



STATE OF MARYLAND

DHMH

Board of Professional Counselors and Therapists

Maryland Department of Health and Mental Hygiene

4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Martin O'Malley, Governor – Anthony G. Brown, Lt. Governor – John M. Colmers, Secretary

November 21, 2007

VIA FIRST CLASS MAIL

Edwin B. Fuller
6920 Terrace Place
Annandale, Virginia 22003

**RE: Final Decision and Order
Case Number 2004-02**

Dear Mr. Fuller

Enclosed, please find the Final Decision and Order on your application for Licensure. The Board of Professional Counselors and Therapists signed the Order on November 16, 2007.

Sincerely,

Aileen Taylor
Executive Director

Cc: Noreen Rubin, Board Counsel
Sherrai Hamm, Assistant Attorney General, Administrative Prosecutor
Timothy J. Paulus, Deputy Counsel

IN THE MATTER OF
EDWIN B. FULLER
Applicant

*** BEFORE THE MARYLAND**
*** STATE BOARD OF PROFESSIONAL**
*** COUNSELORS AND THERAPISTS**
*** Case Number: 2004-02**

*** * * * ***
FINAL DECISION AND ORDER ON APPLICATION FOR LICENSURE

INTRODUCTION

In January, 2006, the Maryland State Board of Professional Counselors and Therapists (the "Board") revoked the alcohol and drug certification of Edwin Fuller ¹ after an evidentiary hearing under the Administrative Procedure Act. The Board concluded that Mr. Fuller jeopardized the mental health interests and welfare of two female patients being treated for alcohol and drug addiction, in violation of the Maryland Professional Counselors and Therapists Act (the "Act") and ethical regulations, while employed as a certified supervised alcohol and drug counselor ("CSC-AD") at a residential addictions treatment facility in Westminster, Maryland in 2003. ²

Specifically, the Board found that Mr. Fuller attempted dual relationships with, and engaged in sexual harassment of and sexual misconduct with these two patients. Mr. Fuller: (1) asked one female patient to kiss him and had her sit on his lap; (2) told another female patient that he thought he could be the man to satisfy her sexually during her recovery; (3) put his arms around this patient and tried to kiss her as she resisted, during a discussion about her recovery in his office; (4) touched her face, stroked her cheek, told her she was pretty, and again tried to kiss her; (5) asked her for

¹ Mr. Fuller was originally certified by the Board as an alcohol and drug counselor in 2002.

² The Board incorporates by reference its Final Decision and Order dated January 9, 2006, (Attachment A) into this Final Decision and Order on Mr. Fuller's application for licensure.

a hug goodbye on his last day working at the treatment facility; (6) nestled his face in her neck when she agreed to hug him and said "you won't give me a kiss, will you?" This evidence was unrefuted by Mr. Fuller who failed to appear in person or through counsel at a case resolution conference, a pre-hearing conference, or at the evidentiary hearing before the Board.³

In revoking Mr. Fuller's alcohol and drug certificate, the Board concluded that he violated Md. Health Occ. Code Ann. §17-313 (4) and (9), COMAR 10.58.03.05 A (2) and B (1), and COMAR 10.58.03.09 A and E, by attempting dual relationships with these female patients, engaging in sexual harassment of and sexual misconduct with them, and jeopardizing their mental health interests and welfare.

PROCEDURAL HISTORY

Prior to the Board's revocation of his alcohol and drug certificate, Mr. Fuller also applied to the Board for a license to practice clinical professional counseling. In addition to educational and examination qualifications, the Act requires that all applicants for licensure be of good moral character. Md. Health Occ. Code Ann. § 17-3A-02(b). The Board issued a Notice of Intent to Deny Mr. Fuller's application based on his violations of the Act in 2003 and thus his failure to meet the requirement of good moral character. Mr. Fuller requested an evidentiary hearing on the Board's intent to deny his application for licensure as a clinical professional counselor, and appeared before the Board on his own behalf at the hearing in May, 2007.

³ Prior to Mr. Fuller's previous evidentiary hearing, the Board sent written notification of the charges and the dates of disciplinary proceedings to his addresses of record in Baltimore, Maryland and in Annandale, Virginia by certified and regular mail. The Board's notification documents to Mr. Fuller were not returned as undeliverable by the United States Postal Service. On April 4, 2005, the Administrative Prosecutor also notified Mr. Fuller of the date of the evidentiary hearing by telephone, and Mr. Fuller indicated his intention to obtain legal counsel and appear at the hearing.

EVALUATION OF THE EVIDENCE

As the applicant in this case, Mr. Fuller had the burden of demonstrating his eligibility and fitness for licensure as a licensed clinical professional counselor ("LCPC"). It was undisputed that Mr. Fuller met the educational and examination requirements for licensure. The State submitted into evidence Mr. Fuller's application for licensure as an LCPC as well as the Board's previous charges, previous Final Decision and Order, and the documentary exhibits admitted into evidence during Mr. Fuller's prior evidentiary hearing. The State did not present any witness testimony. Mr. Fuller did not request admission of any documents into evidence, or present any witness testimony, but testified regarding his failure to appear at the Board's previous hearing on the charges of sexual misconduct.

Mr. Fuller also denied engaging in sexual misconduct or violating the Board's rules or regulations. Mr. Fuller acknowledged that he had "received papers for a hearing which [he] did not attend." He also stated that "[he] believed naively that this was not a problem" and "that was foolish on his part." In response to questions from Board members, Mr. Fuller stated that he "misconstrued . . . the impact of losing his [alcohol and drug] certification" and "believed falsely that losing [it] would not affect his licensure [application]." Mr. Fuller also noted that the Board's revocation of his alcohol and drug certificate had a negative ripple effect on his license in other states. With respect to the prior case before the Board, Mr. Fuller said that he was "sorry that he did not fully address it as it should have been." (T. 7-29)

FINDINGS OF FACT

Having considered the entire record, including the documents presented by the State at the hearing, and the arguments of the Administrative Prosecutor and Mr. Fuller, the Board finds that Mr. Fuller has failed to meet his burden to demonstrate good moral character. The Board adopts the findings of fact and conclusions of law as set forth in the January 9, 2006 Final Decision and Order. (The Board's Final Decision and Order dated January 9, 2006 is incorporated into this decision and attached as Attachment A). As a result of Mr. Fuller's previous violations of the Professional Counselors and Therapists' Act, Mr. Fuller does not meet the good moral character requirements for licensure as an LCPC.

CONCLUSIONS OF LAW

Based on his failure to meet the good moral character provisions of the Professional Counselors and Therapists' Act, as required by Md. Health Occ. Code Ann. § 17-3A-02(b), the Board concludes that Mr. Fuller is not qualified to be licensed by the Board as an LCPC.

ORDER

It is this 16 day of November, 2007, by a majority of the members of the Board:

ORDERED that the Board's Notice of Intent to Deny Application for a License to Practice Clinical Professional Counseling to Edwin B. Fuller, under Md. Health Occ. Code Ann. § 17-3A-02(b) be **UPHELD**; and it is further

ORDERED that the Application for a License to Practice Clinical Professional Counseling of Edwin B. Fuller, be **DENIED**; and it is further

ORDERED that the Board will not accept any further applications whatsoever for licensure or certification from Edwin B. Fuller earlier than **THREE (3) YEARS** from the date of this Final Decision and Order on Application for Licensure as a Clinical Professional Counselor; and it is further

ORDERED that upon any future application for licensure or certification, Mr. Fuller shall have the burden of demonstrating to the Board that he meets the requirements of good moral character; and it is further

ORDERED that this Final Decision and Order on Application for Licensure as a Clinical Professional Counselor is a **PUBLIC** document under Md. State Gov't Code Ann. §§ 10-611 *et seq.* (2004 Repl. Vol.).

November 16, 2007
Date

Joanne Faber, LCPC, Chair
Joanne Faber, M.Ed., LCPC, Chair
Maryland State Board of Professional
Counselors and Therapists

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 17-315, Mr. Fuller has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann., § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Mr. Fuller files an appeal, the Board is a party and must be served with the court's process. In addition, Mr. Fuller is requested to send a copy to the Board's counsel, Noreen M. Rubin, Esq., at the Office of the Attorney General, 300 W. Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is no longer a party to these proceedings at this point and need not be served or copied.



STATE OF MARYLAND

DHMH

Board of Professional Counselors and Therapists

Maryland Department of Health and Mental Hygiene
4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – S. Anthony McCann, Secretary

January 10, 2006

VIA CERTIFIED MAIL
Return Receipt Requested

Attachment A

Mr. Edwin Fuller
6920 Terrace Place
Annandale, Virginia 22003

Mr. James C. Anagnos
Assistant Attorney General, Administrative Prosecutor
Office of the attorney General
300 W. Preston Street
Baltimore, Maryland 21201

RE: Edwin Fuller, CSC-AD

Dear Counsel:

Enclosed please find the Board of Professional Counselors and Therapists Final Decision and Order in the above-referenced case.

Sincerely,

Aileen Taylor
Administrator
Board of Professional Counselors and Therapists

Enclosure

Cc: Joanne Faber, LCPC
Noreen Rubin, Board Counsel
Timothy J. Paulus, Assistant Attorney General, Deputy Counsel
Edwin Fuller, CSC-AD, Respondent

IN THE MATTER OF
EDWIN FULLER, CSC-AD
Certificate No. SC1023
Respondent

* BEFORE THE MARYLAND
* STATE BOARD OF PROFESSIONAL
* COUNSELORS AND THERAPISTS
* Case Number: 3412

* * * * *

FINAL DECISION AND ORDER

PROCEDURAL HISTORY

On December 3, 2004, the Maryland State Board of Professional Counselors and Therapists (the "Board") charged Edwin Fuller, a certified supervised counselor-Alcohol and Drug ("CSC-AD"), with violating certain provisions of the Maryland Professional Counselors and Therapists Act, Md. Code Ann., Health Occupations ("HO") § 17-101 et seq., (Repl. Vol. 2000). Based on its investigation of complaints received from two female patients at the Shoemaker Center, a residential addictions treatment facility run by the Carroll County Health Department in Westminster, Maryland, the Board issued the charges pursuant to its authority under HO § 17-313 which provides:

Subject to the hearing provisions of § 17-314 of this subtitle, the Board, on an affirmative vote of a majority of its members then serving, may deny a license to any applicant, place any certificate holder on probation, reprimand any certificate holder, or suspend or revoke a certificate of any certificate holder if the applicant or certificate holder:

(4) Violates the code of ethics adopted by the Board; [or]

(9) Violates any rule or regulation adopted by the Board.

Md. Health Occ. Code Ann. § 17-313 (2000 Repl. Vol.).

The Board also charged Mr. Fuller with violating the Code of Ethics, Code Md. Regs. ("COMAR") tit. 10, § 10.58.03 as follows:

05. The Counseling Relationship

A. Client Welfare and Rights.

(2) A counselor may not:

(a) Place or participate in placing clients in positions that may result in damaging the interests and the welfare of clients, employees, employers, or the public[;]

B. Dual relationships.

(1) A counselor shall:

(a) Avoid dual relationships with clients[;]

09. Sexual Misconduct

A. A counselor may not engage in sexual misconduct with a client or supervisee. Sexual misconduct includes but is not limited to:

(1) Inappropriate sexual language;

(2) Sexual exploitation;

(3) Sexual harassment;[and]

(4) Sexual behavior[;]

E. Sexual Harassment.

(1) A counselor may not sexually harass a:

(a) A client[;]

In accordance with its regulations, the Board sent written notification of the charges and the dates of disciplinary proceedings to Mr. Fullers' addresses of record in Baltimore, Maryland and in Annandale, Virginia by certified and regular mail. In these documents, the Board notified Mr. Fuller that: (1) an evidentiary hearing before the Board was scheduled for June 17, 2005; (2) a Case Resolution Conference or settlement conference was scheduled for March 18, 2005 at the Board's office; and (3) a telephonic prehearing conference would be held on May 24, 2005. In addition, the Board strongly urged Mr. Fuller to retain private counsel to represent him at each of

these conferences and at the hearing before the Board. The Board also informed Mr. Fuller that the Board was authorized to hear and determine the matter in the event he failed to appear at the hearing.

The Board's notification documents to Mr. Fuller were not returned as undeliverable by the United States Postal Service. Mr. Fuller made no request to the Board for a postponement of the case resolution conference, the pre-hearing conference or the evidentiary hearing.

On March 18, 2005, a case resolution conference was convened as scheduled. James Anagnos, Assistant Attorney General and Administrative Prosecutor for the State, appeared on behalf of the State. Neither Mr. Fuller nor anyone authorized to represent Mr. Fuller appeared for the case resolution conference.

Pursuant to HO § 17-314 and the Administrative Procedure Act, Md. Code Ann., State Gov't ("SG") § 10-201 *et seq.*, the Board conducted a contested case hearing as scheduled on June 17, 2005. The Administrative Prosecutor appeared on behalf of the State. Neither Mr. Fuller nor anyone authorized to represent Mr. Fuller appeared at the evidentiary hearing.

SUMMARY OF EVIDENCE

A. Documents

The State submitted the following exhibits, which were admitted into evidence:

State's Exhibits 1-4

State's Exhibit 1A: Charges Under the Maryland Professional Counselors and Therapists Act with cover letter, issued December 3, 2004, to Mr. Fullers' address of record in Baltimore, Maryland, by regular and certified mail, return receipt requested.

State's Exhibit 1B: Charges Under the Maryland Professional Counselors and Therapists Act with cover letter, issued December 3, 2004, to Mr.

Fuller's address of record in Annandale, Virginia, by regular and certified mail, return receipt requested.

State's Exhibit 1C: Note of written telephone message received from Edwin Fuller to the Administrative Prosecutor on April 4, 2005 at 12:09 p.m.

State's Exhibit 2: Complaint from Patient A,¹ dated Nov. 12, 2003.

State's Exhibit 3: Complaint from Patient B, dated Nov. 18, 2003.

State's Exhibit 4: Transcript of Interview with Edwin Fuller, held on April 28, 2004.

B. Witness Testimony

Four witnesses testified on behalf of the State: Ms. Aileen Taylor, Executive Director for the Board, Mr. Howard (Rick) Kenney, Board Investigator, Ms. Winnie Koontz, Homeless Project Coordinator and Acting Clinical Director for the Women's Program at Shoemaker Center, and Patient B. Mr. Fuller failed to appear for the hearing or submit any documents into evidence. No attorney appeared on Mr. Fuller's behalf.

Evaluation of the Evidence

The Professional Counselors and Therapists Act specifically authorizes disciplinary hearings to proceed *ex parte* when a licensee or certificate holder is duly notified of a proceeding but fails to attend. The relevant portion of the statute provides as follows:

If after due notice the individual against the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

Md. Health Occ. Code Ann. § 17-314(f).

The documents and testimony presented by the State at the hearing showed that Mr. Fuller was certified to practice as a CSC-AD and employed at the Shoemaker

¹ For purposes of confidentiality, the two patients involved in this case are referred to as Patient A and Patient B throughout this Final Decision and Order.

addictions treatment center from May 14 through November 12, 2003. (St. Exhs. 2, 3 and 4; T. 17-27; 37-38)

Testimony by Winnie Koontz at the hearing confirmed that Mr. Fuller was hired to provide individual and group counseling to inpatients at Shoemaker, including Patients A and B (T.18); and that the facility fired Mr. Fuller at the end of his probationary period for his failure to meet supervisory expectations in performing his assignments and for numerous other violations of the center's employment policies. (T. 24). Ms. Koontz also testified regarding the complaint by Patient A² as follows:

On November 12, 2003, at approximately 8:30 p.m., Patient A asked Mr. Fuller if she could use the telephone in his office. Mr. Fuller asked Patient A what he "would get out of it." Patient A thought Mr. Fuller was joking, so she said, "what do you want to get out of it"? Mr. Fuller answered, "a kiss," and Patient A said, "no." Mr. Fuller then asked Patient A to "sit on my lap while you make the phone call." Patient A sat on Mr. Fuller's knee and there was a knock on the door. Patient A jumped, Mr. Fuller opened the door and left the office. Patient A then placed her telephone call. (St. Exh. 2; T. 19, 22-23)

In her complaint to the Board, Patient A also stated that Mr. Fuller asked and Patient A agreed to allow him to take her picture on October 31, 2003. (St. Exh. 2) In an interview with the Board's investigator on April 28, 2004, Mr. Fuller conceded that he photographed some of the female patients at a Halloween party. (St. Exh. 4, pp. 6-8, 13) Ms. Koontz explained that in photographing Patient A and several other patients at Shoemaker without obtaining signed releases from the patients, and later taking the

² In her capacity as Acting Clinical Director for the women's program at the Shoemaker center, Ms. Koontz investigated the allegations made by Patients A and B against Mr. Fuller and documented Patient A's account of Mr. Fuller's conduct. (St. Exh. 2; T. 22)

photos off site, Mr. Fuller violated the privacy of these alcohol and drug patients and breached the center's confidentiality policies. (T. 25)

Patient B testified that in November, 2003, Mr. Fuller requested that she come into his office to discuss what she would do after she left the Shoemaker center. (St. Exh. 3;T. 32) During their conversation, Mr. Fuller commented that he thought he could be the right man sexually to help Patient B in her recovery. (St. Exh. 3;T. 33) As she walked to the door, Mr. Fuller turned Patient B around and put his arms around her while attempting to kiss her. Patient B resisted Mr. Fuller's advances. (*Id.*) Mr. Fuller then touched Patient B's face, told her she was pretty, and tried to kiss her again. (*Id.*) Patient B said that she could not, and he stopped. (*Id.*)

On Mr. Fuller's last day of employment at the Shoemaker Center, he again asked Patient B to come into his office to discuss her recovery. (St. Exh. 3; T. 34) As she got up to leave, Mr. Fuller asked her for a hug good bye and she agreed. (T. 34) Mr. Fuller then nestled his face in her neck and said, "you won't give me a kiss, will you"? Patient B declined and walked out of Mr. Fuller's office. (T. 34-35) According to Patient B, Mr. Fuller called other female patients into his office continuously on his last day at the center, and attempted similar sexual interactions with them. (T. 35-36) During his interview with the Board investigator, Mr. Fuller admitted that he "hug[s] all these girls", but denied any sexual misconduct on his part. (St. Exh. 4, pp. 9-13)

The State presented evidence that Mr. Fuller was duly notified of the charges, and of the dates of the case resolution conference, the pre-hearing conference and the evidentiary hearing before the Board. (St. Exh. 1A, 1B; T. 11-13) The Board also had before it evidence that on April 4, 2005, at 12:09 p.m., Mr. Fuller telephoned the office of the Administrative Prosecutor with information that he (Mr. Fuller) had been unable to

attend the case resolution conference. (St. Exh. 1C; T. 16) Mr. Fuller requested guidance on "what to do" at that point. (*Id.*) In a return telephone call, the Administrative Prosecutor pointed out to Mr. Fuller that an evidentiary hearing was scheduled for June 17. (T. 16) Mr. Fuller stated that he intended to obtain legal counsel and appear at the hearing. (*Id.*) No attorney contacted the Administrative Prosecutor on Mr. Fuller's behalf, however. (*Id.*) Moreover, Mr. Fuller failed to appear at the evidentiary hearing, or otherwise refute the evidence and witness testimony presented by the State.

FINDINGS OF FACT

Having considered the entire record, the documentary and testimonial evidence presented by the State at the hearing, and the arguments of the Administrative Prosecutor, the Board finds the following facts by a preponderance of the evidence:

1. At all times relevant to the charges in this case, Mr. Fuller was certified to practice as a certified supervised counselor – alcohol and drug ("CSC-AD") in the state of Maryland. (St. Exh. 4, p. 3) Mr. Fuller was originally certified in Maryland under certificate number SC1023 on April 12, 2002.
2. At all times relevant to the Board's charges, Mr. Fuller was employed by the Carroll County Health Department. During his employment from May 14, 2003, until November 12, 2003, Mr. Fuller was assigned to the Shoemaker Center, a residential addictions treatment facility in Westminster, Maryland. (St. Exhs. 2, 3 and 4)
3. On or about November 19-21, 2003, the Board received complaints filed by Patients A and B, two resident female patients at Shoemaker, and several employees regarding Mr. Fuller's conduct while he was employed at the center. (St. Exhs. 2 and 3)

Patient A

4. Mr. Fuller took photographs of Patient A and other female patients at the Shoemaker Center on October 31, 2003, in breach of their privacy and in violation of the center's confidentiality policies relating to alcohol and drug patients. (St. Exhs. 2 and 4; T. 25-26)

5. On November 12, 2003, when Patient A asked Mr. Fuller to use his office to make a phone call, Mr. Fuller asked Patient A to kiss him. When she refused to kiss him, Mr. Fuller asked her to sit on his lap while she made the phone call, and Patient A did so. (St. Exh. 2)

Patient B

6. In November, 2003, while Patient B was being treated for alcohol and drug addiction at the Shoemaker Center, Mr. Fuller called her into his office to discuss her plans following her rehabilitation. (St. Exh. 3; T. 31-32)

7. During their discussion, Mr. Fuller commented that he thought he could be the man to satisfy Patient B sexually during her recovery. (St. Exh. 3; T. 33)

8. At the end of the discussion, as Patient B began to leave Mr. Fuller's office, Mr. Fuller turned Patient B around and put his arms around her while attempting to kiss her as she resisted. (*Id.*)

9. Mr. Fuller then touched Patient B's face, stroking her cheek, saying, "you're so pretty." Mr. Fuller again attempted to kiss Patient B; she said that she could not, and he stopped. (St. Exh. 3; T. 33-34)

10. On Mr. Fuller's last day of employment at the Shoemaker Center, he again asked Patient B to come into his office to discuss her recovery. (St. Exh. 3; T. 34)

11. When Patient B got up to leave the office, Mr. Fuller asked her for a hug goodbye. She agreed and he nestled his face in her neck and said, "you won't give me a kiss, will you"? Patient B declined and walked out of Mr. Fuller's office. (St. Exh. 3; T. 34-35)

12. In an interview with the Board investigator, Mr. Fuller acknowledged that he took pictures of all the female patients during a Halloween party. (St. Exh. 4, pp. 6-8, 13) Mr. Fuller also stated: "I hug all these girls." (*Id.*, p. 9)

13. The Board duly notified Mr. Fuller of the Board's charges against him, and of the dates of the case resolution conference, the pre-hearing conference and the evidentiary hearing before the Board. (St. Exh. 1A, 1B; T. 11-13)

14. During a telephone call he made to the office of the Administrative Prosecutor on April 4, 2005 at 12:09 p.m., Mr. Fuller stated that he had been unable to come to the case resolution conference, and requested guidance on "what to do." (St. Exh. 1C) In a return telephone call, the Administrative Prosecutor pointed out to Mr. Fuller the date of the evidentiary hearing on June 17, 2005, and Mr. Fuller indicated his intention to obtain legal counsel and appear at the hearing. (T.16)

15. Mr. Fuller failed to appear in person or through counsel for the evidentiary hearing or any of the Board's disciplinary proceedings.

16. In light of the unrefuted testimonial and documentary evidence presented at the evidentiary hearing, the Board finds that Mr. Fuller used his position as a certified supervised counselor at the Shoemaker center to place Patients A and B in positions that endangered their interests and welfare, and attempted dual relationships with them. Mr. Fuller also sexually harassed Patients A and B and engaged in sexual misconduct during his interactions with them.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, and after considering the entire record in this case, the Board concludes that Mr. Fuller jeopardized the mental health interests and welfare of Patients A and B, attempted dual relationships with them, and engaged in sexual harassment of and sexual misconduct with them, in violation of Md. Health Occ. Code Ann. §17-313 (4) and (9), and COMAR 10.58.03.05 A (2) and B (1), and COMAR 10.58.03.09 A and E.

SANCTION

As an alcohol and drug counselor certified by the Board, Mr. Fuller is subject to the standards and policies adopted by the Board and embodied in the law and regulations. In his interactions with Patients A and B and other patients at the Shoemaker center, Mr. Fuller ignored his ethical duties as a certified alcohol and drug counselor and repeatedly violated the Professional Counselors and Therapists Act and the Board's ethical regulations. (The Board's charges of December 3, 2004 are incorporated into this decision and attached as Attachment A.) Mr. Fuller's predatory conduct with these emotionally vulnerable patients merits revocation of his certificate as an alcohol and drug counselor.

ORDER

It is this 9TH day of January, 2006, by a majority of the members of the Board:

ORDERED that the Board's charges against Edwin Fuller, CSC-AD, Certificate Number CS1023, under Md. Code Ann., HO § 17-313 (4) and (9), 10.58.03.05 A (2) and B (1), and 10.58.03.09 A and E be **UPHELD**; and it is further

ORDERED that the certificate of Edwin Fuller, CSC-AD, Certificate Number SC1023, be **REVOKED** under Md. Health Occ. Code Ann. § 17-313; and it is further

ORDERED that this is a Final Order and as such is a **PUBLIC** document pursuant to Md. State Gov't Code Ann. §§ 10-611 et seq. (1999 Repl. Vol.)

1/9/2006
Date

Joanne Faber
Joanne Faber, M.Ed., LCPC, Chair
Maryland State Board of Professional
Counselors and Therapists

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 17-315, Mr. Fuller has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann., § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Mr. Fuller files an appeal, the Board is a party and must be served with the court's process. In addition, Mr. Fuller is requested to send a copy to the Board's counsel, Noreen M. Rubin, Esq., at the Office of the Attorney General, 300 W. Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is no longer a party to these proceedings at this point and need not be served or copied.



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Board of Professional Counselors and Therapists

Maryland Department of Health and Mental Hygiene

4201 Patterson Avenue • Baltimore, Maryland 21215-2299

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – S. Anthony McCann, Secretary

January 10, 2006

VIA CERTIFIED MAIL
Return Receipt Requested

Attachment A

Mr. Edwin Fuller
6920 Terrace Place
Annandale, Virginia 22003

Mr. James C. Anagnos
Assistant Attorney General, Administrative Prosecutor
Office of the attorney General
300 W. Preston Street
Baltimore, Maryland 21201

RE: Edwin Fuller, CSC-AD

Dear Counsel:

Enclosed please find the Board of Professional Counselors and Therapists Final Decision and Order in the above-referenced case.

Sincerely,

Aileen Taylor
Administrator
Board of Professional Counselors and Therapists

Enclosure

Cc: Joanne Faber, LCPC
Noreen Rubin, Board Counsel
Timothy J. Paulus, Assistant Attorney General, Deputy Counsel
Edwin Fuller, CSC-AD, Respondent

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Web Site: www.dhmh.state.md.us/bopc/

IN THE MATTER OF
EDWIN FULLER, CSC-AD
Certificate No. SC1023
Respondent

*** BEFORE THE MARYLAND**
*** STATE BOARD OF PROFESSIONAL**
*** COUNSELORS AND THERAPISTS**
*** Case Number: 3412**

* * * * *

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PROCEDURAL HISTORY

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(4) Violates the code of ethics adopted by the Board; [or]

(9) Violates any rule or regulation adopted by the Board.

Md. Health Occ. Code Ann. § 17-313 (2000 Repl. Vol.).

The Board also charged Mr. Fuller with violating the Code of Ethics, Code Md. Regs. ("COMAR") tit. 10, § 10.58.03 as follows:

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(3) Sexual harassment;[and]

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E. Sexual Harassment.

(1) A counselor may not sexually harass a:

(a) A client[;]

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these conferences and at the hearing before the Board. The Board also informed Mr. Fuller that the Board was authorized to hear and determine the matter in the event he failed to appear at the hearing.

The Board's notification documents to Mr. Fuller were not returned as undeliverable by the United States Postal Service. Mr. Fuller made no request to the Board for a postponement of the case resolution conference, the pre-hearing conference or the evidentiary hearing.

On March 18, 2005, a case resolution conference was convened as scheduled. James Anagnos, Assistant Attorney General and Administrative Prosecutor for the State, appeared on behalf of the State. Neither Mr. Fuller nor anyone authorized to represent Mr. Fuller appeared for the case resolution conference.

Pursuant to HO § 17-314 and the Administrative Procedure Act, Md. Code Ann., State Gov't ("SG") § 10-201 *et seq.*, the Board conducted a contested case hearing as scheduled on June 17, 2005. The Administrative Prosecutor appeared on behalf of the State. Neither Mr. Fuller nor anyone authorized to represent Mr. Fuller appeared at the evidentiary hearing.

SUMMARY OF EVIDENCE

A. Documents

The State submitted the following exhibits, which were admitted into evidence:

State's Exhibits 1-4

State's Exhibit 1A: Charges Under the Maryland Professional Counselors and Therapists Act with cover letter, issued December 3, 2004, to Mr. Fullers' address of record in Baltimore, Maryland, by regular and certified mail, return receipt requested.

State's Exhibit 1B: Charges Under the Maryland Professional Counselors and Therapists Act with cover letter, issued December 3, 2004, to Mr.

Fuller's address of record in Annandale, Virginia, by regular and certified mail, return receipt requested.

State's Exhibit 1C: Note of written telephone message received from Edwin Fuller to the Administrative Prosecutor on April 4, 2005 at 12:09 p.m.

State's Exhibit 2: Complaint from Patient A,¹ dated Nov. 12, 2003.

State's Exhibit 3: Complaint from Patient B, dated Nov. 18, 2003.

State's Exhibit 4: Transcript of Interview with Edwin Fuller, held on April 28, 2004.

B. Witness Testimony

Four witnesses testified on behalf of the State: Ms. Aileen Taylor, Executive Director for the Board, Mr. Howard (Rick) Kenney, Board Investigator, Ms. Winnie Koontz, Homeless Project Coordinator and Acting Clinical Director for the Women's Program at Shoemaker Center, and Patient B. Mr. Fuller failed to appear for the hearing or submit any documents into evidence. No attorney appeared on Mr. Fuller's behalf.

Evaluation of the Evidence

The Professional Counselors and Therapists Act specifically authorizes disciplinary hearings to proceed *ex parte* when a licensee or certificate holder is duly notified of a proceeding but fails to attend. The relevant portion of the statute provides as follows:

If after due notice the individual against the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

Md. Health Occ. Code Ann. § 17-314(f).

The documents and testimony presented by the State at the hearing showed that Mr. Fuller was certified to practice as a CSC-AD and employed at the Shoemaker

¹ For purposes of confidentiality, the two patients involved in this case are referred to as Patient A and Patient B throughout this Final Decision and Order.

addictions treatment center from May 14 through November 12, 2003. (St. Exhs. 2, 3 and 4; T. 17-27; 37-38)

Testimony by Winnie Koontz at the hearing confirmed that Mr. Fuller was hired to provide individual and group counseling to inpatients at Shoemaker, including Patients A and B (T.18); and that the facility fired Mr. Fuller at the end of his probationary period for his failure to meet supervisory expectations in performing his assignments and for numerous other violations of the center's employment policies. (T. 24). Ms. Koontz also testified regarding the complaint by Patient A² as follows:

On November 12, 2003, at approximately 8:30 p.m., Patient A asked Mr. Fuller if she could use the telephone in his office. Mr. Fuller asked Patient A what he "would get out of it." Patient A thought Mr. Fuller was joking, so she said, "what do you want to get out of it"? Mr. Fuller answered, "a kiss," and Patient A said, "no." Mr. Fuller then asked Patient A to "sit on my lap while you make the phone call." Patient A sat on Mr. Fuller's knee and there was a knock on the door. Patient A jumped, Mr. Fuller opened the door and left the office. Patient A then placed her telephone call. (St. Exh. 2; T. 19, 22-23)

In her complaint to the Board, Patient A also stated that Mr. Fuller asked and Patient A agreed to allow him to take her picture on October 31, 2003. (St. Exh. 2) In an interview with the Board's investigator on April 28, 2004, Mr. Fuller conceded that he photographed some of the female patients at a Halloween party. (St. Exh. 4, pp. 6-8, 13) Ms. Koontz explained that in photographing Patient A and several other patients at Shoemaker without obtaining signed releases from the patients, and later taking the

² In her capacity as Acting Clinical Director for the women's program at the Shoemaker center, Ms. Koontz investigated the allegations made by Patients A and B against Mr. Fuller and documented Patient A's account of Mr. Fuller's conduct. (St. Exh. 2; T. 22)

photos off site, Mr. Fuller violated the privacy of these alcohol and drug patients and breached the center's confidentiality policies. (T. 25)

Patient B testified that in November, 2003, Mr. Fuller requested that she come into his office to discuss what she would do after she left the Shoemaker center. (St. Exh. 3; T. 32) During their conversation, Mr. Fuller commented that he thought he could be the right man sexually to help Patient B in her recovery. (St. Exh. 3; T. 33) As she walked to the door, Mr. Fuller turned Patient B around and put his arms around her while attempting to kiss her. Patient B resisted Mr. Fuller's advances. (*Id.*) Mr. Fuller then touched Patient B's face, told her she was pretty, and tried to kiss her again. (*Id.*) Patient B said that she could not, and he stopped. (*Id.*)

On Mr. Fuller's last day of employment at the Shoemaker Center, he again asked Patient B to come into his office to discuss her recovery. (St. Exh. 3; T. 34) As she got up to leave, Mr. Fuller asked her for a hug good bye and she agreed. (T. 34) Mr. Fuller then nestled his face in her neck and said, "you won't give me a kiss, will you"? Patient B declined and walked out of Mr. Fuller's office. (T. 34-35) According to Patient B, Mr. Fuller called other female patients into his office continuously on his last day at the center, and attempted similar sexual interactions with them. (T. 35-36) During his interview with the Board investigator, Mr. Fuller admitted that he "hug[s] all these girls", but denied any sexual misconduct on his part. (St. Exh. 4, pp. 9-13)

The State presented evidence that Mr. Fuller was duly notified of the charges, and of the dates of the case resolution conference, the pre-hearing conference and the evidentiary hearing before the Board. (St. Exh. 1A, 1B; T. 11-13) The Board also had before it evidence that on April 4, 2005, at 12:09 p.m., Mr. Fuller telephoned the office of the Administrative Prosecutor with information that he (Mr. Fuller) had been unable to

attend the case resolution conference. (St. Exh. 1C; T. 16) Mr. Fuller requested guidance on "what to do" at that point. (*Id.*) In a return telephone call, the Administrative Prosecutor pointed out to Mr. Fuller that an evidentiary hearing was scheduled for June 17. (T. 16) Mr. Fuller stated that he intended to obtain legal counsel and appear at the hearing. (*Id.*) No attorney contacted the Administrative Prosecutor on Mr. Fuller's behalf, however. (*Id.*) Moreover, Mr. Fuller failed to appear at the evidentiary hearing, or otherwise refute the evidence and witness testimony presented by the State.

FINDINGS OF FACT

Having considered the entire record, the documentary and testimonial evidence presented by the State at the hearing, and the arguments of the Administrative Prosecutor, the Board finds the following facts by a preponderance of the evidence:

1. At all times relevant to the charges in this case, Mr. Fuller was certified to practice as a certified supervised counselor – alcohol and drug ("CSC-AD") in the state of Maryland. (St. Exh. 4, p. 3) Mr. Fuller was originally certified in Maryland under certificate number SC1023 on April 12, 2002.

2. At all times relevant to the Board's charges, Mr. Fuller was employed by the Carroll County Health Department. During his employment from May 14, 2003, until November 12, 2003, Mr. Fuller was assigned to the Shoemaker Center, a residential addictions treatment facility in Westminster, Maryland. (St. Exhs. 2, 3 and 4)

3. On or about November 19-21, 2003, the Board received complaints filed by Patients A and B, two resident female patients at Shoemaker, and several employees regarding Mr. Fuller's conduct while he was employed at the center. (St. Exhs. 2 and 3)

Patient A

4. Mr. Fuller took photographs of Patient A and other female patients at the Shoemaker Center on October 31, 2003, in breach of their privacy and in violation of the center's confidentiality policies relating to alcohol and drug patients. (St. Exhs. 2 and 4; T. 25-26)

5. On November 12, 2003, when Patient A asked Mr. Fuller to use his office to make a phone call, Mr. Fuller asked Patient A to kiss him. When she refused to kiss him, Mr. Fuller asked her to sit on his lap while she made the phone call, and Patient A did so. (St. Exh. 2)

Patient B

6. In November, 2003, while Patient B was being treated for alcohol and drug addiction at the Shoemaker Center, Mr. Fuller called her into his office to discuss her plans following her rehabilitation. (St. Exh. 3; T. 31-32)

7. During their discussion, Mr. Fuller commented that he thought he could be the man to satisfy Patient B sexually during her recovery. (St. Exh. 3; T. 33)

8. At the end of the discussion, as Patient B began to leave Mr. Fuller's office, Mr. Fuller turned Patient B around and put his arms around her while attempting to kiss her as she resisted. (*Id.*)

9. Mr. Fuller then touched Patient B's face, stroking her cheek, saying, "you're so pretty." Mr. Fuller again attempted to kiss Patient B; she said that she could not, and he stopped. (St. Exh. 3; T. 33-34)

10. On Mr. Fuller's last day of employment at the Shoemaker Center, he again asked Patient B to come into his office to discuss her recovery. (St. Exh. 3; T. 34)

11. When Patient B got up to leave the office, Mr. Fuller asked her for a hug goodbye. She agreed and he nestled his face in her neck and said, "you won't give me a kiss, will you"? Patient B declined and walked out of Mr. Fuller's office. (St. Exh. 3; T. 34-35)

12. In an interview with the Board investigator, Mr. Fuller acknowledged that he took pictures of all the female patients during a Halloween party. (St. Exh. 4, pp. 6-8, 13) Mr. Fuller also stated: "I hug all these girls." (*Id.*, p. 9)

13. The Board duly notified Mr. Fuller of the Board's charges against him, and of the dates of the case resolution conference, the pre-hearing conference and the evidentiary hearing before the Board. (St. Exh. 1A, 1B; T. 11-13)

14. During a telephone call he made to the office of the Administrative Prosecutor on April 4, 2005 at 12:09 p.m., Mr. Fuller stated that he had been unable to come to the case resolution conference, and requested guidance on "what to do." (St. Exh. 1C) In a return telephone call, the Administrative Prosecutor pointed out to Mr. Fuller the date of the evidentiary hearing on June 17, 2005, and Mr. Fuller indicated his intention to obtain legal counsel and appear at the hearing. (T.16)

15. Mr. Fuller failed to appear in person or through counsel for the evidentiary hearing or any of the Board's disciplinary proceedings.

16. In light of the unrefuted testimonial and documentary evidence presented at the evidentiary hearing, the Board finds that Mr. Fuller used his position as a certified supervised counselor at the Shoemaker center to place Patients A and B in positions that endangered their interests and welfare, and attempted dual relationships with them. Mr. Fuller also sexually harassed Patients A and B and engaged in sexual misconduct during his interactions with them.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, and after considering the entire record in this case, the Board concludes that Mr. Fuller jeopardized the mental health interests and welfare of Patients A and B, attempted dual relationships with them, and engaged in sexual harassment of and sexual misconduct with them, in violation of Md. Health Occ. Code Ann. §17-313 (4) and (9), and COMAR 10.58.03.05 A (2) and B (1), and COMAR 10.58.03.09 A and E.

SANCTION

As an alcohol and drug counselor certified by the Board, Mr. Fuller is subject to the standards and policies adopted by the Board and embodied in the law and regulations. In his interactions with Patients A and B and other patients at the Shoemaker center, Mr. Fuller ignored his ethical duties as a certified alcohol and drug counselor and repeatedly violated the Professional Counselors and Therapists Act and the Board's ethical regulations. (The Board's charges of December 3, 2004 are incorporated into this decision and attached as Attachment A.) Mr. Fuller's predatory conduct with these emotionally vulnerable patients merits revocation of his certificate as an alcohol and drug counselor.

ORDER

It is this 9TH day of January, 2006, by a majority of the members of the Board:

ORDERED that the Board's charges against Edwin Fuller, CSC-AD, Certificate Number CS1023, under Md. Code Ann., HO § 17-313 (4) and (9), 10.58.03.05 A (2) and B (1), and 10.58.03.09 A and E be **UPHELD**; and it is further

ORDERED that the certificate of Edwin Fuller, CSC-AD, Certificate Number SC1023, be **REVOKED** under Md. Health Occ. Code Ann. § 17-313; and it is further

ORDERED that this is a Final Order and as such is a **PUBLIC** document pursuant to Md. State Gov't Code Ann. §§ 10-611 et seq. (1999 Repl. Vol.)

1/9/2006
Date

Joanne Faber
Joanne Faber, M.Ed., LCPC, Chair
Maryland State Board of Professional
Counselors and Therapists

NOTICE OF RIGHT TO APPEAL

Pursuant to Md. Health Occ. Code Ann. § 17-315, Mr. Fuller has the right to take a direct judicial appeal. Any appeal shall be filed within thirty (30) days from the receipt of this Final Order and shall be made as provided for judicial review of a final decision in the Maryland Administrative Procedure Act, Md. State Gov't Code Ann., § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If Mr. Fuller files an appeal, the Board is a party and must be served with the court's process. In addition, Mr. Fuller is requested to send a copy to the Board's counsel, Noreen M. Rubin, Esq., at the Office of the Attorney General, 300 W. Preston Street, Suite 302, Baltimore, Maryland 21201. The Administrative Prosecutor is no longer a party to these proceedings at this point and need not be served or copied.