

<p><b>IN THE MATTER OF</b></p> <p><b>MAIA K. MICHAEL</b></p> <p><b>Applicant, CSC-AD</b></p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p><b>BEFORE THE MARYLAND STATE</b></p> <p><b>BOARD OF PROFESSIONAL</b></p> <p><b>COUNSELORS AND THERAPISTS</b></p> <p><b>Case Number: 2018-065</b></p>
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**FINAL ORDER**

On or about May 7, 2018, the Maryland State Board of Professional Counselors and Therapists (the “Board”) notified **MAIA K. MICHAEL** (the “Applicant”) of its intent to deny her Application for Certification as a Certified Supervised Counselor – Alcohol and Drug (CSC-AD) (the “Application”) pursuant to the Maryland Professional Counselors and Therapists Act (the “Act”), codified at Md. Code Ann., Health Occ. (“Health Occ.”) §§ 17-101 *et seq.* (2014 Repl. Vol. & 2017 Supp.).

The Board bases its action on the Applicant’s violation of the following:<sup>1</sup>

**Health Occ. § 17-404. Certification; supervised counselor–alcohol and drug.**

- (a) To qualify as a certified supervised counselor-alcohol and drug, an applicant shall:
  - (1) Be of good moral character;

**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:

- (14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or

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<sup>1</sup> The Board recognizes that good moral character and compliance with the Act are implicit basic qualifications for CSC-AD. The Board also recognizes that it has the inherent authority to discipline an individual for violation of a Board order.

country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; *to wit*,

Health Occ. § 17-509:

- (9) Knowingly violates any provision of this title;
- (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;
- (11) Is professionally, physically, or mentally incompetent[.]

The Board alleges that under Health Occ. § 17-509(9), the Applicant knowingly violated the following provisions of the Act:

**Health Occ. § 17-404. Certification; supervised counselor—alcohol and drug.**

- (a) To qualify as a certified supervised counselor-alcohol and drug, an applicant shall:
  - (1) Be of good moral character[.]

**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:

- (14) Is disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; *to wit*,

Health Occ. § 17-509:

- (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; [and]
- (11) Is professionally, physically, or mentally incompetent[.]

The Applicant notified the Board of her desire to have a hearing within the applicable timeframe. On February 15, 2019, the Board held a hearing on whether it should deny the Application. Assistant Attorney General Kelly Cooper, administrative prosecutor, represented the State. The State moved the following Exhibits (“Ex.”) into evidence:

Ex. 1. Maryland Application for Certified Supervised Counselor Alcohol and Drug, received January 29, 2018

Ex. 2. State of Delaware v. Maia K. Michael A/K/A Maia K. Griffiths (Case Number 0812005996)

- Modified Sentence Order, dated September 23, 2010
- Pardon, dated June 26, 2015

Ex. 3. Delaware Board of Nursing, Order, dated May 12, 2011

*Ex. 4. Michael v. Delaware Bd. of Nursing*, No. CIV.A. K11A06001 RBY, 2012 WL 1413573 (Del. Super. Ct. Feb. 16, 2012)

Ex. 5. Delaware Board of Nursing, Recommendation of Hearing Officer, dated August 20, 2013

Ex. 6. Delaware Board of Nursing, Order, dated October 9, 2013

Ex. 7. Delaware Board of Nursing, Opinion and Order, dated January 11, 2017

*Ex. 8. Michael v. Delaware Bd. of Nursing*, No. CV N17A-02-003-JRJ, 2017 WL 3980540 (Del. Super. Ct. Sept. 8, 2017)

*Ex. 9. Michael v. Delaware Bd. of Nursing*, No. 368, 2017, 2018 WL 1020111 (Del. Feb. 22, 2018)

Ex. 10. Maryland Board of Professional Counselors and Therapists Report of Investigation, dated March 19, 2018

Ex. 11. Notice of Intent to Deny Application for Certification as a Certified Supervised Counselor – Alcohol and Drug (CSC-AD), dated May 4, 2018

Ex. 12. Request for a Hearing and Letter of Representation, dated May 30, 2018

Ex. 13. Notice of Hearing, dated October 8, 2018

Ex. 14. Notice of Withdrawal of Representation, dated November 30, 2018

The Applicant was present and represented herself at the hearing. The Applicant moved one exhibit, Exhibit A, into evidence. She was the only witness that testified at the hearing.

### **FINDINGS OF FACT**

The Board finds the following facts:

#### **I. BACKGROUND**

1. On or about January 29, 2018, the Board received the Applicant's Application.

2. The Application required the Applicant to answer the question:

Have you ever been denied an initial application, renewal of a certification and/or license, or reinstatement of a certification or license and/or by any state licensing or disciplinary board? (*including Maryland*)

3. In response, the Applicant answered *YES*, and attached documentation of the denial of reinstatement of her Delaware nursing licenses.

4. The Application also required the Applicant to answer the question:

Has any state licensing or disciplinary board ever taken any action against your certification and/or license, including but not limited to limitations of practice, required education, admonishment, reprimand, probation, suspension or revocation?

5. In response, the Applicant answered *YES*, and attached documentation of the revocation of her Delaware nursing licenses.

6. The Application also required the Applicant to answer the question:

Has an investigation or charge ever been brought against you by any state licensing or disciplinary board?

7. In response, the Applicant answered *YES*, and attached documentation of the investigation and revocation of her Delaware nursing licenses.

8. The Application also required the Applicant to answer the question:

Have you ever charged [*sic*] with a crime, pled guilty, nolo contendere, or been convicted of or received probation before judgment of any criminal act (excluding traffic violations) in any state? (*including Maryland*)

9. In response, the Applicant answered *YES*, and attached documentation of a prior criminal conviction.

10. Based on the Applicant's acknowledgement on the Application that she had disciplinary history, the Board initiated an investigation of the Applicant.

## II. **BOARD INVESTIGATION**

### A. 2010 Criminal Conviction

11. On or about April 8, 2010, the Applicant was found guilty of, Obtaining Controlled Substances by Misrepresentation or Fraud, Forgery or Deception, in the Superior Court of the State of Delaware in and for Kent County (Case Number 0812005996).<sup>2</sup>

### B. 2011 Suspension

12. On or about May 12, 2011, the Delaware Board of Nursing issued an Order (the "2011 Order") in which it suspended the Applicant's Delaware registered nurse license ("RN"), license number L1-0033331, and Delaware licensed practical nurse license ("LPN"), license number L2-0008148, as a result of her 2010 criminal conviction for prescription fraud as set forth above. The 2011 Order suspended the Applicant's Delaware RN and LPN licenses for a period of five years, conditioned on her presentation to the executive director of the Delaware Board of Nursing a certification of successful

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<sup>2</sup> The Applicant attached documentation to the Application showing that on or about June 26, 2015, the Applicant received a pardon for her conviction.

completion of the Treatment Access Center program. The 2011 Order instructed that the suspension may be stayed after two years and her licenses placed on probation.

13. The 2011 Order included the following Summary of the Evidence:

- i. In October 2008, the Applicant impersonated a physician and telephoned in five prescriptions for Xanax to three different pharmacies by using a physician's name and DEA number.
- ii. On February 12, 2009, the Applicant pled guilty to one count of obtaining a controlled substance by deception and entered the Superior Court Diversion Program. The Applicant failed to comply with the terms of the program and on April 8, 2010, a conviction for this charge was entered.
- iii. At the Delaware hearing, under oath, the Applicant admitted the conduct described above.

14. Based on the conduct described above, the Delaware Board of Nursing found that the Applicant had violated Delaware Board of Nursing statutes and regulations in that she: is unfit and incompetent to practice nursing; was convicted of a crime substantially related to the practice of nursing; and is guilty of unprofessional conduct in that her behavior failed to conform to the legal standards and accepted standards of the nursing profession and adversely affected the health and welfare of the public, and that she diverted, possessed, obtained and administered prescription drugs to herself without authorization.

15. In furtherance of the investigation, the Board's investigator obtained a public opinion by the Superior Court of Delaware, Kent County, in *Michael v. Delaware Bd. of Nursing*, No. CIV.A. K11A06001 RBY, 2012 WL 1413573 (Del. Super. Ct. Feb. 16, 2012), which affirmed the 2011 Order.

#### C. 2013 Revocation

16. On or about July 1, 2013, the Delaware Board of Nursing issued disciplinary charges against the Applicant for practicing nursing on suspended licenses. On or about

August 20, 2013, after conducting an open hearing, a Delaware Hearing Officer issued a Recommendation In the Matter of Maia Michael Griffiths<sup>3</sup>.

17. Based on the hearing, the Hearing Officer found that the Applicant practiced nursing from June of 2011 until January 31, 2012, while both of her Delaware nursing licenses were suspended. The Recommendation further concluded that the Applicant “knew that she was suspended but intentionally represented [to her employer] that she was able to lawfully practice nursing.” The Recommendation also concluded as a matter of law that the Applicant “failed to abide by legal standards and accepted standards of the nursing practice and is thus also guilty of unprofessional conduct.”

18. The Hearing Officer’s final recommendation was to continue the suspension and that the suspension of the Applicant’s RN and LPN licenses shall not be lifted at any time prior to May 12, 2017.

19. On or about October 9, 2013, the Delaware Board of Nursing issued an Order (the “2013 Order”), which stated that following:

- i. “The Board is bound by the findings of fact made by the hearing officer. . . . However, the Board may affirm or modify the hearing officer’s conclusions of law and recommended discipline.”
- ii. “The Board deliberated on the hearing officer’s recommended conclusions of law and recommendations on September 11, 2013, and voted to affirm the recommended conclusions of law. However, the Board determined that the recommended discipline must be modified in order to appropriately protect the public. Specifically, [the Applicant’s] prior disciplinary order, that which placed her licenses on suspension, arose from serious acts of deceit.”
- iii. “The May 12, 2011 Board Order was clear that her licenses were suspended, and yet rather than attempt to comply with the terms of the Order, [the Applicant] immediately resumed practicing as a nurse without an active license.”
- iv. The Applicant “has demonstrated that she will not comply with an Order of

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<sup>3</sup> The Recommendation noted that the Applicant married but never officially changed her name from “Maia K. Michael” to “Maia Michael Griffiths” with the Delaware licensing division.

suspension, and the Board cannot adequately protect the public via its regulation of nursing licensees when those licensees demonstrate such repeated disregard for both the law and the rules and orders of this Board. Accordingly, [the Applicant's] licenses to practice nursing must be revoked in order to properly protect the public."

D. 2017 Denial of Reinstatement

20. On or about January 11, 2017, the Delaware Board of Nursing issued an Opinion and Order (the "2017 Order"), which denied the Applicant's applications for reinstatement of her Delaware RN and LPN licenses. The 2017 Order made the following findings:

- i. The Applicant's pardon was "not sufficient to undo the permanent revocation of her nursing licenses" because "the Board did not revoke [the Applicant's] licenses simply because she had been convicted of a crime substantially related to the practice of nursing."
- ii. The Applicant "would have been disciplined by the Board of Nursing in both 2011 and 2013 regardless of whether she was convicted of a crime. In 2011, the Board found that [the Applicant] not only violated 24 *Del. C.* § 1922(a)(2) for being convicted of a crime substantially related to the practice of nursing, but also 24 *Del. C.* § 1922(a)(3) for being unfit to practice nursing by reason of negligence, habits or other causes; and 24 *Del. C.* § 1922(a)(8) for violating Board Regulation 10.4.2.1 in that her behavior failed to conform to the legal and accepted standards of the nursing profession and adversely affected the health and welfare of the public, and Board Regulation 10.4.2.15 for diverting, possessing, obtaining and administering prescription[s] to herself without proper authorization."

21. In furtherance of the investigation, the Board's investigator obtained a public opinion by the Supreme Court of Delaware, in *Michael v. Delaware Bd. of Nursing*, No. 368, 2017, 2018 WL 1020111 (Del. Feb. 22, 2018), which affirmed the decision of the Superior Court<sup>4</sup> upholding the Board of Nursing's decision to deny the Applicant's applications for licensure.

E. Hearing Before the Board:

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<sup>4</sup> The Superior Court of Delaware issued an opinion on September 8, 2017, upon appeal from the 2017 Order. See *Michael v. Delaware Bd. of Nursing*, No. CV N17A-02-003-JRJ, 2017 WL 3980540 (Del. Super. Ct. Sept. 8, 2017), *aff'd*, No. 368, 2017, 2018 WL 1020111 (Del. Feb. 22, 2018).



22. The Applicant admitted all past criminal misconduct.
23. The Applicant currently lives in Delaware. She is enrolled in the school of social work at Delaware State University. She interns in Delaware, but wants to be in Maryland because she found a job here that allows her to help people.
24. The Applicant became tearful during her testimony. She acknowledged her past substance abuse, is not currently in recovery, does not have a recovery plan and did not know her sobriety date.
25. The Applicant does not have a Narcotics Anonymous or Alcoholics Anonymous (“NA/AA”) sponsor and she does not regularly attend NA/AA meetings.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the State proved by a preponderance of the evidence that the Applicant’s conduct as described above constitutes violations of the Act, demonstrating a lack of moral character, and a basis on which to deny the Application.

The Applicant was disciplined by the Delaware Board of Nursing in 2011 and 2013 based on her criminal conviction for obtaining controlled dangerous substances by deception, and her failure to follow the 2011 Delaware Order, which included knowingly and intentionally practicing while her licenses were suspended. The Applicant’s discipline by the Delaware Board of Nursing in 2011 and 2013 constitutes grounds for disciplinary action under this Board's disciplinary statutes. Specifically, Health Occ. § 17-509 (14) being disciplined by a licensing or disciplinary authority of any other state . . . for an act that would be grounds for disciplinary action under the Board's disciplinary statutes; (10) is convicted of . . . 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); (9) knowingly violates any provision of this title; and (11) is professionally, physically, or mentally incompetent.

The Board is not persuaded that the pardoning of the Applicant's criminal conviction in 2015, was a basis to ignore her past licensing history. The purpose of a pardon is not to prohibit all consequences of a pardoned conviction, but rather to preclude future punishment for the conviction. *Nixon*, 506 U.S. 224, 232, 113 S.Ct. 732, 122 L.Ed.2d 1 (1993). The Board, in carrying out its mission to protect the public as well as the integrity and reputation of the profession, must consider the previous licensure actions taken against the Applicant. A pardon does not have the effect of overturning a judgment of conviction by some other tribunal. *Id.* In this case, there was overwhelming and undisputable evidence that the disciplinary actions taken by the Delaware Board of Nursing are, as a matter of law, grounds for discipline in Maryland.

### **ORDER**

In consideration of the foregoing, it is this 16th day of August 2019, on the affirmative vote of a majority the members then serving on the Board of Professional Counselors and Therapists hereby:

**ORDERED** that the Maia Michael's Application for Certification as a CSC-AD is hereby **DENIED**; and it is further

**ORDERED** that this is a Final Order and as such is a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov. §§ 4-101-4-601 (2014 Repl. Vol. & 2017 Supp.).

### **NOTICE OF RIGHT TO APPEAL**

Pursuant to Md. Code Ann., Health Occ. § 17-512(b), the Applicant 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 § 10-222; and Title 7, Chapter 200 of the Maryland Rules of Procedure.

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

Kimberly Link, J.D., 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.

August 16, 2019

Date



Risa L. Ganel, MS, LCMFT  
Board Chair

Maryland State Board of Professional  
Counselors and Therapists