

IN THE MATTER OF	*	BEFORE THE MARYLAND
DONALD DUANE FLEMMER	*	BOARD OF PROFESSIONAL
(A.K.A. DAVID FLEMMER)	*	
APPLICANT	*	COUNSELORS AND THERAPISTS
LICENSE NO. LC0651	*	CASE NUMBER: 2010-34

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**FINAL ORDER TO DENY APPLICATION FOR LICENSE TO PRACTICE AS A  
LICENSED CLINICAL PROFESSIONAL COUNSELOR**

On June 19, 2012, the Maryland Board of Professional Counselors and Therapists (the "Board") hereby notified **DONALD DUANE FLEMMER (A.K.A. David Flemmer) (the "Applicant") (D.O.B. 12/09/1953)**, of the Board's Intent to Deny his Application for Licensure to practice as a Licensed Clinical Professional Counselor under the Maryland Professional Counselors and Therapists Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") § 17-101 *et seq.* (2009 Repl. Vol. and 2011 Supp.).

The pertinent provisions of the Act are as follows:

**H.O. § 17-301. Certification required.**

(a) Except as otherwise provided in subsection (b) of this section, an individual may not practice, attempt to practice, or offer to practice ... clinical professional counseling in the State unless licensed by the Board.

**H.O. § 17-304. Qualifications---- Clinical professional counselors.**

(a) *In general.* ---Except as provided in § 17-307 of this subtitle, to qualify for a license to practice clinical professional counseling, an applicant shall be an individual who meets the requirements of this section.

(b) *Good moral character*---The applicant shall be of good moral character.

**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, 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;
- (7) Makes a willful misrepresentation while counseling or providing therapy;
- (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;
- (16) Commits an act of immoral or unprofessional conduct in the practice of clinical or nonclinical counseling or therapy;
- (18) Fails to cooperate with a lawful investigation conducted by the Board.

**H.O. § 17-601. Representations to the public; licensed practice.**

Unless an individual is licensed to practice...clinical professional counseling, an individual may not:

- (a) Represent to the public by title, by description of services, methods, or procedures, or otherwise, that the individual is licensed by the Board to provide... clinical professional counseling services in the State;
- (b) Use any title, abbreviation, sign, card, or other representation that the individual is a ... licensed clinical professional counselor; or
- (c) Use the title ... "L.C.P.C." or the words ... "licensed clinical professional counselor" with the intent to represent that the individual practices... clinical professional counseling.

The Code of Ethics adopted by the Board states in pertinent part:

**COMAR 10.58.03.04**

.04 Ethical Responsibility

A. A counselor shall:

- (2) Take credit only for professional work actually performed;
- (11) Be familiar with and adhere to this chapter;
- (13) Cooperate with investigations, proceedings, and other requirements of the Board

B. A counselor may not:

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

**COMAR 10.58.03.07**

.07 Advertising, Public Statements, and Media Presentations.

A. Advertising.

(2) In placing advertisements or making other types of public statements, a counselor shall identify a counselor's credentials in a manner that is accurate and not false, misleading, deceptive, or fraudulent.

(3) A counselor may not place advertisements or make public statements that:

(a) Contain false, fraudulent, misleading, deceptive, or unfair statements or information;

(b) Contain partial disclosures of relevant facts that misrepresent, mislead, or deceive.

(d) Misrepresent, either directly or by implication, a counselor's professional qualifications such as education, experience, or areas of competence.

(f) Contain representations or implications that in reasonable probability can be expected to cause an ordinary prudent person to misunderstand or be deceived.

(4) If advertising on the internet, a counselor shall ensure that the advertisement contains the counselor's name, credentials, and certificate or license number.

(6) A counselor holding a doctoral degree in a field other than counseling may not represent that doctoral degree as relating to status or practice as a counselor.

In its Notice, the Board notified the Applicant that he had the opportunity to request a hearing on the Board's Notice of Intent to Deny by submitting a request in writing to the Board within **thirty (30) 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 written request for a hearing. The Board, therefore, issues this Final Order denying the application.

### **FINDINGS OF FACT**<sup>1</sup>

The Board denies the Applicants Application for licensure based on the following:

#### **I. BACKGROUND**

1. The Applicant was initially certified by the Board<sup>2</sup> as a Certified Professional Counselor ("CPC") under Certification No. 001698. That certification expired on October 31, 1999.

2. Following a legislative amendment requiring licensure, the Applicant<sup>3</sup> applied for and was granted a license to practice as a Licensed Clinical Professional

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<sup>1</sup>The Statements made herein with respect to the Applicant's conduct are intended to provide the Applicant with notice. 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 Applicant in connection with this Notice.

<sup>2</sup> At the time of the Applicant's certification in 1999, the licensing organization was known as the Board of Examiners of Professional Counseling. After a legislative change, the restructured organization became the Maryland Board of Professional Counselors and Therapists.

<sup>3</sup> The Applicant used his alias "David Flemmer" when applying for his initial LCPC licensure and again on his current Application for Reinstatement.

Counselor ("LCPC") under License Number LC0651. That license expired on December 31, 2000.

3. The Applicant's license to practice as an LCPC lapsed between January 1, 2001 and December 31, 2004 based on his failure to file a timely renewal application.

4. In or around November-December 2004, the Applicant filed an application for reinstatement of his license to practice as a LCPC. On December 31, 2004, the Applicant's license was reinstated. That license expired on December 31, 2006.

5. The Applicant filed a timely renewal prior to December 31, 2006. He was granted a two year renewal with a new expiration date of December 31, 2008.

6. The Applicant failed to renew his license prior to December 31, 2008 and has not held a valid license to practice as an LCPC since January 1, 2009.

7. The Applicant has never been issued a valid license to practice as a psychologist by the Maryland Board of Examiners of Psychologists ("Board of Psychology").

### **THE COMPLAINT**

8. On or about December 17, 2010, the Board received a complaint ("Psychology complaint") from the Maryland State Board of Examiners of Psychologists ("the Board of Psychology") alleging that the Applicant submitted forged documents to a prospective employer, misrepresenting himself as a licensed psychologist in the State of Maryland. Shortly thereafter on or about January 3, 2011, the Board of Psychology provided the Board with a copy of its investigative file.

9. The Psychology complaint and supporting documentation alleged that on or about October 12, 2010, a medical credentialing specialist representing a third party

employer ("Employer A") contacted the Board of Psychology to verify Applicant's licensure as a psychologist in the State of Maryland. Employer A, a health care facility in North Dakota, had recently hired the Applicant as a licensed clinical psychologist serving in the role of the Director of Behavioral Health.

10. Employer A requested verification of an unsigned letter dated July 12, 2010 purportedly authored by an agent of the Board of Psychology. The letter allegedly confirmed that since 1998, the Applicant had maintained a license, in good standing, as a psychologist in the State of Maryland. After checking its records, the Board of Psychology notified Employer A that the Applicant had never been issued a license to practice psychology in the State of Maryland.

11. On about November 3, 2010, the Board of Psychology received a complaint ("Complaint 1") from Employer A. Complaint 1 alleged that the Applicant submitted a job application wherein he fraudulently misrepresented himself as a licensed psychologist in the State of Maryland. Employer A expressed concern that the Applicant held no such license and had misrepresented his credentials on his curriculum vitae.

12. The Psychology complaint further alleged that on or about October 20, 2010, the Board of Psychology received a second complaint ("Complaint 2") concerning the Applicant from a hospital in Baltimore County, Maryland ("Hospital A"). An employee of Hospital A stated that she had received a verification request from Employer A regarding the Applicant's alleged completion of a psychology internship at Hospital A in 1993-1994. After checking Hospital's A records, Hospital A discovered that the Applicant had never been enrolled in an internship program at Hospital A and had misrepresented

his training during the interview process with Employer A. Complaint 2 further referenced a website on which Applicant referred to himself as psychologist from Bethesda, Maryland, noting that the Applicant was holding himself out to the public as a licensed psychologist.

13. The Board of Psychology initiated an investigation that revealed that the Applicant had misrepresented himself on numerous occasions as a licensed psychologist in the State of Maryland.

14. During the course of its investigation, the Board of Psychology discovered that the Applicant had previously been issued a license to practice as a LCPC under the same license number (License # 06510) referenced on the fraudulent letter submitted to Employer A. The Board of Psychology found that although the Applicant's LCPC license had expired on December 31, 2008, he had utilized that license number to create fraudulent documents claiming a valid Maryland psychology license.

15. On or about May 2, 2011, the Board of Psychology sent Applicant a "Cease and Desist" letter advising him that he was... "practicing psychology without a license and misrepresenting [himself] to the public and prospective employers, as being authorized to practice psychology in Maryland". The Board of Psychology instructed him to immediately cease and desist the practice of psychology and any and all misrepresentations claiming such licensure.

## **II. BOARD INVESTIGATION**

16. On or about October 12, 2010, the Board received the Applicant's Application for a license to practice as an LCPC ("the Application").

17. In his Application, the Applicant answered “no” when queried as to whether he had “surrendered or failed to renew a license in any State.”

18. Noting that the Applicant had not held a valid license to practice as an LCPC since January 1, 2009, the Board began a review of the Applicant’s Application.

19. During the Board’s review, it received information from the Board of Psychology regarding the Applicant’s alleged misrepresentations of his qualifications as a licensed psychologist.

20. In late December 2010, the Board notified the Applicant that he was under investigation and requested a response to the allegations.

21. On or about January 3, 2011, the Applicant submitted a response to the Board’s request attaching copies of various documents including degrees, certifications, multiple curriculum vitae (“C.V.s”) and expired licenses.

22. The Board’s investigation confirmed that in an application for employment with Employer A for a position as a psychologist in the State of North Dakota, the Applicant submitted a C.V. stating that he was a “Maryland Licensed Psychologist”, an “Accomplished clinical psychologist” and a “clinical psychologist” with the District of Columbia Public Schools. The Applicant also claimed to have an “ongoing private practice in clinical psychology.”

23. During his interview with Employer A, the Applicant also produced fraudulent licenses (wall and wallet size) purportedly issued by the Board of Psychology. The Board’s investigation revealed that the forged licenses...“format is similar to, but not actually a license” and that...“the wall certificate’s Chair and Vice Chair signatures were those of actual persons... that left the Board of Psychologists during 2005.” The Board’s

investigator also found that the documents cited License Number 06510 (identical to Applicant's expired license as a Clinical Professional Counselor) and claimed an expiration date of December 31, 2010.

24. The Board's investigation also corroborated the allegations that Applicant had submitted to Employer A a forged letter purportedly created by the Board of Psychology verifying that the Applicant had continuously held a psychology license since 1998.

25. On or about January 20, 2011, investigators from both the Board and the Board of Psychology jointly interviewed the Applicant. During that interview, the Applicant stated under oath that he was a Licensed Clinical Professional Counselor, despite the fact that his LCPC license had expired on December 31, 2008. He admitted, however, that he was not a licensed psychologist and ... "shouldn't have put that on [his C.V.]" claiming that that he had his C.V. created by a third party and had not reviewed it thoroughly enough.

26. The Board confirmed that in a personal account profile published on a website through which Applicant marketed his published materials, Applicant described himself as a "psychologist" from Bethesda, MD.

27. Although the Applicant's LCPC license expired on December 31, 2000, for a period of four (4) years and then again on December 31, 2008, he stated, under oath, that during that entire period of time, he was employed as a school psychologist and maintained an "ongoing private practice" providing "neuropsychological testing" using "complex assessments...to determine LD and ADHD." The Applicant explained that his "ongoing" private practice included performing "psychological assessments and

therapeutic interventions for over 150,000 children and adolescents”, claiming that he “worked under the rubric of being a school psychologist and consider[ed] that to be, you know, adequate training.”

28. The Applicant claimed that his certification by the public school system as a school psychologist allowed him to work for the county school system without the Board’s licensure. He further claimed that his private practice, which included psychological testing and assessment of children, required no LCPC license.

29. When questioned, the Applicant denied applying for a position and/or working as a psychologist for Employer A in North Dakota, feigning confusion and surprise at such an assertion. The Applicant had no explanation as to how Employer A had obtained forged psychology licensing documents with his name and expired LCPC number or why Employer A claimed that he had been hired as Director of Behavioral Health for its North Dakota facility. The Applicant stated under oath that...“I didn’t falsify those documents and send them to North Dakota...I didn’t do that. I will deny that emphatically.”

30. Subsequent to the interview, however, Employer A verified that the Applicant had not only applied for the position but had been hired by Employer A, posing as a licensed psychologist for two weeks prior to the discovery of the Applicant’s forged credentials.

31. With respect to the Applicant’s education, he misrepresented on his C.V. successful completion of an accredited doctorate program in the field of psychology falsely using the designations “Psy.D.” and “Ph.D.” after his name. The Board’s investigation revealed that the Applicant relied on a “Doctor of Professional Psychology”

and a “Doctorate of Philosophy in Pastoral Psychology” degree obtained from an online non-accredited theological graduate program (“the graduate program”) to bolster his credentials. The Applicant misrepresented the graduate program’s affiliation with an accredited university (“University A”) in Indiana. Aside from geographic proximity, the Board’s found that no affiliation or link existed between the University A and the graduate program.

32. On or about February 1, 2011, the Board learned that the graduate program from which the Applicant claimed two doctorate degrees was not “accredited by any agency recognized by the U.S. Secretary of Education.”

33. The Applicant also represented on his C.V. successful completion of a “Psychology Internship” at Hospital A. The Applicant made the same claim in both his interview for employment with Employer A and his interview with the Board on January 20, 2011. The Board’s investigation revealed that the Applicant had not completed an internship at Hospital A nor at any other accredited health care facility.

34. Finally the Applicant claimed recognition by several national counseling and therapy boards as both a “fellow” and “Diplomate”. During his interview with the Board, the Applicant admitted that those recognitions and certifications had expired years before.

#### **IV. SUMMARY OF FINDINGS**

35. The Applicant misrepresented his experience, education, credentials and licensure to the general public, employers and prospective employers. He held himself out as a licensed psychologist by fabricating and publishing biographical data on a website, his C.V.s and other materials. He created a fraudulent psychology license

utilizing an expired LCPC license number and forged the signatures of real persons who had previously served as Board members for the Board of Psychology. He practiced as an unlicensed LCPC, providing psychological assessment, testing, counseling and therapy, both as a school psychologist and in private practice. He failed to cooperate with the Board, consistently making false and misleading statements regarding his professional qualifications, academic achievements, and employment history. The Applicant emphatically denied employment with Employer A despite incontrovertible proof to the contrary.

36. The Respondent's actions, as set forth above indicate that that the Applicant lacks good moral character and are in violation of: H.O. §§ 17-301 (a); 17-304 (a) and (b); 17-509 (1),(6),(7),(8),(9),(13),(16),(18); 17-601(a),(b) and (c); and COMAR tit. 10 §§ 58.03.04A(2),(11) and (13) and B(2); and 58.03.07A (2);(3)(a),(b),(d),(f);(4); and (6). These violations constitute grounds for denial of the Applicant's Application for Reinstatement of License to practice as a Licensed Clinical Professional Counselor.

### **CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Applicant fails to meet the requirements for licensure under H.O. § 17-304 (2009 Repl. Vol. and 2011 Supp.) which provides that the applicant shall be of good moral character. The Board also concludes as a matter of law that the Applicant is in violation of H.O. §§ 17-301(a); 17-509(1),(6),(7),(8),(9),(13),(16),(18); 17-601(a),(b) and (c); and COMAR tit. 10 §§ 58.03.04A(2),(11) and (13) and B(2); and 58.03.07A

(2);(3)(a),(b),(d),(f);(4); and (6). These violations constitute grounds for denial of the Applicant's Application for Licensure to Practice as a Licensed Clinical Professional Counselor.

**ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 17<sup>th</sup> day of AUGUST 2012, the Board, by a majority of the quorum of the Board, hereby

**ORDERED** that the Applicant's Application for licensure to practice as a licensed clinical professional counselor in the State of Maryland is hereby **DENIED**; and it is further

**ORDERED** that for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (2009 Repl. Vol. and 2011 Supp.), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Order, and is reportable to any entity to whom the Board is obligated to report; and it is further

**ORDERED** that this Order is a **PUBLIC DOCUMENT** pursuant to Md. State Govt. Code Ann. §§ 10-601 *et seq.* (2009 Repl. Vol. and 2011 Supp.).

8/17/12  
Date

Richard M. Hann  
Richard Hann, LCPC, Board Chair  
Maryland State Board of Professional  
Counselors and Therapists