

EMERGENCY MEETING MINUTES

TENNESSEE BOARD OF ALCOHOL AND DRUG ABUSE COUNSELORS

DATE: November 20, 2020
TIME: 2:30 P.M.
LOCATION: Health Related Boards Conference Center
Iris Room, 665 Mainstream Drive
Nashville, TN 37243

BOARD MEMBERS

PRESENT: Ella Britt, LADAC, Chair
Dr. Jane Abraham, LADAC, NCAC II, Secretary
Major McNeil, Citizen Member
David Brown, LADAC
Thomas Corman, LADAC

STAFF

PRESENT: Teddy Wilkins, Unit Director
LaTonya Shelton, ASA3
Carolina Tippens, Deputy General Counsel

WebEx Event: Due to COVID-19 gathering restrictions, please join us in our virtual meeting which is open to the public.

Ms. Wilkins asked staff to introduce themselves: Teddy Wilkins, Unit Director; Latonya Shelton, ASA3, Caroline Tippens, Assistant General Counsel.

Mrs. Teddy Wilkins reviewed the required formalities with Board members that were in attendance for the electronic meeting.

Mrs. Teddy Wilkins stated this is a meeting of the Board of Alcohol and Drug Abuse Counselors. Because this Board was unable to convene a physical quorum to consider these matters considering the COVID-19 pandemic. All votes must be done by roll call. Ms. Teddy Wilkins, Unit Director called the meeting to order at 2:30 p.m. Ms. Teddy Wilkins, called the roll to ensure there was a quorum and to ensure all board members were connected and able to hear each other. It was determined that is was a quorum.

Members were advised to identify themselves before they spoke. The teleconference was then turned over to Ms. Caroline Tippens Board Advisory Counsel of the Board.

Summary Suspension Hearing

James C. Shiver, Sr. license number 1228 Alcohol and Drug Abuse Counselor Level 1 was not present nor was legal counsel. Caroline Tippens Senior Associate General Counsel represented the Board of Licensed Alcohol and Drug Abuse Counselors.

On or about October 9, 2020, the Board issued an Order for Summary Suspension of Shiver's license. Mr. Shiver admits and the State finds and concludes that at all times pertinent hereto licensed by the Board as a licensed alcohol and drug abuse counselor in the State of Tennessee, having been issued license number 1288 on October 5, 2016. Respondent's license is active and will expire on July 31, 2022. Mr. Shiver admits and the State finds and concludes that Mr. Shiver is not a licensed massage therapist. The State represents that, if a hearing were held in this matter, it is prepared to present evidence that in 2019, Mr. Shiver was employed as a licensed alcohol and drug abuse counselor at Cumberland Heights, a drug and alcohol rehabilitation center, located in Nashville, TN. On or about January 23, 2019, Mr. Shiver received a written warning and two days administrative leave for additional complaints from two female employees. Mr. Shiver's written warning required that he keep the door to his office ajar when meeting with solitary individuals. On or about April 13, 2019, Mr. Shiver performed an intake assessment for J.H. to receive outpatient substance abuse therapy. J.H. was approximately forty-eight (48) hours sober when she went to Mr. Shiver's office to have an intake assessment for outpatient admission to Cumberland Heights. Mr. Shiver conducted and completed J.H.'s intake assessment in his office with the door shut. Mr. Shiver recommended J.H. for treatment at Cumberland Heights. The State represents that, if a hearing were held in this matter, it is prepared to present evidence that Mr. Shiver inappropriately touched J.H.'s breasts during the intake assessment. Investigation revealed that on or about June 17, 2019, Mr. Shiver performed an alcohol and drug intake assessment on client H.B. The State represents that, if a hearing were held in this matter, it is prepared to present evidence that Mr. Shiver also asked H.B. to remove her shirt and bra in order to treat her blocked heart chakras. Mr. Shiver was terminated from Cumberland Heights on June 27, 2019 for misconduct. In July 2020, J.H. reported to her sponsor that Mr. Shiver had touched her breasts, stating that the incident with Mr. Shiver continued to bother her. J.H.'s sponsor has confirmed that J.H. had maintained her sobriety after this incident and at the time J.H. had reported the incident to her, she had been sober for eighteen (18) months. On or about July 14, 2020, J.H. and her sponsor reported the incident involving Mr. Shiver to Cumberland Heights. Cumberland Heights, in turn, reported this incident to the Office of investigations on or about July 23, 2020.

Mr. Shiver has violated TENN. CODE ANN. § 68-24-602(b)(4) *et seq.*, and TENN. COMP. R. & REGS., 1200-03-01-.15, *et seq.*, for which disciplinary action by the Board is authorized. Tenn. Code Ann. § 68-24-602 (b)(4) which reads as follows:

The board shall promulgate rules to effectuate the purposes of this part including, but not .. limited to:

Application and licensure fees; Examination and licensure procedures; Standards of practice and qualifications for licensure; Disciplinary procedures; and Supervision of applicants.

Tenn. Comp. R. & Regs. 1200-30-01-.15(6) Grounds for disciplinary action :

- (f) Engaging in malpractice, negligence, incompetence or conduct not authorized in the course and scope of practice.
- (i) Any other breach of the NAADAC Code of Ethics or these rules.

Breach of NAADAC Code of Ethics: III-7- Harassment

Addiction Professionals shall not engage in or condone any form of harassment, including sexual harassment.

For the sole purpose of avoiding further cost in defending this administrative action with respect to this cause, Mr. Shiver agrees to **VOLUNTARILY SURRENDER** his license to practice

alcohol and drug counseling in the State of Tennessee and his privilege to practice in any other party state, beginning the effective date of this Order. Mr. Shiver understands that **a voluntary surrender has the same effect as a revocation**. Mr. Shiver may not reapply for licensure as a licensed alcohol and drug abuse counselor for **at least two (2) calendar years from the date of ratification of this Order**. As a pre-requisite for reinstatement, Mr. Shiver must provide proof of completion of the following courses provided by PBI Education in boundaries, civility and communication, ethics and professionalism, and accountability. In addition to the PBI Education courses, Mr. Shiver must also complete an additional forty (40) hours of ethics and professional boundaries from other reputable providers. Each condition of discipline herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

Mr. Shiver understands the allegations, charges, and stipulations in this Order. Mr. Shiver understands the rights found in the Code, Rules, and the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 thru 4-5-404, including the right to a hearing, the right to appear personally and by legal counsel, the right to confront and to cross-examine witnesses who would testify against him, the right to testify and to present evidence on Mr. Shiver's own behalf, as well as to the issuance of subpoenas to compel the attendance of witnesses and the production of documents, as well as the right to appeal for judicial review. Mr. Shiver voluntarily waives these rights in order to avoid further administrative action. Mr. Shiver agrees that presentation of this Order to the Board and the Board's consideration of it and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members become prejudiced requiring their disqualification from hearing this matter should this Order not be ratified. All matters, admissions, and statements disclosed during the attempted ratification process shall not be used against the Mr. Shiver in any subsequent proceeding unless independently entered evidence or introduced as admissions. Mr. Shiver also agrees that the Board may issue this Order without further process. If the Board rejects this Order for any reason, it will be of no force or effect for either party. Mr. Shiver agrees that he has not received any threats or promises of any kind by the State or any agent or representative thereof, except such as is detailed herein. The voluntary surrender is a formal disciplinary action and will be reported to the National Practitioner Data Bank (NPDB). A **violation** of this Order shall constitute a **separate violation**, pursuant to TENN. CODE ANN. The voluntary surrender is a formal disciplinary action and will be reported to the National Practitioner Data Bank (NPDB). A **violation** of this Order shall constitute a **separate violation**, pursuant to TENN. CODE ANN. § 63-7-115(a)(1)(G) and is grounds for further disciplinary action by the Board, including revocation of Respondent's license.

After a brief discussion Mr. Brown made a motion to accept the consent order has written and Mrs. Ella Britt seconded the motion. A roll call vote was held, and Mrs. Ella Britt voted YES; Dr. Jane Abraham voted YES, Mr. David Brown voted YES, Mr. Major McNeil voted YES and Mr. Thomas Corman voted YES. The motion carried.

With no other business to conduct, the meeting was adjourned at 2:56 p.m. The next meeting is January 15, 2021 at 9:00 a.m. at 665 Mainstream, Ground Floor, Nashville, Tennessee

These minutes were ratified at the March 19, 2021 Alcohol and Drug Abuse Counselor Board meeting.

