to the Complaint, in early December 2016, the Respondent's estranged wife alerted the Complainant that the Respondent had just been arrested in West Virginia and charged with possession of child pornography.

4. The corporate parent office of the Cumberland Facility is located in the City of Frederick, Maryland (the "Frederick Office"). Upon receiving this information, the IT specialist there performed a forensic search of the computer the Respondent had been using at the Cumberland Facility prior to his termination. The search revealed inappropriate material on the computer.

5. On or about December 9, 2016, staff at the Frederick Office alerted the police and transferred the computer to a police officer with the Frederick City Police Department.

6. Based on the Complaint, the Board initiated an investigation.

¹ For confidentiality and privacy purposes, the names of individuals and health care facilities are not disclosed in this document. The Respondent may obtain the identity of the referenced individuals and facilities by contacting the assigned Administrative Prosecutor.

Investigation

7. The Board's investigator contacted the Chief Operating Officer (the "COO") of the Frederick Office and confirmed that the Respondent's work computer contained pornographic images of naked female minor children, approximately aged nine to twelve, accessible only under the Respondent's login information.

8. The Board's investigator also confirmed via court records that the Respondent had recently been extradited from Maryland to West Virginia pending child pornography related charges.

9. The Board's investigator then obtained police records from the Frederick City Police Department's investigation which showed the following.

10. The Respondent's wife had originally contacted the Complainant because she discovered images of child pornography on the Respondent's mobile phone that appeared to have been captured from his work computer. The computer was searched using Forensic Explorer software, which revealed that under the Respondent's user name, the computer contained multiple images of minor females posing inappropriately, engaged in sexual activities, and exposing their breast and vaginal areas.

The Respondent's Child Pornography Charges

11. The Board's investigator then obtained court records from West Virginia, which revealed the following.

12. On or about November 9, 2016, the Respondent was charged in West Virginia with felony distribution or exhibition of sexually explicit material involving minors (>50 but <600 images), in violation W. Va. Code § 61-8C-3(c).

13. On or about December 21, 2016, the Magistrate Court for Mineral County, West Virginia ordered that the Respondent's case be transferred to the Circuit Court for trial.

14. The Criminal Complaint, filed by investigators with the West Virginia State Police Crimes Against Children Unit (CACU), described the following.

15. On or about October 19, 2016, the Respondent's wife, a resident of Mineral County, West Virginia, was using the Respondent's mobile phone in her kitchen when she discovered a large number of child pornographic images contained therein. The images included prepubescent females performing oral sex on adult males. The Respondent's wife alerted the CACU and delivered the mobile phone to the CACU.

16. On or about October 24, 2016, the CACU performed a forensic search of the Respondent's mobile phone, which revealed at least 58 images of child pornography and child erotica. The images showed female prepubescent children engaged in various sexual acts with adult males and other inappropriate sexual activities.

CONCLUSIONS OF LAW

The Respondent's conduct, as described above generally, constitutes immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy, in violation of Health Occ. § 17-509(16).

ORDER

Based on the foregoing, it is this 22nd day February, 2018, by the Board hereby:

ORDERED that the Respondent's certificate to practice alcohol and drug counseling as a CAC-AD, is hereby **REVOKED**; and it is further

ORDERED that upon service of this Order, the Respondent shall immediately surrender to the Board all indicia of licensure the Board that are in his possession, including but not limited to the original certificate and/or renewal certificates; and it is further

ORDERED that this document constitutes an Order of the Board and is therefore a public document for purposes of public disclosure, as required by Md. Code Ann., General Provisions, §§ 4-101 through 4-601 (Repl. Vol. 2014).

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Code Ann., Health Occ. § 17-512(b), the Respondent has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the date of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. Code Ann., State Gov't II § 10-222; and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files an appeal, the Board is a party and should be served with the court's process at the following address:

Kimberly Link, Executive Director
Maryland State Board of Professional Counselors and Therapists
4201 Patterson Avenue
Baltimore, Maryland 21215-2299
Phone: 410-764-4732
Fax: 410-358-1610

At that point, the Administrative Prosecutor is no longer a party to this case and need not be served or copied.

February 22, 2018
Date

Risa Ganel / KGL

Risa L. Ganel, MS, LCMFT, Board Chair
Maryland State Board of Professional
Counselors and Therapists

<p>IN THE MATTER OF</p> <p>STEVEN L. FITZGERALD, CAC-AD</p> <p>RESPONDENT</p> <p>Certificate Number: AC1864</p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p>BEFORE THE MARYLAND</p> <p>STATE BOARD OF PROFESSIONAL</p> <p>COUNSELORS AND THERAPISTS</p> <p>Case Number: 2016-68</p>
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ORDER FOR SUMMARY SUSPENSION

The Maryland State Board of Professional Counselors and Therapists (the “Board”) hereby **SUMMARILY SUSPENDS** the certificate of **STEVEN L. FITZGERALD, CAC-AD** (Certified Associate Counselor – Alcohol and Drug) (the “Respondent”), Certificate Number AC1864, to practice as a certified associate counselor - alcohol and drug in the State of Maryland. The Board takes such action pursuant to its authority under Md. Code Ann., State Gov’t II § 10-226(c)(2) (2014 Repl. Vol.), concluding that the public health, safety, or welfare imperatively requires emergency action. In addition, the Board takes such action pursuant to its authority under Md. Code Regs. (“COMAR”) § 10.58.04.10, concluding that there is substantial likelihood that the Respondent poses a risk of harm to the public health, safety, or welfare.

INVESTIGATIVE FINDINGS

The Board has reason to believe that the following facts are true:¹

Background

1. At all times relevant to this Order, the Respondent was certified to practice as a CAC-AD in the State of Maryland. The Respondent was initially certified on or

1 The statements regarding the Respondent’s conduct are intended to provide the Respondent with notice of the basis of the summary suspension. They are not intended as, and do not necessarily represent a complete description of the evidence, either documentary or testimonial, to be offered against the Respondent in connection with this matter.

about February 16, 2012, under Certificate Number AC1864, and his certificate is current through January 31, 2018.

2. On or about December 14, 2016, the Board received a complaint (the "Complaint") from the Respondent's former supervisors (together, the "Complainant")² at a drug and alcohol counseling facility in Cumberland, Maryland (the "Cumberland Facility"). In the Complaint, the Complainant stated that the Respondent had been employed as a counselor at the Cumberland Facility approximately from May 2016 until his termination in August 2016.

3. According to the Complaint, in early December 2016, the Respondent's estranged wife alerted the Complainant that the Respondent had just been arrested in West Virginia and charged with possession of child pornography.

4. The corporate parent office of the Cumberland Facility is located in the City of Frederick, Maryland (the "Frederick Office"). Upon receiving this information, the IT specialist there performed a forensic search of the computer the Respondent had been using at the Cumberland Facility prior to his termination. The search revealed inappropriate material on the computer.

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6. Based on the Complaint, the Board initiated an investigation.

Investigation

7. The Board's investigator contacted the Chief Operating Officer (the "COO") of the Frederick Office and confirmed that the Respondent's work computer

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contained pornographic images of naked female minor children, approximately aged nine to twelve, accessible only under the Respondent's login information.

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The Respondent's Child Pornography Charges

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12. On or about November 9, 2016, the Respondent was charged in West Virginia with felony distribution or exhibition of sexually explicit material involving minors (>50 but <600 images), in violation W. Va. Code § 61-8C-3(c).

13. On or about December 21, 2016, the Magistrate Court for Mineral County, West Virginia ordered that the Respondent's case be transferred to the Circuit Court for trial.

14. The Criminal Complaint, filed by investigators with the West Virginia State Police Crimes Against Children Unit (CACU), described the following.

15. On or about October 19, 2016, the Respondent's wife, a resident of Mineral County, West Virginia, was using the Respondent's mobile phone in her kitchen when she discovered a large number of child pornographic images contained therein. The images included prepubescent females performing oral sex on adult males. The Respondent's wife alerted the CACU and delivered the mobile phone to the CACU.

16. On or about October 24, 2016, the CACU performed a forensic search of the Respondent's mobile phone, which revealed at least 58 images of child pornography and child erotica. The images showed female prepubescent children engaged in various sexual acts with adult males and other inappropriate sexual activities.

The Respondent's Other Criminal Charges

17. In addition, the documents obtained from the Mineral County Magistrate Court indicate that the Respondent was also charged with additional offenses.

18. On or about January 6, 2017, the Respondent was charged with using a mobile phone to threaten to commit a crime against a person, in violation of W. Va. Code § 61-3C-14a(3).

19. On the same day, he was charged with unlawfully committing an act that places his or her family or household member in reasonable apprehension of immediately suffering physical pain or injury, in violation of W. Va. Code § 61-2-28(b).

20. Also on the same day, the Respondent was charged with violating a final protective order, in violation of W. Va. Code § 48-27-903(a)(1).

21. On or about January 5, 2017, in the early hours of the morning, the Respondent sent a series of disturbing text messages to a friend, in which he vowed to "play god" and described himself as having been turned "into a monster due to societies

[sic] policies and procedures.” He stated, “I will decide who lives and who dies!” He begged God to “have mercy on my soul” and stated that “today is my judgment [judgment] day.”

22. The Respondent also stated, apparently referring to his estranged wife, “why am I making this so hard just shoot her in the f**king head then myself” i.e. *why am I making this so hard just shoot her in the f**king head then myself.*

23. In addition, at approximately 5:00 a.m. on January 5, 2017, the Respondent posted on his Facebook page the following:

Today I will play God. I will make all the decisions. Policies and procedures. Nah! Court orders? Nah! Might keep an honest man down! For a while. But sooner or later society must know the truth. And the truth is who to blame. This all could have been avoided. ...May God have mercy on my soul!

24. Later that morning, the Respondent left a note with his sister, with whom he was residing, stating, “tell my daughter I love her, and I’m sorry.” The Respondent’s sister feared he may commit violence against his estranged wife, and alerted the wife, who immediately called the police.

25. The Respondent’s wife told police she feared the Respondent may attempt to harm her, given that he had been threatening her repeatedly, including by sending her altered images that made her appear deceased. The Respondent’s wife had previously secured a restraining order against the Respondent based on these threats.

26. The Respondent was arrested a short time later as he was sitting in his vehicle outside the driveway of his estranged wife’s residence.

CONCLUSIONS OF LAW

Based on the foregoing investigative findings, the Board concludes as a matter of law that the public health, safety, or welfare imperatively requires the immediate suspension of the Respondent's certificate to practice as a certified associate counselor - alcohol and drug in Maryland, pursuant to Md. Code Ann., State Gov't II § 10-226(c)(2) (2014 Repl. Vol.).

In addition, the Board concludes as a matter of law that there is substantial likelihood that the Respondent poses a risk of harm to the public health, safety, or welfare, pursuant to COMAR § 10.58.04.10.

ORDER

It is this _____ day of _____, 2017, by a majority of the Board considering this matter:

ORDERED that the Respondent's CAC-AD certificate, number AC1864, is hereby **SUMMARILY SUSPENDED**; and it is further

ORDERED that the Respondent may request a postdeprivation show cause hearing to show cause as to why the suspension should not be continued. A request for a hearing must be in writing and be made **WITHIN TEN (10) DAYS** of service of this Order. If no such written request is made, the suspension will continue indefinitely. The written request should be made to: Kimberly Link, Acting Executive Director, Maryland State Board of Professional Counselors and Therapists, 4201 Patterson Avenue, Baltimore, Maryland, 21215, with copies mailed to: Christopher Anderson, Administrative Prosecutor, Health Occupations Prosecution and Litigation Division, Office of the Attorney General, 300 West Preston Street, Suite 201, Baltimore, Maryland 21201, and Ari Elbaum, Board Counsel, Office of the Attorney General, 300 West Preston Street, Suite 302, Baltimore, Maryland 21201, and it is further

ORDERED that upon service of this Order, the Respondent **SHALL IMMEDIATELY SURRENDER** to the Board his original CAC-AD certificate, number AC1864, and any wallet card, wall certificate, or other official indicia of licensure; and it is further

ORDERED that if the Respondent fails to request a post-deprivation show cause hearing in writing in a timely manner, or if the Respondent requests a post-deprivation show cause hearing but fails to appear when scheduled, the Respondent's certificate will remain **SUSPENDED**; and it is further

ORDERED that this is an Order of the Board, and as such, is a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., Gen. Provisions §§ 4-101 *et seq.* (2014).

5-12-2017
Date



Carol A. Deel, LCMFT, LCPC, Board Chair
Maryland State Board of Professional
Counselors and Therapists