

**IN THE MATTER OF
LISA RIX
CAC-AD APPLICANT**

*** BEFORE THE
* STATE BOARD OF
* PROFESSIONAL COUNSELORS
* AND THERAPISTS
* Case No.: 2014-36**

* * * * *

**FINAL ORDER OF DENIAL OF
CERTIFIED ASSOCIATE COUNSELOR-ALCOHOL AND DRUG CERTIFICATE**

BACKGROUND

On **February 19, 2016**, the State Board of Professional Counselors and Therapists (the “Board”), notified **LISA RIX** (the “Applicant”), of its Intent to Deny her application for a Certified Associate Counselor-Alcohol and Drug Certificate (CAC-AD). The Respondent requested an evidentiary which was held on **September 16, 2016**, before the Board.

The basis of the Board’s issuance of the Notice of Intent to Revoke was pursuant to the Maryland Professional Counselors and Therapists Act (the “Act “), Md. Health Occ. Code Ann. (“H.O.”) §§ 17-101 *et seq.* (2014 Repl. Vol. II and 2015 Supp.).

The Board charged that the Respondent violated the following provisions of its Act:

§17–401. Certification required; representations to public.

- (b) Certified professional counselors and certified associate counselors-Alcohol and drug.
 - (2) An individual shall be certified as a certified associate counselor–alcohol and drug by the Board before the individual may:
 - (i) Use the title “certified associate counselor–alcohol and drug”;
 - (ii) Use the initials “C.A.C.–A.D.” after the name of the individual; or

- (iii) Represent to the public that the individual is certified as a certified associate counselor–alcohol and drug.

§17–403. Requirements for certified associate counselor –alcohol and drug:

- (c) Supervision.-A certified associated counselor-alcohol and drug shall practice alcohol and drug counseling under the supervision of a Board-approved alcohol and drug supervisor who is:

- (1) A licensed clinical alcohol and drug counselor;
- (2) A certified professional counselor-alcohol and drug;
- (3) A licensed clinical professional counselor;
- (4) A licensed clinical marriage and family therapist;
- (5) A licensed clinical professional art therapist; or
- (6) A health care provider licensed under this article with documented expertise in alcohol and drug counseling.

- (d) A certified associate counselor-alcohol and drug:

- (1) May provide only:

- (ii) Alcohol and drug counseling under the supervision of a Board-approved supervisor as specified in subsection (c) of this section; and
- (iii) Supervision with approval by the Board; and

- (2) May not practice independently.

§17–406. Practicing without license or certification – alcohol and drug counselors.

- (b) *Permitted under certain conditions.*

- (2) An individual may practice alcohol and drug counseling without certification for a limited period of time, as determined by the Board, if the individual is working as a trainee under the supervision of an approved alcohol and drug supervisor while fulfilling the experiential or course of study requirements under § 17-302 of this title or § 17-403, or § 17-404 of this subtitle.

H.O. § 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 . . . if the applicant

- (1) Fraudulently or deceptively obtains or attempts to obtain a license or certificate for the applicant, licensee, or certificate holder or for another;
- (8) Violates the code of ethics adopted by the Board;
- (9) Knowingly violates any provision of this title;
- (13) Violates any rule or regulation adopted by the Board [;].

The Board further charged Respondent with the following violations of its General Provisions, Code Md. Regs. (COMAR) tit. 10 §.58.01: (1996):

.03 General.

Unless certified or licensed by the Board, an individual may not:

- A. Use the title . . . certified associate counselor-alcohol and drug (CAC-AD)...;
- B. Use the initials . . . CAC-AD . . . after the name of the individual; . . . or
- C. Represent to the public that the individual is certified as a certified associate counselor-alcohol and drug . . . [.]

.04 Ethical Responsibility

A. A counselor shall:

- (11) Be familiar with and adhere to this chapter;

B. A counselor may not:

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

The State of Maryland (“the State”) filed a Motion to Exclude Witnesses and Evidence of the Respondent at the hearing, which took place on September 16, 2016. At the hearing, the

Board ruled to deny the State's Motion.

Evidentiary Exhibits and Witnesses

State's Exhibits:

- 1A. Application (Our of State), dated January 14, 2014.
- 1B. DC License Information
- 2A. April 29, 2014 Letter from Alcohol and Drug Abuse Administration
- 2B. Summary of Findings
- 2C. April 29, 2014 Email from Inspector with Copy of Letter and Findings
- 3. March 2014 Professional Exp. Verification Form
- 4. July 5, 2014 Email to/from Respondent/Isaacs
- 5A. July 15, 2014 Board Letter/Subpoena/Response
- 5B. July 27, 2015 Board Letter/Subpoena
- 6. August 13, 2015 Cover Letter/Treatment Record
- 7A. February 10, 2014 Employment Letter
- 7B. February 10, 2014 Job Description-Executive Director
- 7C. March 29, 2014 Clinical Consultant Letter
- 7D. March 31, 2014 Job Description-Clinical Consultant
- 7E. September 29, 2014 Termination Letter-Clinical Director
- 7F. October 6, 2014 Job Description-Residential Monitor
- 7G. October 19, 2014 Respondent's Resignation Letter
- 7H. October 16, 2014 Job Description Letter
- 8. July 27, 2015 Fox Investigative Report

State's Witnesses:

1. Janice Isaac, Licensing Coordinator for the Board
2. Franklin Dyson, Administrator for the Behavioral Health Administration
3. Steven Brown
4. Edward J. Fox, Investigator for the Board
5. Lisa Rix, Respondent

FINDINGS OF FACT

The Board made the following Findings of Fact based upon the entirety of the record:

1. The Applicant first applied with the Board for certification in Maryland as a CAC-AD in or around January 2014. Because the Applicant's application was incomplete, it was returned to the Applicant, who re-submitted the application listing Employee A¹ at Facility A as her supervisor and attesting to her hours of experience at Facility A.

2. Facility A is a substance abuse treatment center located in Charles County, Maryland. Employee A is the Executive Director of Facility A.

3. Based upon the updated documentation, the Board approved the Applicant to take a national examination, which the Applicant took and passed.

4. Before the Applicant could take the Board's examination of its rules and regulations, however, the Board was copied on a letter from the Alcohol and Drug Abuse Administration (ADAA) to Facility A dated April 29, 2014. The letter disclosed the following:

A. On April 28, 2014, the Compliance Section of ADAA conducted a

¹The name of the individuals and facilities are confidential.

compliance review of Facility A in accordance with various regulations regarding High Intensity Residential Substance Abuse Treatment Services;

- B. Facility A was determined to be non-compliant with the applicable regulations;
- C. Facility A violated staffing requirements by denoting the Applicant as Facility A's Clinical Director, even though the Applicant was not licensed or certified as an alcohol and drug counselor by the Board or approved by the Board;
- D. Because the Applicant failed to have the requisite approval and/or certification by the Board, Facility A was informed that the Applicant could not continue to provide clinical services or sign off on clinical documentation until she received certification from the Board;
- E. A Plan of Correction was to be submitted to ADAA within a time certain.

5. By letter dated March 29, 2014, Employee A wrote the Applicant informing her, in relevant part, that after the audit from the ADAA, "we were informed that you must poses (*sic*) a current Maryland License (*sic*) to manage a case load and do supervision. Your position title will change to Clinical Consultant. Your immediate supervisor will remain [Employee A]. This position is a full-time exempt position. Your DC Master's Level CDCII in DC credentials will remain on file." Employee A went on to inform the Applicant that her salary would remain the same, with benefits. Employee A further stated that "we know the State has accepted your DC credentials...you will need to be present at the Clinical Team meeting..."

6. Employee A submitted a plan of correction to ADAA, dated May 1, 2014, which stated, in relevant part, that the Applicant "has applied for State licensure (*sic*) in February 2014. She has received notice that she is eligible to sit for the test and is awaiting her date to take the test. As soon as she received (*sic*) her State licensure (*sic*), she will apply for supervision status. Until

then, she will complete non-clinical duties.” Employee A further stated that the [Applicant] would be listed as a “consultant.” Under the “Date Completed” section of the Plan of Correction, Employee A wrote that Employee B was now the provider of supervision for the clinical staff; however, Employee B stated that he did not, in fact, begin those duties until October 2014.

7. Once the Board received the results of the survey of Facility A and Employee A’s response, the Board re-assessed the Applicant’s application.

8. The Board determined that Employee A’s attestation of the Applicant’s experience was invalid, as it was based upon her illegal practice in Maryland at Facility A.

9. The Board further determined that Employee A lacked the ability to be the Applicant’s supervisor because she failed to have the requisite qualifications for supervision of a CAC-AD in Maryland.

10. The Board then determined that, based upon the above, the Applicant was ineligible to take the Board’s examination. Without taking and/or passing that examination, the Applicant does not meet minimum qualifications and, as such, could not be certified as a CAC-AD in Maryland or practice with improper supervision from Employee A; nor could the Applicant provide supervision or clinical support in any manner to other counselors at Facility A, regardless of her title.

11. The Board subpoenaed the Applicant’s personnel records from Facility A, which disclosed the following:

- A. By letter dated February 10, 2014, Employee A informed the Applicant that she was “pleased to offer [her] a position as Acting Clinical Director and that Employee A would be her immediate supervisor”;
- B. By a document dated February 10, 2014 and marked “revised”, the Applicant’s job description was listed as “Acting Clinical Director”.

Employee A was listed as the Applicant's "Supervisor". The Applicant agreed to direct the "overall treatment and clinical programming in the Residential and Aftercare at [Facility A]. The Applicant was to supervise all staff in the clinical division of the program.... including residential support/rehabilitation, emergency plans/safety practices, health service policies and procedures with assigned chemically dependent patients in accordance with requirements of the Maryland Board of Examiners of Professional Counselors and Therapists (emphases added). The Clinical Director is responsible to be sure all clients participate in group, individual, case management, mental health and skill development which will provide a road map for recovery. The Clinical Director is also responsible to monitor all chart compliance which includes notes, progress reports, monthly reports SMART plans, individual, family therapy, aftercare and the over-all clinical make-up of orientation, group, individual, small groups, staff development, training and maintaining program Licensure at [Facility A.]";

- C. On March 31, 2014—after ADAA's visit—the Applicant and Employee A signed the exact same document, with the exception that the job was described as a "Clinical Consultant."
- D. The Applicant's salary, her "exempt" status, and her duties never changed regarding both of the above positions;
- E. By letter dated September 29, 2014, Employee A wrote the Applicant a letter, stating, in relevant part," at the time of your hire, we assumed your Maryland License (*sic*) and Supervision letter from the State of Maryland would take about three months. That meant you will be licensed (*sic*) to be the Clinical Director by May or June of 2014...To date...your Counselor License (*sic*) and your letter for supervision have not been attained. While we do understand this is of no fault of your own, but it continues to leave the program without a Licensed (*sic*) Clinical Director.... We will not be able to continue your employment as Clinical Consultant beyond October 30, 2014. If your license (*sic*) is not resolved and a letter from the State of Maryland with the eligible supervision date, we will be terminating your employment on October 30, 2014. This is not a reflection of your work, character or dedication to the job you have done at [Facility A]. The Clinical Director must be licensed (*sic*) and able to provide supervision to the clinical and para-professional staff";
- F. By letter dated October 16, 2014, Employee A wrote the Applicant informing her that her "official status "will change from full time to part-time Clinical Aide [on an hourly salary],..we will miss your presence as a full time member of the "Executive and Clinical Team" The Applicant signed this letter, thereby agreeing to its terms on that same date.

12. Employee A wrote a letter to the Board's former Investigator, dated July 22, 2014, stating that the Applicant was hired in February 2014. Employee stated that "[a]t no time did [the Applicant] act independently at [Facility A]...She received supervision daily while awaiting her paper work to be completed...We mistakenly gave her the title of Acting Clinical Director while awaiting her Maryland tests to be taken.²" Employee A continued, "when ADAA came to audit our records, they (*sic*)... discovered the error in the title of [the Applicant]. She became a clinical consultant while waiting her tests. This plan was approved by the ADAA on May 12, 2014..."

13. At the hearing, the Applicant testified that all of her practice was signed off on by her supervisor. However, this is not a sufficient defense. Both H.O. §§ 17-401 and 17-406 expressly prohibit the practice of alcohol and drug without certification or license by the Board. (Tr., p. 81-84).

14. The Applicant also testified that her violations stemmed more from ignorance than from "ill-intent." While that may be the case, the Board cannot accept ignorance of the law as a defense. (Tr., p. 89).

15. As set forth above, by practicing illegally in Maryland, the Board finds that the Applicant violated H.O. § 17-406 (b)(2) and § 17-509 (8), (9) and (13).

16. By applying for certification as a CAC-AD while using the hours she earned in Maryland under a supervisor who was not eligible to supervise her, the Board finds that the Applicant violated HO § 17-509(1) and § 17-403 (4)(c)(1) and (6)(d)(1)(i), (ii), (iii) and (2).

17. By continuing to practice in Maryland even though she was without certification, as advised by ADAA, the Board finds that the Applicant violated COMAR 10 § 58.03 .04 A. (11) B. (2).

²Although Employee A informed ADAA that Employee B was designated as Clinical Supervisor, Employee B indicated that he did not become so until October 2014. Employee A has a MSW and is not qualified to supervise a

18. By using the title of CAC-AD when she was not authorized to do so, the Board finds that the Applicant violated §17-401(b)(2)(i-iii) and COMAR 10.58.01.03 A-C.

19. However, the Board finds that the Applicant did not violate § 17-403(a)(1) which requires an applicant to be of good moral character.

20. The Applicant may reapply to the Board for certification if, and when, she meets the legal requirements for certification.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board concludes that the Applicant violated §17-401(b)(2)(i), (ii) and (iii); §17-403(c) (1-6), (d) (1)(ii) and (iii) and (2); §17-406 (b)(2); §17-509 (1), (8), (9) and (13); COMAR §10.58.01.03 A., B., and C.; .04 A (11) and B (2) of the Act and regulations thereunder.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the application of Lisa Rix to practice as a Certified Associate Counselor-Alcohol and Drug (CAC-AD) in Maryland is **DENIED**; and it is further

ORDERED that this document is final order of the Board and is public under Md. Code Ann., General Provisions §§ 4-101 *et seq.*

2/3/17

Date



Carol A. Deel, Ph.D., LCPC, LCMFT, Chair
State Board of Professional Counselors
& Therapists

NOTICE OF APPEAL RIGHTS

Any person aggrieved by a final decision of the Board under Md. Code Ann., Health Occ. § 17-509 may take a direct judicial appeal within thirty (30) days as provided by Md. Code Ann., Health Occ. § 17-512, Md. Code Ann., State Gov't § 10-222, and Title 7, Chapter 200 of the Maryland Rules, including Md. Rule 7-203 ("Time for Filing Action").