



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

January 10, 2009

VIA FIRST CLASS MAIL

James Nicholas Deutsch
15 Dukes Lane
Youngsville, NC 27596

**Re: James Nicholas Deutsch
Case No.: 2006-31**

Dear Mr. Deutsch:

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

Sincerely,

Aileen Taylor
Administrator
Board of Professional Counselors and Therapists

Enclosure

cc: Lisa Jackson-Cherry, Ph.D., Chair
Noreen M. Rubin, Board Counsel



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cc: Lisa Jackson-Cherry, Ph.D., Chair
Noreen M. Rubin, Board Counsel

IN THE MATTER OF * BEFORE THE

JAMES NICHOLAS DEUTSCH, * STATE BOARD OF

CAC-AD * PROFESSIONAL COUNSELORS

CERTIFICATE NO. AC1151 * AND THERAPISTS

Respondent * Case No.: 2006-31

* * * * *

FINAL CONSENT ORDER

Based on information received and a subsequent investigation by the State Board of Professional Counselors and Therapists (the "Board"), and subject to Md. Health Occ. Ann. § 17-101, *et seq.*, (2005 Repl. Vol. and 2007 Supp.) (the "Act"), the Board charged James Nicholas Deutsch, CAC-AD, (the "Respondent"), with violations of the Act. Specifically, the Board charged the Respondent with violation of the following provisions of § 17-313:

Subject to the hearing provisions of §17-314 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a certificate to any applicant, 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;
- (5) Knowingly violates any provision of this title;
- (12) Commits an act of immoral or unprofessional conduct in the practice of professional counseling, alcohol and drug counseling, or marriage and family therapy [;]

The Board further charged the Respondent with a violation of § 17-401:

Except as otherwise provided in this title, unless a person is certified to practice professional counseling, the person may not:

- (1) Represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is certified by the Board to provide professional counseling services in this State;
- (2) Use any title, abbreviation, sign, card, or other representation that the person is a certified professional counselor, licensed professional counselor-marriage and family therapist, certified professional counselor-alcohol and drug, certified associate counselor-alcohol and drug, or certified supervised counselor-alcohol and drug; or
- (3) Use the title "C.P.C.", "C.P.C.-M.F.T.", "C.P.C.-A.D.", "C.A.C.-A.D.", or "C.S.C.-A.D.", the words "certified professional counselor" or "licensed professional counselor-marriage and family therapist", or the words "certified counselor" or "licensed marriage and family therapist" with the intent to represent that the person practices professional counseling or marriage and family therapy, or the words "certified professional counselor-alcohol and drug", "certified associate counselor-alcohol and drug", "certified supervised counselor-alcohol and drug" with the intent to represent that the person practices alcohol and drug counseling.

The Board further charged the Respondent with a violation of its Code of Ethics, Code Md. Regs. tit. 10, § .10.58.03 (4/3/00):

.03 Professional Competence.
A counselor shall:

3. Maintain qualifications to practice counseling, including meeting the continuing education requirements established by the Board.

The Respondent was given notice of the issues underlying the Board's charges by a letter dated July 23, 2008. Accordingly, a Case Resolution Conference (CRC) was held on Friday, October 17, 2008, and was attended by a quorum of the Board, Aileen Taylor,

Executive Director of the Board, Noreen Rubin, Counsel to the Board, and Roberta Gill, the Administrative Prosecutor. The Respondent, who had requested a postponement of the first scheduled CRC and had led the Administrative Prosecutor to believe that he would be attending the CRC on the 17th, as late as Thursday afternoon, failed to appear. His sister called the Administrative Prosecutor and the Executive Director and informed them that he would not be there, but would be in Indiana instead; however, she stated that she saw no need for him to attend in person since he had accepted the State's proposed settlement.

Following the presentation by the Administrative Prosecutor of her proposal, the Board accepted same with modifications. Subsequently, the Respondent accepted same as follows:

FINDINGS OF FACT

1. At some of the times relevant to the charges herein, Respondent was certified to practice as a Certified Associate Counselor—Alcohol and Drug in the State of Maryland. The Respondent was first certified on October 24, 2002.

2. At times relevant herein, the Respondent was employed as a Drug and Alcohol Counselor who worked at the Baltimore County Health Department, Bureau of Substance Abuse, from August 20, 1984 until his resignation on June 12, 2006, in lieu of termination.

3. By document dated July 6, 2006, the Board received a complaint from Nicholas Gori (the "Complainant"), Program Manager, Criminal Justice Services, Baltimore County Health

4. As a result, the Board began an investigation which disclosed the following:

- A. The termination was a result of the receipt by the Respondent's supervisor, Debbie Hitt, of the Respondent's original CAC-AD certificate which was issued by the Board on October 24, 2002, with certificate number AC1151, control number 006758, signed by Georges Benjamin, M.D., the Secretary of DHMH at that time. Ms. Hitt then gave the document to the Complainant;
- B. Thereupon, the Complainant contacted the Respondent to determine if he was currently certified; the Respondent informed him that he was not;
- C. Thereafter, the Complainant instructed the Respondent to meet with Kathleen Rebbert-Franklin, Chief of the program. At that meeting, on June 12, 2006, the Respondent advised her that he had altered his certificate because he had not gotten around to renewing it;
- D. Ms. Rebbert-Franklin advised the Board that supervisors were to verify employees' certification annually, but there was nothing in the Respondent's file to verify that this had been done; accordingly, after this incident, a procedure was established to verify certification via a check list;
- E. In an interview with Ms. Hitt, she advised that the number "7" in the expiration date section of the Respondent's certificate appeared to be a different font than the other numbers, which was accomplished by placing a clear tape and corrective tape over the number "3", and then the number "7" was typed over the number "3" to make it appear that the certificate expired in 2007.

5. An accurate certificate for that portion of 2007 should have contained the signature of Anthony McCann and would have had a different control number than the original certificate, because it changes with the issuance of each renewed certificate.

6. Although the Respondent sent a check to the Board for \$150 to renew his certificate when it expired in 2003, he never received a certificate, which would have

expired in 2005, but believes that he was notified by the Board that additional information was needed. However, he never sought information as to why he never received it. The Board's file did not contain documentation to indicate that the Board had contacted the Respondent to seek additional information. The Board's deposit sheet for FY2004 does show that the Board received the Respondent's check in the correct amount (\$150) and deposited that amount. During the course of the investigation, the Respondent provided the Board a cancelled check to that effect.

7. After his termination, the Respondent contacted the Board's Coordinator for Licensing, who now lives in Atlanta, and received a renewal form on July 18, 2006. The Board issued him a new certificate on July 24, 2006 that expired on December 31, 2007, despite the fact that a complaint had already been filed.¹

8. The Respondent answered "yes" to the following questions on his application and inserted the following responses or explanations—although some were to be explained in detail:

- A. Question 3(b) Have you surrendered or failed to renew a license in any State? The Respondent circled "failed to renew" and then wrote in "-MD," beside the word "State?"
- B. Question 7—"Has any hospital or related health care institution or employer denied you privileges or employment, denied any application for privileges or employment, failed to renew your privileges or contract or limited, restricted, suspended, revoked, or terminated your privileges or contract for any reason related to your practice?" The Respondent answered "y [es]" and wrote beside the question—"Non-renewal of license."
- C. Question 8—"Have the conditions of your employment been affected by any termination of employment, suspension, or probation for any reason

¹The Respondent's current certificate expires on January 31, 2009.

related to your practice?" The Respondent answered "y [es]" and wrote "Non-Renewal of License."

D. The application was signed on 7/13/06.

9. Because the Board's regulations on reinstatement don't require an affidavit stating that the certificate holder has not practiced while his/her certificate was expired, but only require the requisite CEUs and payment of a fee, the Respondent was allowed to have his certificate reinstated, although he had worked three years without a certificate. The Respondent acknowledged under oath that he had altered his certificate and had practiced counseling on an expired certificate.

10. As set forth above, by altering a certificate issued by the Board and practicing counseling for three years without a valid certificate, the Respondent violated the Act.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the Board finds that the Respondent violated § 17-313(4), (5) & (12) and § 17-401 (1), (2) and (3) . The Board further finds that the Respondent violated Code Md. Regs tit. 10, § .10.58.03.

ORDER

Based on the foregoing Findings of Fact, Conclusions of Law, and agreement of the parties, it is this 19TH day of December, 2008, by a majority of the members of the Board:

~~ORDERED~~ that the Respondent's certificate to practice as a Certified Associate Counselor, Alcohol and Drug ("CAC-AD") is hereby **SUSPENDED** for **ONE (1) YEAR**, commencing on the date of execution of this Consent Order, and that the suspension shall remain active for a minimum of **ONE (1) YEAR** from the effective date of suspension, **AND** until the following conditions are met:

- A. At the end of the one (1) year period of active suspension, the Respondent may submit a written petition to the Board requesting that the active suspension of his license be lifted;
- B. Before the Board makes a decision on the Respondent's written petition for lifting the active suspension of his license, the Respondent must appear before a panel of the Board and demonstrate his fitness to resume the practice of counseling as a CAC-AD, his competence to practice safely, and his satisfactory compliance with continuing education requirements; and it is further

ORDERED that if the Board lifts suspension of the Respondent's certificate, the Respondent will be placed on **PROBATION** for a minimum period of **TWO (2) YEARS**, which shall continue until the following terms and conditions are met:

- 1. Within **three (3) months** of the date his probation begins, the Respondent shall enroll in a Board-approved three semester credit course in Professional Ethics in Counseling, from an accredited college or university, at his own expense. At the conclusion of the course, the Respondent shall submit to the Board proof of classroom attendance and a transcript verifying successful completion of the course. This course may not count toward fulfilling any of the continuing education requirements that the Respondent must meet in order to practice.
- 2. The Respondent's practice shall be **supervised** for the **entire two-year period** of probation, at his own expense, by a Board-approved Supervisor who is a licensed clinical alcohol and drug counselor (L.C.A.D.C.) with experience and expertise in the field.
 - a. As part of the approval process, the Respondent shall submit to the Board the name and professional credentials of the Supervisor he proposes to supervise his practice. The proposed supervising

~~counselor shall not be associated with the Respondent through any current or past personal, collegial, professional or academic affiliation;~~

- b. The Respondent shall provide the Board-approved Supervisor with a copy of the charging document, Consent Order, and whatever other written materials the Board deems relevant;
- c. The Supervisor shall notify the Board in writing of his/her acceptance of the supervisory role of the Respondent. The Respondent shall not resume the practice of alcohol and drug counseling until the Board approves his proposed Supervisor. Supervision of the Respondent's practice shall commence following Board approval;
- d. At a minimum, the Supervisor shall meet with the Respondent on a **bi-weekly** basis for the first year of probation, and **monthly** for the remaining second year of probation;
- e. Supervision shall focus on discussion of materials learned in the Respondent's Professional Ethics class, as well as specific ethical and legal issues in the practice of alcohol and drug counseling. Discussion shall include ethical decision-making; self identity; integrity; understanding the consequences of personal behavior; firm adherence to high professional standards and consistent ethical behavior; and the counselor's role in changing clients' behavior by maintaining ethical and honorable conduct in the Respondent's practice;
- f. The Supervisor shall submit **quarterly** reports to the Board indicating the ethical issues discussed and the Respondent's progress;
- g. The Respondent has sole responsibility for ensuring that the Supervisor submits the required quarterly reports in a timely manner;
- h. The Board has sole authority over any changes in supervision and must approve and ratify any changes in supervision or the frequency of supervision;
- i. In the event that the Respondent's Supervisor discontinues supervising the Respondent's practice for any reason during the one-year supervisory period, the Respondent shall immediately notify the Board. The Respondent shall be solely responsible for submitting a replacement candidate to serve as his Supervisor under the terms specified above;

- j. If the Respondent fails to complete the supervision in a timely manner as set out above, the Respondent will be deemed in violation of probation;
- k. An unsatisfactory report from the Respondent's Supervisor may constitute a violation of this Consent Order; and it is further

ORDERED that the Respondent shall not petition the Board for early termination of his Probation or for an early termination of any other terms and conditions of this Consent Order; and it is further

ORDERED that the Respondent may submit a written petition to the Board requesting termination of his probation no earlier than two (2) years from the date of commencement of his Probationary period, but only if he has fully and satisfactorily complied with all of the conditions of Probation and if there are no pending complaints, investigations or charges against him; and it is further

ORDERED that if the Respondent fails to demonstrate compliance with the terms and conditions of Probation or this Consent Order, the Board may impose additional terms and conditions as it deems necessary; and it is further

ORDERED that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

ORDERED that the Consent Order is effective as of the date of its signing by the Board; and it is further

ORDERED that the Respondent shall comply with all laws governing the practice of alcohol and drug counseling under the Maryland Professional Counselors and Therapists Act and all rules and regulations promulgated thereunder; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of his Probation and/or of this Consent Order, the Board, after notice and opportunity for a hearing, and a determination of violation, may impose any disciplinary sanction it deems appropriate under the Professional Counselors and Therapists Act. The burden of proof for any action brought against the Respondent as a result of a breach of the conditions of this Consent Order or of Probation/Suspension shall be on the Respondent to demonstrate compliance with the Order or conditions; and it is further

ORDERED, that for purposes of public disclosure, as permitted by Maryland State Gov't Code ann. § 10-617(h) (Repl. Vol. 2004), this document consists of the contents of the foregoing Findings of Fact, Conclusions of Law, and Order and that the Board may also disclose same to any national reporting data bank that it is mandated to report to; and it is further

ORDERED, that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant to Md. Code Ann., State Gov't §§ 10-611, *et seq.*, (Repl. Vol. 2004).

December 19, 2008
Date

Lisa R. Jackson Cherry, Ph.D.
Lisa Jackson-Cherry, Ph.D., L.C.P.C., Chair
State Board of Professional Counselors and
Therapists

CONSENT OF JAMES NICHOLAS DEUTSCH, CAC-AD

STATE OF MARYLAND
DEPARTMENT OF HEALTH & GENERAL SERVICES
2008-101-5 P 12
RECEIVED

I, James Nicholas Deutsch, by affixing my signature hereto, acknowledge that:

1. I am not represented by an attorney and have knowingly and voluntarily waived my right to one before signing this Consent Order;

2. I am aware that without my consent, my certificate to practice alcohol and drug counseling in this State cannot be limited except pursuant to the provisions of § 17-313 of the Act and the Administrative Procedure Act (APA), Md. State Govt. Code Ann. §10-201, et seq., (2004 Repl. Vol.);

3. I am aware that I am entitled to a formal evidentiary hearing before the Board.

By this Consent Order, I hereby consent and admit to the foregoing Findings of Fact, Conclusions of Law and Order, provided the Board adopts the foregoing Consent Order in its entirety. By doing so, I waive my right to a formal hearing as set forth in § 17-314 of the Act and §10-201, et seq., of the APA, and any right to appeal as set forth in § 17-315 of the Act and §10-201, et seq., of the APA. I acknowledge that my failure to abide by the conditions set forth in this Order and following proper procedures, I may suffer disciplinary action, possibly including revocation, against my certificate to practice drug and alcohol counseling in the State of Maryland.

11/4/09
Date

James Nicholas Deutsch
James Nicholas Deutsch

STATE OF NC:

CITY/COUNTY OF Granville:

I HEREBY CERTIFY that on this 4 day of November, 2008, before me, James N. Deutsch, a Notary Public of the foregoing State and (City/County),
(Print Name)
personally appeared James Nicholas Deutsch, Certificate No. 1151, and made oath in due form of law that signing the foregoing Consent Order was his voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Susan M. Musketh
Notary Public

My Commission Expires: 8/2/12

