

IN THE MATTER OF
KAREN A. MCFANN

* BEFORE THE MARYLAND STATE
* BOARD OF PROFESSIONAL
* COUNSELORS AND THERAPISTS
*

APPLICANT

* CASE NO.: 2015-49
*

FINAL ORDER

On January 6, 2017, the Maryland State Board of Professional Counselors and Therapists (the "Board") notified KAREN A. MCFANN (the "Applicant") of the Board's intent to deny her "Application for Certification as a Certified Associate Counselor - Alcohol and Drug" (the "Application"), dated August 14, 2014, under the Maryland Professional Counselors and Therapists Act, Md. Code Ann., Health Occ. II ("Health Occ. II") §S 17-101 *et seq.* (2014 Repl. Vol. and 2015 Supp.) and Md. Code Regs. ("COMAR") 10.58.07.08.

Specifically, the Board based its action on the following provisions of the Act and COMAR:

Health Occ. II § 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 ... certificate to any applicant ... if the applicant ...:

- (9) Knowingly violates any provision of this title;
- (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[-]

Health Occ. II § 17-301. Required licensing by Board.

- (a) *In general* Except as otherwise provided in subsection (b) of this section an individual may not practice attempt to practice or offer to practice clinical alcohol and drug counseling ... in the State unless licensed by the Board.
- (b) *Exclusions.* -- Subject to the regulations of the Board, subsection (a) of this

section does not apply to:

- (2) An individual who, in accordance with § 17-406 of this title, is working as a trainee under the supervision of a licensed clinical alcohol and drug counselor or another health care provider licensed or certified under this article and approved by the Board while fulfilling the experiential or course of study requirements under § 17-302 of this subtitle or § 17 403, or § 17-404 of this title.

Health Occ. II § 17-403. Requirements for certified associate counselor - Alcohol and drug.

- (a) *In general.* -- Except as provided in § 17-405 of this subtitle, to qualify as a certified associate counselor - alcohol and drug, an applicant shall:

- (2) Have completed not less than 1 year with a minimum of 2,000 hours of clinically supervised experience in alcohol and drug counseling approved by the Board[.]

Health Occ. II § 17-406. Practicing without license or certification -- Alcohol and drug counselors.

- (b) *Permitted under certain conditions.* --

- (1) An individual may practice clinical alcohol and drug counseling without a license 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 study requirements under §17-302 of this title or § 17 403 or § 17 404 of this subtitle.
- (2) An individual may practice alcohol and drug counseling without a license 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 study requirements under § 17-302 of this title or § 17-403 or § 17-404 of this subtitle.

COMAR 10.58.07.08 Alcohol and Drug Trainees.

- A. Application Process.
- (1) In order to practice as an alcohol and drug trainee, an individual shall:
 - (a) Complete and return the Board application that includes:
 - (i) Information and supporting documentation regarding the Applicants current educational level at the start of the trainee period; and
 - (ii) An attestation specifying the certification or licensure level being sought at the end of the trainee period;
 - (b) Pay the required, non-refundable application fee set forth in COMAR 10.58.02; and
 - (c) Provide the name and credentials of the applicant's prospective supervisor before beginning practice.
 - (2) The Board shall issue a letter to the individual authorizing the individual to practice alcohol and drug counseling as a trainee for 2 years, renewable in 2-year increments to a total of 6 years.
- B. Trainee Practice of Alcohol and Drug Counseling.
- (1) An individual may practice alcohol and drug counseling as a trainee for a maximum of 6 years.
 - (2) After fulfilling the experiential and course study requirements under Regulations .03, .04, .06, or .07 of this chapter, the alcohol and drug trainee, may be eligible to apply for:
 - ...
 - (c) Certified associate counselor -- alcohol and drug (CACAD)[.]

In its Notice, the Board notified the Applicant that she had the opportunity to a hearing on the Board's action by submitting a request in writing to the Board within thirty days of service of the Notice. More than thirty days have elapsed since service of the Notice on the Applicant, and the Applicant has not made a request for a hearing.

FINDINGS OF FACT

The Board makes the following Findings of Fact:

1. The Applicant is not and has never been licensed, certified or approved to practice clinical or nonclinical alcohol and drug counseling in the State of Maryland.

2. By Application, dated August 14, 2014, to the Board, the Applicant applied for a certification as a certified associate counselor, alcohol and drug (CAC-AD).

3. In her Application under "Section II. Supervised Experience in Alcohol and Drug Counseling," the Applicant listed three counseling services ("Facilities A through C")¹ where she was previously employed either as an addiction counselor or as a counselor. The time periods during which she was employed at Facilities A through C are as follows: Facility A - December 2001 to June 2006 (Addiction Counselor) and November 2007 to March 2008 (Addiction Counselor); Facility B - October 2009 to May 2012 (Counselor); and Facility C - April 2012 to August 2014 (Counselor).

4. Attached to her Application was a document entitled "Alcohol and Drug Supervision Verification Form CAC-AD." submitted by a licensed clinical alcohol and drug counselor ("Counselor A"), who certified that the Applicant was employed as an addiction counselor under three different supervisors at Facility A from December 3, 2001, to January 21, 2008, for a total of 5,088 hours.

5. Counselor A further stated in the verification form that the Applicant's job duties included, "Provided Screening, Intake, Orientation, individual, group counseling and education. Provided assessment and diagnostic impression, treatment planning, case management, Consultation and Referral. Crisis Intervention Provided under Supervision. All reports and Record keeping maintained to COMAR Standards. Counselor Participates in family counseling as Applicable. Counselor participates in Supervision per COMAR Standards."

¹ To ensure confidentiality, the names of individuals and health care facilities involved in this case are not disclosed in this document. The Applicant may obtain the identity of all individuals and facilities referenced in this document by contacting the administrative prosecutor.

6. In the course of reviewing the Applicant's Application, the Board's Licensing Unit determined that the Board never approved the Applicant to practice as a trainee in clinical or nonclinical alcohol and drug counseling. As a result, the Board's Licensing Unit referred the Applicant's Application to the Compliance Unit for an investigation.

7. On or about August 18, 2015, a Board investigator interviewed the Applicant at the Board's offices. The Applicant stated during the interview that she started working at Facility A as an addiction counselor from December 2001 to August 2006. She then moved to Minnesota where she obtained a Master of Arts in Addiction Counseling in 2007. In November 2007, the Applicant returned to Maryland and was reemployed at Facility A as an addiction counselor until March 2008. The Applicant stated that in or around 2012 or 2013 she began working on a part-time basis as a DUI counselor at Facility C. The Applicant stated that in or around June 2014 she worked part-time as a counselor at Facility C and as a life skill coach/counselor at another facility, where she is presently employed. The Applicant admitted that during the whole time she was providing alcohol and drug counseling in Maryland, she was not licensed, certified or approved by the Board either as a licensed or certified counselor or as a trainee. The Applicant stated that ever since the Board notified her of its investigation she stopped providing counseling services.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Applicant's actions, including providing addiction counseling and counseling in general in Maryland on and off from in or around 2001 to 2014 without being licensed,

certified or approved by the Board either as a licensed or certified counselor or as a trainee, constitutes the following: knowingly violating any provision of this title, *i.e.* Health Occ. II. §§ 17-301, 17-403 and 17-406, in violation of Health Occ. II § 17-509 (9); violating any rule or regulation adopted by the Board, *i.e.* COMAR 10.58.07.08, in violation of Health Occ. II. § 17-509 (13); and committing an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling, in violation of Health Occ. II § 17-509 (16).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 19th day of April 2019, by a majority vote of the Board considering this case:

ORDERED that the Applicant's Application for Certification as a Certified Associate Counselor - Alcohol and Drug is hereby DENIED; and it is further

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



Risa L. Ganel, MS, LCMFT, 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), 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 11 § 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:

State Board of Professional Counselors and Therapists c/o Kimberly Link, Executive Director
4201 Patterson Avenue Baltimore, Maryland 21215. The Administrative Prosecutor is no longer a party to this case and need not be served or copied.