

IN THE MATTER OF * BEFORE THE MARYLAND
LLOYD H. WALKER, P.A. * STATE BOARD OF PHYSICIANS
LICENSE NO. C01193 (expired) * Case Number: 2011-0313
APPLICANT

* * * * *

FINAL ORDER

The Maryland Board of Physicians (the "Board") provided notice to Lloyd H. Walker, P.A. (the "Applicant"), D.O.B. 10/19/54, of the Board's Intent to Deny Initial Application for Licensure as a Physician Assistant under the Maryland Physician Assistants Act (the "Act"), Md. Health Occ. Code Ann. ("Health Occ.") §§ 15-101 *et seq.* (2009 Repl. Vol. and 2011 Supp.).

The pertinent provisions of the Act are as follows:

Health Occ. § 15-303. Qualifications of applicants.

(a) To qualify for a license, an applicant shall be:

a. Of good moral character[;]

Health Occ. § 15-311. Denial of license.

Subject to the hearing provisions of § 15-313 of this subtitle, the Board, on the affirmative vote of a majority of a quorum, may deny a license to any applicant for any of the reasons that are grounds for disciplinary action under § 15-314 of this subtitle.

Health Occ. § 15-314. Reprimand, probation, suspension, revocation.

(a) Subject to the hearing provisions of § 15-315 of this subtitle, the Board, on the affirmative vote of a majority of the quorum, may reprimand any physician assistant, place any physician assistant on probation, or suspend, or revoke a license if the physician assistant:

(21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veterans'

Administration for an act that would be grounds for disciplinary action under this section;

(36) Willfully makes a false representation when seeking or making application for licensure or any other application related to the practice of medicine [;].

On July 23, 2012, the Applicant received the Board's Notice of Intent to Deny Initial Application for Licensure as a Physician Assistant (the "Notice."). The Board notified the Applicant in that Notice that this Final Order would be executed thirty (30) days from the Applicant's receipt of the Notice unless the Applicant requested a hearing. The Applicant's written request was due on August 22, 2012. The Applicant did not request a hearing by August 22, 2012.

The Board makes the following findings of fact:

FINDINGS OF FACT

I. BACKGROUND

1. On or about October 5, 2010, the Applicant submitted an Application for Reinstatement of Physician Assistant Certification¹ (the "Application").

2. The Applicant stated he had been previously licensed only in California in 1984, which expired in October 1990; and in Maryland in 1989, which expired in June 1995.

3. Previously, on or about May 10, 1989, the Applicant was initially certified by the Board as a physician assistant. Thereafter, the Applicant continued to renew his Maryland certification every two (2) years.

4. On or about June 30, 1995, the Applicant failed to renew his certificate and allowed his certificate to expire.

¹ Effective October 1, 2010, the term "license" was substituted for the term "certificate" in the Maryland Physician Assistant Act.

II. THE APPLICATION

5. Question 14 on the Application requires responses to ten (10) questions regarding the Applicant's character and fitness to practice.

6. The Applicant answered "no" to the following pertinent questions in Question 14:

Question A. – Have you been denied a license, certification or registration to practice any health occupation?

Question B. – Has a state licensing or disciplinary board or a comparable body in the armed services taken any action against your license, certification or registration including but not limited to reprimand, suspension, or revocation?

Question E. – Have you ever been charged with or convicted of any criminal act for which you pled *nolo contendere*, could receive, or did receive, probation before judgment, or were sentenced to probation or confinement?

7. In response to Question 13 which requires that the Applicant list all employment activities since his license expired, the Applicant stated that he has not practiced as a physician assistant since his license expired on June 30, 1995, working primarily in teaching positions which did not require a license.

8. The Applicant did not list where he has been employed since June 30, 1995, either in teaching positions, as a clinical physician assistant, or in any non-healthcare positions.

9. In response to Question 15 which requires that the Applicant list the reasons for allowing his Maryland certification to expire, the Applicant stated that his "professional credentials as a Physician Assistant and knowledge base as a Physician Assistant are all that has (sic) been required to work."

10. In response to Question 16 which requires that the Applicant list his reasons for seeking reinstatement of his physician assistant certification, the Applicant stated that he has decided to return to practice as a physician assistant in the Veterans Health Administration which requires he be licensed in any state, adding that “[s]ince Maryland is the last place I actually practices (sic) it seems logical that I reinstate my license here.”

III. INVESTIGATION

11. On October 6, 2010, the Allied Health Unit of the Board obtained the following adverse action information from the National Practitioner Data Bank (NPDB) and the Federation of State Medical Board (FSMB):

- a. On or about February 10, 1999, the Arizona Regulatory Board of Physician Assistants revoked the Applicant’s license, after he was convicted of murder based on unprofessional conduct; and
- b. On or about August 20, 2008, the Arizona Regulatory Board of Physician Assistants denied reinstatement of the Applicant’s license because he was “unable to practice safely by reason of alcohol or other substance abuse” and “for failing to have the physical or mental capability to safely perform healthcare tasks as a Physician Assistant. Specifically, for not completing substance abuse treatment and for failing to be honest regarding the use of controlled substances.”

12. On or about October 25, 2010, the Applicant sent correspondence to the Board, stating that he located the NPDB information, and that “[if] your inquiry resulted in some information on me in this system I need to investigate this matter before I submit an application for reinstatement of my Maryland Physician Assistant license.” The Applicant further stated, “[p]lease accept this as my official request for withdrawal of my application to reinstate my Maryland license.”

13. On or about November 9, 2010, Board staff requested information about the Applicant from the Arizona Regulatory Board of Physician Assistants (the "Arizona Board"). The Arizona Board provided documents to the Board which are evidence that:

- a. On February 16, 1999, the Arizona Board ordered that the Applicant's Physician Assistant Certificate be revoked for "unprofessional conduct." The facts cited were:
 - i. On March 14, 1997, the Applicant was convicted of first degree murder, a class one felony, after a jury trial;
 - ii. On June 2, 1997, the Applicant was sentenced to a life term in prison with the possibility of parole after completion of twenty-five years; and
 - iii. As of February 16, 1999, the Applicant was in the custody of the Arizona Department of Corrections.
- b. On appeal, the conviction was set aside and the Applicant was granted a new trial. A plea agreement was reached wherein the Applicant pled guilty and was convicted of manslaughter. The Applicant received a sentence of ten years for this conviction.
- c. On November 28, 2005, the Arizona Department of Corrections issued a Certificate of Absolute Discharge, discharging the Applicant from the sentence.
- d. On or about November 13, 2007, the Applicant filed a "Physician Assistant Application" seeking reinstatement of his Arizona license.
- e. On April 10, 2008, the Arizona Board issued an Interim Order requiring the Applicant to undergo a biological fluid test and hair analysis at a Board-approved facility.
- f. On June 12, 2008, the Arizona Board denied the Applicant's application for licensure because he did not meet the basic requirements for licensure in Arizona, specifically:

You do not have the physical and mental capacity to safely perform health care task as a physician assistant. A.R.S. §32-2521(A)(3). Specifically, there is no evidence that you have completed a substance abuse treatment program. Additionally, you were not honest when first interviewed by the Board's Addictionologist on April 18, 2008 regarding your use of controlled substances.

Subsequently, after you were ordered to undergo hair and urine testing, you tested positive for cocaine. This conduct has not been corrected, monitored, and resolved and there are no mitigating circumstances that prevent the resolution of this conduct. A.R.S. §32-2521(C).

The notice of denial contained information regarding appeal rights.

- g. On Jul 14, 2008, the Applicant filed an Appeal of the denial.
 - h. On August 18, 2008, the Applicant filed a Supplemental Submission to his Appeal.
 - i. On or about November 2008, the Applicant filed a Motion to Vacate an Administrative Appeal and Hearing, stating that he decided to withdraw his application from consideration for reinstatement by the Arizona Board.
 - j. On November 20, 2008, the Office of Administrative Hearings vacated the matter and remanded it to the Arizona Board.²
14. On April 12, 2011, Board staff sent a letter to the Applicant to an address in Texas informing him that preliminary investigation revealed that his license had been revoked in Arizona and his reapplication had been denied. Board staff requested a written response why these adverse actions had been taken by the Arizona Board.
15. The Applicant did not respond to the Board's correspondence.
16. On or about June 29, 2011, the Board sent a second letter to the Applicant to the address in Texas by certified mail, requesting a written response regarding the adverse actions.
17. The Applicant did not respond to the Board's correspondence.
18. On or about September 13, 2011, the Applicant sent to the Board by facsimile, a copy of the letter he had sent to the Board on October 25, 2010. (See paragraph 12 above.)

² The File from the Arizona Board does not contain any information concerning what happened after the matter was remanded to the Arizona Board.

19. On April 4, 2012, the Board sent the Applicant a letter using multiple addresses, to notify him of the full investigation, and requested that he submit an "Information Form."

20. On or about April 16, 2012, the Board received the completed Information Form and a letter, dated April 11, 2012, in which the Applicant stated, "I was less than transparent with my initial application to Maryland." The Applicant explained the events that occurred in Arizona from the time of his arrest and conviction of first degree murder in 1995, including the revocation of his Arizona license and the denial of his application for reinstatement of his Arizona license

IV. DISCIPLINE BY ANOTHER STATE

21. On or about February 16, 1999, the Arizona Board revoked the Applicant's license after he was convicted of first degree murder.

22. On or about June 12, 2008, the Arizona Board denied the reinstatement of the Applicant's license "for failing to have the physical or mental capability to safely perform healthcare tasks as a Physician Assistant and, specifically, for not completing substance abuse treatment and for failing to be honest regarding the use of controlled substances."

23. The Applicant's acts for which he was disciplined by the Arizona Board are acts that would be grounds for discipline in Maryland as follows:

- a. Failing to be honest regarding the use of controlled substances, as evidenced by testing positive for cocaine, when making application for reinstatement in Arizona constitutes willfully making a false representation when seeking or making application for licensure or any other application related to the practice of medicine, in violation of § 15-314(a)(36).

24. The Applicant has been disciplined by a licensing or disciplinary authority of another state and convicted by a court for acts that would be grounds for discipline in Maryland, therefore, under § 15-311, the Board may deny a license to the Applicant.

V. WILLFULLY MAKES FALSE STATEMENT

25. The Applicant willfully made the following false statements on his Application for licensure in Maryland:

- a. The Applicant failed to acknowledge that he had been licensed in Arizona;
- b. The Applicant failed to acknowledge, and in fact denied that he had been denied a license, certification or registration to practice any health occupation;
- c. The Applicant failed to acknowledge, and in fact denied that a state licensing or disciplinary board had taken any action against his license, certification or registration including but not limited to reprimand, suspension, or revocation;
- d. The Applicant failed to acknowledge, and in fact denied that he had been convicted of a criminal act, first degree murder, or that he after appeal and upon a grant of a new trial, he pled guilty to and was convicted of manslaughter;
- e. The Applicant failed to disclose all employment activities since his license had expired, including dates, positions, and names and addresses of employers and supervisors;
- f. The Applicant failed to disclose that he failed to renew his certificate because he had been arrested for murder in Arizona.

26. The Applicant willfully made false representations when making an application for licensure in violation of Health Occ. § 15-314(a)(36); therefore, under § 15-311, the Board may deny a license to the Applicant.

VI. LACK OF GOOD MORAL CHARACTER

27. The Applicant willfully made a false representations when making application for licensure when:

- a. The Applicant failed to answer “yes” on the Application concerning whether he had been denied certification, whether a state licensing board had taken any action against him, and whether had he ever been charged with or convicted of any criminal act.
 - b. The Applicant failed to disclose that he had been licensed by the Arizona Board.
 - c. The Applicant failed to disclose his employment history since 1995 and his reason for allowing his license to lapse.
28. Making false representations when seeking licensure is evidence of lack of good moral character, one of the qualifications for licensure.
29. The Applicant pled guilty to and was convicted of manslaughter, a crime involving moral turpitude.
30. Pleading guilty to and being convicted of manslaughter is evidence of lack of good moral character, one of the qualifications for licensure.
31. The Applicant fails to meet the qualification for licensure under § 15-303(a)(1) (shall be of good moral character) of the Maryland Physician Assistants Act; therefore, the Board may deny a license to the Applicant.

VII. SUMMARY

32. The Applicant fails to meet the qualifications of licensure under § 15-314(a)(21) (discipline by another state) and § 15-314(a)(36) (willfully makes a false representation) of the Maryland Physician Assistants Act; and the Applicant fails to meet the qualification requiring that the Applicant shall be of good moral character; therefore, under § 15-311 and under § 15-303(a) (1), the Board may deny a license to the Applicant.

CONCLUSIONS OF LAW

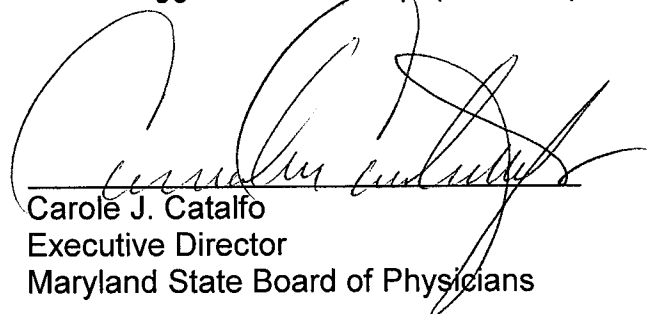
Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Board may deny the Applicant's Initial Application for Licensure as a Physician Assistant pursuant to Health Occ. § 15-303 (an applicant shall be of good moral character) and under Health Occ. § 15-314. The grounds for denial under Health Occ. § 15-313 are: Health Occ. § 15-313(21) (disciplined by a licensing authority for an act that would be grounds for disciplinary action under this section) and Health Occ. § 15-313(36) (willfully makes a false statement when seeking application).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 6th day of September, 2012, by an affirmative vote of the majority of the Board considering the case

ORDERED that the Applicant's Application for Licensure as a Physician Assistant in the State of Maryland is **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. State Gov't. Code Ann. §§ 10-611 *et seq.* (2009 Repl. Vol.).



Carole J. Catalfo
Executive Director
Maryland State Board of Physicians

NOTICE OF RIGHT OF APPEAL

Pursuant to Md. State Gov't. Code Ann. §10-222, the Applicant has the right to take a direct judicial appeal. Any appeal shall be made as provided for judicial review of a final decision in the State Government Article and Title 7, Chapter 200 of the Maryland Rules of Procedure.