

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

NICHOLAS A. MANCINI, PHD,)
)
 Petitioner,)
)
vs.) Case No. 11-0541
)
DEPARTMENT OF HEALTH, BOARD OF)
CLINICAL SOCIAL WORK, MARRIAGE,)
AND FAMILY THERAPY AND MENTAL)
HEALTH COUNSELING,)
)
 Respondent.)
_____)

RECOMMENDED ORDER

Administrative Law Judge, John D. C. Newton, II, of the Division of Administrative Hearings, heard this case, as noticed, on April 7, 2011, by video teleconference at sites in West Palm Beach and Tallahassee, Florida.

APPEARANCES

For Petitioner: Nicholas A. Mancini, PhD, pro se
1106 Bahama Bend, Apartment D2
Coconut Creek, Florida 33066

For Respondent: Deborah Bartholow Loucks, Esquire
Assistant Attorney General
Office of the Attorney General
The Capitol, Plaza Level 01
Tallahassee, Florida 32399-1050

STATEMENT OF THE ISSUE

Does Petitioner, Nicholas A. Mancini, PhD (Dr. Mancini), satisfy the requirements for licensure as a mental health

counselor as established in section 491.005(4), Florida Statutes (2010)?¹

PRELIMINARY STATEMENT

Dr. Mancini applied for licensure as a mental health counselor by examination. On December 30, 2010, Respondent, Department of Health, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling (Board), issued its Notice of Intent to Deny Dr. Mancini's application.

Dr. Mancini requested a formal hearing pursuant to Section 120.57(1), Florida Statutes. On February 1, 2011, the Board referred the request to the Division of Administrative Hearings (DOAH) for conduct of the hearing.

On February 9, 2011, the hearing was scheduled for April 7, 2011. The hearing was conducted by video teleconference, as noticed, with sites in West Palm Beach and Tallahassee, Florida. Dr. Mancini attended the hearing from the West Palm Beach site. All other participants attended the hearing from the Tallahassee site.

Dr. Mancini testified on his own behalf and presented testimony of Dr. Peter Sherrard, Cindy Phelps-Dilmore, Sue Foster, and Robin McKenzie. Dr. Mancini offered most of his exhibits on a CD. He also offered some in paper form. The exhibits were not consecutively numbered. Some exhibits on the CD were distinguished by the format in which they were recorded,

PDF or Word. Three, although identified as Word files, were digital audio recordings. The Board, as a courtesy, provided printed copies of the documents. The following exhibits of Dr. Mancini were accepted into evidence: PDF Exhibits 7, 8, 11, 12, 14, 15, 16, 17, 27, 32, 34, and 41; Word Exhibits 5, 6, 7, 15, 16, 19, and 22; and Exhibit 23 (a digital audio recording of a Board meeting). In addition the following paper documents offered as exhibits by Dr. Mancini were accepted into Evidence: Exhibits 1, 2, 3, 4, 5, 6, 7, C, and B.

The Board presented testimony of Sue Foster, Robin McKenzie, and Dr. Peter Sherrard. The Board's Composite Exhibits 1 and 2 were accepted into evidence.

On April 12, 2011, Dr. Mancini filed a Motion to Put Additional Evidence on the Record. The motion was denied.

On April 20, 2011, Dr. Mancini filed a document titled "Petitioner Objection to Respondent Audiotape of 12/08/10 Business Meeting Motion to Put Additional Information on Record filed." The "Objection" is a rambling critique of several exhibits offered or accepted into evidence during the hearing, including exhibits offered by Dr. Mancini. The "Objection" has been considered in evaluating the evidence.

The two-volume transcript was filed April 25, 2011. The parties timely filed Proposed Recommended Orders. The proposed

orders have been considered in the preparation of this Recommended Order.

FINDINGS OF FACT

Based on the evidence presented at the final hearing and on the entire record of this proceeding, the following findings of fact are made:

1. On December 30, 2010, the Board issued its Notice of Intent to Deny Dr. Mancini's application for licensure as a Mental Health Counselor. Dr. Mancini requested a hearing to challenge the decision. This proceeding followed.

2. Dr. Mancini has been licensed to practice psychology in California and Pennsylvania. His Pennsylvania license expired November 30, 2003. His California license was canceled on May 31, 2006.

3. Dr. Mancini earned a master's degree in psychology from Fairleigh Dickinson University. He completed 34 semester hours of coursework there. The Fairleigh Dickinson University master's in psychology program that Dr. Mancini completed was not a mental health counseling program accredited by the Council of Accreditation of Counseling and Related Educational Programs. The program is, however, related to the practice of mental health counseling.

4. At the time Dr. Mancini attended Farleigh Dickinson, it was accredited by the Commission on Higher Education of the

Middle States Association of Colleges and Schools. It was also accredited by the Council of Higher Education Accreditation.

5. By completing Fairleigh Dickinson course 20PY624, Counseling and Interviewing, Dr. Mancini obtained three semester hours of graduate coursework in the content area of counseling theories and practice.

6. By completing Fairleigh Dickinson course 30PY633, Abnormal Psychology, Dr. Mancini obtained three semester hours of graduate coursework in the content area of diagnosis and treatment of psychopathology.

7. By completing Fairleigh Dickinson Course 30PY600, Tests and Measurements I, Dr. Mancini obtained three semester hours of graduate coursework in the content area of individual evaluation and assessment.

8. By completing Fairleigh Dickinson courses 20PY603 and 20PY604, Statistics and Experimental Psychology, Dr. Mancini obtained three semester hours of graduate coursework in the content area of research and program evaluation.

9. By completing Fairleigh Dickinson course 30PY710, Social Problems, Dr. Mancini obtained three semester hours of graduate coursework in the content area of substance abuse.

10. Dr. Mancini attended, but did not receive a degree from, Hahneman University Medical College of Philadelphia (now Drexel University). He completed four semester hours of

graduate coursework there. At the time, it was regionally accredited by the Council of Higher Education Accreditation.

11. Dr. Mancini attended, but did not receive a degree from, Glassboro State College (now Rowan University). He completed six semester hours of graduate coursework there. At the time, it was regionally accredited by the Council of Higher Education Accreditation.

12. Dr. Mancini earned a doctoral degree in counseling psychology from the Professional School of Psychological Studies. At the time, the school was not regionally accredited.

13. Dr. Mancini has not obtained three semester hours of graduate-level coursework from a regionally accredited institution in each of the following content areas: human growth and development; human sexuality, group theories and practice; career and lifestyle assessment; social and cultural foundations; counseling in community settings; and legal, ethical, and professional standards issues in the practice of mental health counseling.

CONCLUSIONS OF LAW

14. Sections 120.569 and 120.57(1), Florida Statutes, grant the Division of Administrative Hearings jurisdiction over the subject matter of this proceeding and of the parties.

15. As the applicant, Dr. Mancini bears the burden of persuasion to establish by a preponderance of the evidence that

he meets the requirements for licensure. § 491.005(4)(b)2, Fla. Stat.; Richard S. Espinoza vs. Dep't. of Bus. & Prof'l Reg., Fla., Bd. Prof'l Engineers, 739 So. 2d 1250 (Fla. 3d DCA 1999); Dep't of Transp. v. J.W.C. Company, Inc., 396 So. 2d 778 (Fla. 1st DCA 1981); Balino v. Dep't of HRS, 348 So. 2d 349 (Fla. 1st DCA 1977).

16. Section 491.005(4) establishes the requirements for licensure as a mental health counselor. An applicant must meet the specific educational requirements of section 491.005(4). See Koger v. Dep't of Prof'l Reg., 647 So. 2d 312 (Fla. 5th DCA 1994). Since neither Dr. Mancini's master's degree nor his doctorate is from a mental health counseling program accredited by the Council for the Accreditation of Counseling and Related Educational Programs, he must prove that he meets the graduate level coursework requirements set forth in section 491.005(4)(b)1.

17. The statute requires that an applicant have earned a master's degree or higher that includes completion of at least 60 semester hours from an institution of higher education. The institution must have been fully accredited by a regional accreditation body recognized by the Commission on Recognition of Postsecondary Accreditation at the time of the applicant's graduation.² The coursework must meet specific requirements

addressed later. Dr. Mancini has not proven by persuasive evidence that he meets the 60 hour requirement.

18. Section 491.005(4)(b)1 also requires, among other things, a minimum of three semester hours in 12 content areas. Seven of the content areas are: human growth and development; human sexuality, group theories and practice; career and lifestyle assessment; social and cultural foundations; counseling in community settings; and legal, ethical, and professional standards issues in mental health counseling.

19. Florida Administrative Code Rule 64B4-31.010 clarifies the content requirements of section 491.005(4)(b), as provided in section 491.005(6). The clarifications of that rule have been applied to the evaluation of the courses completed by Dr. Mancini.

20. Dr. Mancini has not proven by persuasive evidence that he has obtained a minimum of three semester hours in the content areas of human growth and development; human sexuality, group theories and practice; career and lifestyle assessment; social and cultural foundations; counseling in community settings; and legal, ethical, and professional standards issues in mental health counseling.

21. Dr. Mancini has not proven that he has completed the required number of hours in an appropriately accredited institution. He also has not proven that he completed the

required minimum number of hours in the specific mandatory content areas. Consequently Dr. Mancini is not entitled to licensure as a mental health counselor.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Health, Board of Clinical Social Work, Marriage, and Family Therapy and Mental Health Counseling issue a final order denying Dr. Mancini's licensure application.

DONE AND ENTERED this 7th day of June, 2011, in Tallahassee, Leon County, Florida.



JOHN D. C. NEWTON, II
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 7th day of June, 2011.

ENDNOTES

¹ All references to the Florida Statutes are to the 2010 edition unless otherwise noted.

² Other provisions of the statute for schools outside of the United States do not apply here.

COPIES FURNISHED:

Deborah B. Loucks, Esquire
Office of the Attorney General
The Capitol, Plaza Level 01
Tallahassee, Florida 32399

Nicholas Angelo Mancini, PhD
1106 Bahama Bend, Apartment D2
Coconut Creek, Florida 33066

Susan Foster, Executive Director
Board of Clinical Social Work,
Marriage, and Family Therapy
and Mental Health Counseling
Department of Health
4052 Bald Cypress Way, Bin C08
Tallahassee, Florida 32399

Nicholas Romanello, General Counsel
Department of Health
4052 Bald Cypress Way, Bin A02
Tallahassee, Florida 32399

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.