

COMMONWEALTH OF MASSACHUSETTS

**Division of Administrative Law Appeals**  
**14 Summer Street, 4th Floor**  
**Malden, MA 02148**  
**[www.mass.gov/dala](http://www.mass.gov/dala)**

**Department of Public Health,**  
**Bureau of Substance Addiction Services,**  
Petitioner

v.

Docket Nos. PH-22-0414, PH-23-0133

**Karen Landry,<sup>1</sup>**  
Respondent

**Appearance for Petitioner:**

Tracy J. Ottina, Esq., Prosecutor<sup>2</sup>  
Department of Public Health  
Office of the General Counsel  
250 Washington Street, 8th Floor  
Boston, MA 02108

**Appearance for Respondent:**

Patrick Hanley, Esq.<sup>3</sup>  
Butters Brazilian  
420 Boylston Street, 4th Floor  
Boston, MA 02116

**Administrative Magistrate:**

Kenneth Bresler

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<sup>1</sup> The respondent's name appears on some documents as Karen Thornton and Karen Thornton Landry. With the respondent's permission, I have changed the name of these appeals to "Karen Landry," the name she uses now. I use "Karen Landry" even if the document I cite uses a different name.

<sup>2</sup> In addition to Ms. Ottina, Jessica Uhing-Luedde represented DPH until she withdrew her appearance on September 11, 2024.

<sup>3</sup> After I issued my decision on summary suspension in *DPH v. Landry*, PH-23-0408, on April 4, 2024, Joshua A. Lewin, Esq., withdrew as Ms. Landry's lawyer, and Mr. Hanley appeared.

## **SUMMARY OF DECISION**

Petitioner Department of Public Health may (1) revoke Respondent Karen Landry's license as a Licensed Alcohol and Drug Counsel 1; and (2) refuse to renew her license.

## **DECISION**

The respondent, Karen Landry, appeals DPH's proposed actions to, separately, revoke her license as a Licensed Alcohol and Drug Counselor I (LADC I) and not renew her license as an LADC I. (DPH's proposed actions rely on overlapping factual allegations. Hence, this combined decision.)

I held a hearing on October 3 and 4, 2023 by Webex, which I recorded. Ms. Landry testified and called no other witness. DPH called Ian Bain, the Alcohol and Drug Licensing Coordinator; Barbara Yates, who worked for DPH in the Bureau of Substance Addiction Services (BSAS); and Erica Weil, Director of the Quality Assurance and Licensing at BSAS.

In October 2023, I admitted exhibits for these two appeals and another appeal by Ms. Landry. (I heard the other appeal, PH-23-0408, on October 4 and 5, 2023.) I admitted Petitioner's Exhibits 1 through 111, and Respondent's Exhibits 1 through 108. While some exhibits clearly belong to these two appeals or to the other appeal, some exhibits are for all three appeals.

Many, if not most, exhibits were not the subject of testimony or argument, either oral or written. The significance of many, if not most, exhibits is not apparent on their face. I have considered each exhibit (except for the ones whose relevance I explicitly questioned at the hearing), even if I do not write about them in this decision.

The record in these two appeals closed with the receipt of the parties' briefs on July 8 and 10, 2024. The delay between the hearing and the submission of briefs was due in part to

preparation of transcripts and the withdrawal of the lawyer who represented Ms. Landry at the hearing.

## **Findings of Fact**

### Introduction

1. Over her working life, Ms. Landry has held various licenses allowing her to provide various counseling services to people. She has held a license as a Licensed Alcohol and Drug Counselor I (LADC I); a Licensed Mental Health Counselor (LMHC); and a Licensed Social Worker (LSW). (Pet. Ex. 10, p. 155; Pet. Ex. 5, p. 124; Pet. Ex. 6, p. 131)<sup>4</sup> These appeals are directly about her license as an LADC I and indirectly about her other licenses.

2. At least two licensing bodies have disciplined or sought to discipline Ms. Landry: the Bureau of Substance Addiction Services (BSAS) and the Board of Registration of Allied Mental Health Professionals.

A. BSAS's discipline and proposed discipline is the subject of the instant appeals and a separate appeal, PH-23-0408. (In PH-23-0408, on April 4, 2024, I affirmed BSAS's summary suspension of Ms. Landry's LADC I license. On the same day that I issue this decision in PH-22-0414 and PH-23-0133, I am also deciding in PH-23-0408 that BSAS may permanently revoke her LADC I license.)

B. The Board of Registration of Allied Mental Health Professionals has disciplined Ms. Landry twice, as described below. Its discipline is not directly related to the instant appeals. Rather, BSAS seeks to discipline Ms. Landry for not completely reporting to BSAS that the Board of Registration of Allied Mental Health Professionals had disciplined her.

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<sup>4</sup> In this decision, page numbers after exhibit numbers are Bates numbers, not any page number that may appear within an exhibit.

(Pet. Ex. 11, p. 171; (Pet. Ex. 16, p. 241)

3. BSAS also seeks to discipline Ms. Landry for practicing outside the scope of her LADC I license. That is, BSAS seeks to discipline Ms. Landry as a Licensed Alcohol and Drug Counselor I because she provided services that she was not licensed to provide under her LADC I license or any other license.

Ms. Landry's license as a Licensed Social Worker

4. Ms. Landry testified about her license as an LSW as follows:<sup>5</sup>

A. In 1995, Ms. Landry began working as a social worker at what was then called the Department of Social Services and is now the Department of Children and Families (DCF). (10-4-23, Tr. 122)

B. After she obtained her LMHC license in 2002, Ms. Landry felt that she did not need her LSW license and let it expire. (10-4-23, Tr. 124)

C. In or around 2015, DCF recruited Ms. Landry to return. It required her to have an LSW license. (10-4-23, Tr. 124)

5. On August 31, 2015, Ms. Landry was reinstated as a Licensed Social Worker (LSW) under a conditional licensure agreement with the Board of Registration of Social Workers. (Pet. Ex. 6, pp. 131, 134)

6. The structure of the agreement indicated that the conditional nature of Ms. Landry's LSW license was due to her having been disciplined by the Board of Registration of Allied Mental Health Professionals. (That discipline is discussed below.) Section 2 of the agreement discussed Ms. Landry's discipline; Section 3 imposed the conditions. (Pet. Ex. 6, pp. 131, 134)

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<sup>5</sup> I put it this way – “Ms. Landry testified” – because these assertions are not supported by documents and I do not find them as facts.

7. It is unclear when Ms. Landry's LSW license expired.<sup>6</sup>

Ms. Landry's license as a Licensed Mental Health Counselor – first discipline

8. On or about May 8, 2002, Ms. Landry became a Licensed Mental Health Counselor (LMHC). (Pet. Ex. 5, p. 124)

9. In or around October 2005, Ms. Landry, while an LMHC, provided counseling services to a person whose initials are J.D. (Pet. Ex. 4, p. 119)

10. In 2005, Ms. Landry began a personal relationship with J.D. It continued through at least December 7, 2007. (Pet. Ex. 4, p. 119)<sup>7</sup>

11. Ms. Landry's personal relationship with J.D. violated the Code of Ethics of the American Mental Health Counselors Association and various Massachusetts state regulations. (Pet. Ex. 4, p. 119)

12. On December 7, 2007 Ms. Landry signed a voluntary surrender agreement with the Board of Registration of Allied Mental Health Professionals. (Pet. Ex. 4, p. 121)

13. Under the agreement, Ms. Landry agreed to several things, including:

A. She surrendered her LMHC license. ((Pet. Ex. 4, p. 119)

B. She stopped performing, providing, offering, or participating in any service or

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<sup>6</sup> On June 24, 2021, Ms. Landry's lawyer wrote a letter to the Division of Professional Licensure, Board of Registration of Social Workers, stating that her license "from this Board (i.e., LSW) *has* expired as of June 23, 2021." (Pet. Ex. 10) (emphasis modified) It is unclear whether he meant that the status of her license, as of the previous day, was expired, or that it expired *on* the previous day. A BSAS complaint form about Ms. Landry, under "Allegations," states, "As of 6-23-2021, LSW Lic. expired." (Pet. Ex. 14) On or about March 26, 2021, a complaint was filed with the Board of Registration of Social Workers alleging that Ms. Landry was representing herself as a social worker. (Pet. Ex. 11, p. 173) That implies that Ms. Landry's LSW license expired sometime before March 26, 2021. See 10-4-23 Tr. 8 (Erica Weil of BSAS did not believe that Ms. Landry had a valid social worker license).

<sup>7</sup> In her 2022 application to renew her LADC 1 license, Ms. Landry disputed some details of her relationship with J.D, as quoted below. (Pet. Ex. 13, pp. 217-18)

activity in Massachusetts constituting practice as a mental health counselor or requiring a license from the Board of Registration of Allied Mental Health Professionals. She could not do so until she received another license from the Board. (Pet. Ex. 4, pp. 119-120)

14. Ms. Landry agreed and stated that she understood that the surrender of her license constituted disciplinary action. (Pet. Ex. 4, p. 120)

15. Under the surrender agreement, Ms. Landry could not apply for an LMHC license for four years. (Pet. Ex. 4, p. 120)

Ms. Landry's license as a Licensed Mental Health Counselor – second discipline

16. On July 28, 2011, the Board of Registration of Allied Mental Health Professions filed an Amended Order to Show Cause with Ms. Landry. (The reason why the board amended its order is not explicitly in the record. Nor does the reason seem significant.) The amended order included these allegations:

A. On or about December 7, 2007 Ms. Landry voluntarily surrendered her LMHC license.

B. During at least 2008 and 2009, Ms. Landry held herself out and practiced as an LMHC, and advertised that she was one, in violation of G.L. c. 112, §§61, 65A, and 164. She continued to use business cards with "LMHC" on them, including one taped to her office door.

C. When an investigator, apparently undercover, from the Board of Registration of Allied Mental Health Professions called Ms. Landry and asked if she provided counseling, Ms. Landry answered, "Yes, I do."

D. When the investigator said that she was seeking individual therapy, Ms. Landry did not say that she could not provide it.

E. On or about May 27, 2009 the investigator met with Ms. Landry for an

individual therapy session. Ms. Landry handed the investigator a cancellation policy that referred to Ms. Landry as an LMHC. (Pet. Ex. 5, pp. 124-25)<sup>8</sup>

17. On January 12, 2012 the Board of Registration of Allied Mental Health Professions revoked Ms. Landry's rights to practice as an LMHC in Massachusetts and her rights to renew her license. It also fined her \$1,000. (Pet. Ex. 5, p. 128)

Summary of discipline against Ms. Landry as an LMHC

18. Thus, the Board of Registration of Allied Mental Health Professions imposed two sets of discipline on Ms. Landry:

A. On December 7, 2007, Ms. Landry voluntarily surrendered her LMHC license; agreed to stop performing, providing, offering, or participating in any service or activity in Massachusetts constituting practice as a mental health counselor or requiring a license from the Board of Registration of Allied Mental Health Professionals; and agreed that she could not apply for an LMHC license for four years. (Pet. Ex. 4, p. 119-20)

B. On January 12, 2012, it revoked Ms. Landry's rights to practice as an LMHC in Massachusetts and her rights to renew her license, and fined her \$1,000. (Pet. Ex. 5, p. 128)

19. The Conditional License Agreement with the Board of Registration of Social Workers, which Ms. Landry signed on July 8, 2015, stated:

The Applicant [that is, Ms. Landry] has admitted to sufficient facts to conclude that her license to practice as Licensed Mental Health Counselor (LMHC - # 5051) was REVOKED by the Massachusetts Board of Registration of Allied Mental Health Professions in the following actions: MH-06-018 and MH-10-006. The decisions are attached hereto as Exhibit A and Exhibit B. (Please send)

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<sup>8</sup> In her 2022 application to renew her LADC 1 license, Ms. Landry disputed some details of the investigation and proceedings against her, as quoted below. (Pet. Ex. 13, pp. 217-18)

(Pet. Ex. 6, p. 131) (The last two words are handwritten.) Ms. Landry initialed this page. The following indicated that the Board of Registration of Allied Mental Health Professions had imposed two sets of discipline on her: the word “actions” in the plural; the two docket numbers; docket numbers that a layperson could guess or assume indicated that the cases were started in 2006 and 2010, that is, separately; and Exhibit A and Exhibit B (even though the documents were apparently not attached to the Conditional Licensure Agreement at the time Ms. Landry signed it).

Ms. Landry’s application to be a Licensed Alcohol and Drug Counselor

20. On June 1, 2018, Ms. Landry applied for a license as an LADC I. (Pet. Ex. 7, p. 131)

21. When asked,

Has any disciplinary action been taken against you by a licensing or certification board located in the United States or any country or foreign jurisdiction?

Ms. Landry answered:

In 2007 a voluntary return of LMHC. I have since petitioned the Licensing Board and [been] granted the LSW.<sup>9</sup> Additionally[,] applied and passed LMHC exam for re licensing of LMHC

(Pet. Ex. 7, p. 131)

22. Ms. Landry did not mention that on January 12, 2012 the Board of Registration of Allied Mental Health Professions had revoked Ms. Landry’s rights to practice as an LMHC in Massachusetts and her rights to renew her license, and had fined her \$1,000. (Pet. Ex. 5, p. 128)

23. Ms. Landry electronically signed the application under the pains and penalties of

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<sup>9</sup> DPH’s brief may or may not imply that DPH considered the conditional licensure as discipline that Ms. Landry should have been more specific about. (Pet. Br. at 4, 21) In addition, DPH’s position seems to be that Ms. Landry should have revealed to DPH that Ms. Landry’s LSW license was conditional. (10-3-23 Tr. 200-01, 10-4-23 Tr. 178 ) If DPH meant to advance these positions, it did not develop them and I do not consider them.



perjury. She “attest[ed] that the answers and statements in this application are true.” (Pet. Ex. 7, p. 134)

24. Mr. Bain, the Alcohol and Drug Licensing Coordinator, who determined whether Ms. Landry was eligible for an LADC I license, did not contact the Board of Registration of Allied Mental Health Professions, the Board of Registration of Social Workers, or the Division of Occupational Licensure. He did not obtain documents related to Ms. Landry’s discipline or search online to see if she had other disciplinary actions against her. He did none of those things because it is not typical to do so when reviewing a license application unless something spurs further investigation. (10-3-23 Tr. 44-45, 59, 62-65, 68-70, 115-16)

25. BSAS relies on applicants and licensees to provide truthful information about themselves. (10-3-23 Tr. 103, 106)

26. Mr. Bain approved Ms. Landry’s LADC I license. (10-3-23 Tr. 48 )

27. On December 14, 2018, DPH issued an LADC I license to Ms. Landry. (Pet. Ex. 10, p. 155)

Ms. Landry’s 2020 application to renew her Licensed Alcohol and Drug Counselor license

28. On October 5, 2020, Ms. Landry applied to renew her license as an LADC I. (Pet. Ex. 8, p. 141)

29. When the application asked, “Has any disciplinary action been taken against you by a licensing or certification board...,” Ms. Landry answered under “Answer” “Yes,” and under “Narrative,” “Please see initial application.” (Pet. Ex. 8, p. 141) That is, she readopted the statement in her application on June 1, 2018 to become an LADC I. Her 2018 statement did not mention that on January 12, 2012, the Board of Registration of Allied Mental Health Professions had disciplined her. (Pet. Ex. 7, p. 131)

30. Ms. Landry electronically signed the application under the pains and penalties of perjury. She “attest[ed] that the answers and statements in this application are true.” (Pet. Ex. 8, p. 147)

31. Mr. Bain, who again determined whether Ms. Landry was eligible for a renewed LADC I license, did not further investigate any disciplinary actions against Ms. Landry because she did not indicate that anything had changed from her initial application. (10-3-23 Tr. 51)

32. Ms. Yates, who worked in BSAS, later determined that Ms. Landry’s 2018 initial application and 2020 renewal application were not accurate. (10-3-23 Tr. 136)

Ms. Landry’s alleged practice outside the scope of her LADC I license: investigation begins

33. On or about March 21, 2021, the Massachusetts Division of Occupational Licensure (DOL) received a complaint from a man who reported that Ms. Landry had represented herself as a therapist and had diagnosed his son’s condition as attention deficit hyperactivity disorder when she was not licensed to do so. (Pet. Ex. 14, p. 221)

34. On January 20, 2022, DOL passed on the complaint to DPH. (Pet. Ex. 14, p. 221) (The evidence does not explain the lapse between DOL’s having received the complaint and its passing the complaint on to DPH 10 months later.)

35. The complaint from DOL led DPH to investigate Ms. Landry’s scope of practice, including a review of her patients’ records. (*E.g.*, Pet. Ex. 14, p. 238; 10-3-23 Tr. 151)

Ms. Landry’s alleged marketing outside the scope of her LADC I license

36. The complaint is not directly significant. It is significant because it recorded information about Ms. Landry’s website, information that is not otherwise available.

37. The complaint form stated,

After a BSAS review of the website associated with New Beginnings, the following marketing information is [at] present associated with Karen A. Thornton who appears to be the sole clinician. [www.newbeginnings-northborough.com](http://www.newbeginnings-northborough.com)

Karen Thornton  
M.A., LADC1, Gottman Method for Couples certified

(Pet. Ex. 14, p. 222) (The reference to “a BSAS review” indicates that the summary of Ms. Landry’s website is from BSAS, not DOL.)

38. The complaint form reported that Ms. Landry’s website listed the following as specialties: marital and premarital; addictions; ADHD diagnosis; parenting-teen issues, divorce; trauma and PTSD. (Pet. Ex. 14, p. 222)

39. The complaint form reported that Ms. Landry’s website listed the following as issues, presumably meaning that she counseled people on them: ADHD, addiction, alcohol use, anger management, behavioral issues, child or adolescent, codependency, coping skills, depression, divorce, domestic abuse, domestic violence, dual diagnosis, eating disorders, emotional disturbance, family conflict, gambling, infertility, infidelity, internet addiction, life transitions, men’s issues, obsessive-compulsive (OCD), peer relationships, relationship issues, school issues, self-harming, sexual abuse, substance use, suicidal ideation, teen violence, and women’s issues. (Pet. Ex. 14, p. 223)

40. The complaint form reported that Ms. Landry’s website listed the following therapy types, presumably meaning the kinds that she used: coaching, cognitive behavioral (CBT), eclectic, family/marital, family systems, forensic psychology, Gottman Method, mindfulness-based (MBCT), motivational interviewing, strength-based, and trauma focused. (Pet. Ex. 14, p. 223)

41. In approximately the last week of January 2022, Ms. Yates reviewed Ms. Landry’s

website, called New Beginnings. (10-3-23 Tr. 140, 142-43)

42. Ms. Yates did not record Ms. Landry's website, such as by printing it out. (10-3-23 Tr. 143)

43. Possibly a week later, Ms. Yates tried to visit Ms. Landry's website again but it had been taken down. (10-3-23, Tr. 143)

44. Ms. Yates remembers that Ms. Landry's website offered multiple services, such as counseling for couples, and for people with communication and relationship issues and ADHD. (10-3-23 Tr. 143)

45. Ms. Yates wrote an investigation report that stated:

A review of documents representing Licensee's website as appeared on January 20, 2022, revealed that Licensee advertised the ability to provide treatment services for disorder such as ADHD, Anger Management, Eating Disorders, Infertility, and Emotional Disturbance Management.

(Pet. Ex. 15, p. 239) (It is unclear what a "review of documents representing Licensee's website" means. It may have referred to the complaint form's summary of Ms. Landry's website. (Pet. Ex. 14, pp. 222-23))

46. The investigation report refers to "attached screen shot of website reference in complaint." (Pet. Ex. 15, p. 242) (No screen shot is in evidence. The investigation report may have referred to the complaint form's summary of Ms. Landry's website. (Pet. Ex. 14, pp. 222-23))

47. Approximately around January 2022, Ms. Yates visited Ms. Landry's LinkedIn page and printed it out. (10-3-23 Tr. 145-46; Pet. Ex. 2)

48. The first heading in Ms. Landry's LinkedIn profile described her as an "LADC-1 and relationship therapist in private practice." (Pet. Ex. 2, p. 41) The profile did not explain "LADC-1" or use words such as "addiction" or "substance use disorder." (Pet. Ex. 2; 10-3-24 Tr. 145-46)

49. The LinkedIn profile's "About" section stated in part:

Over 27 years of a demonstrated history in the field of social work/psychology working with individuals and families. Skilled in Crisis Intervention, Relationship communication deficits and Conflict Resolution...."

It mentioned her "Graduate degree in Counseling Psychology." (Pet. Ex. 2, p. 41)

50. Ms. Landry's LinkedIn profile's "Experience" section began, in reverse chronological order, with

LADC1  
New Beginnings  
Jan. 2018 - present

The second entry under "Experience" was:

Owner  
New Beginnings – Relationship Coaching  
Jan. 2008 – present....  
Relationship consulting

(Pet. Ex. 2, p. 43)

51. Ms. Landry's LinkedIn profile's "Licenses & Certifications" section read:

LADC  
Massachusetts Department of Public Health  
Issued Dec. 2018 – Expires Dec. 2020

Licensed Social Worker

(Pet. Ex. 2, p. 43) Ms. Landry did not then have a valid license as an LSW. See Factual Finding 7 & footnote.

52. Ms. Landry's LinkedIn profile stated that she offered relationship coaching and consulting, stated that she held a license as a social worker, and implied that she worked with individuals and families in crisis intervention, relationship communication deficits, and conflict resolution. Other than listing "LADC" twice without explanation, Ms. Landry's profile did not indicate that she offered counseling for substance use disorder.

Ms. Landry's treatment of Client 23

53. After reviewing Ms. Landry's patient records, DPH's investigation focused on one patient, designated Client 23. (The record also refers to "Patient 23.")

54. When she treated Client 23, Ms. Landry held only one professional license, an LADC I license. (10-3-23 Tr. 156)

55. On June 29, 2021, Client 23 completed an intake questionnaire for New Beginnings. (Pet. Ex. 3)

56. When asked what had brought her to counseling, Client 23 answered that a neuropsychologist had recommended that she start psychotherapy. (Pet. Ex. 3, p. 55)

57. When asked about her goals for counseling, Client 23 answered, "To help my anxiety, constant worrying, and overthinking." (Pet. Ex. 3, p. 55)

58. When asked if she drinks alcohol, Client 23 answered, "Yes occasionally." (Pet. Ex. 3, p. 55)

59. When asked if she used recreational drugs, Client 23 answered no. (Pet. Ex. 3, p. 55)

60. On the Alcohol Use Disorders Identification Test (AUDIT), when asked how often she had a drink containing alcohol, Client 23 answered "2 to 4 times a month." When asked how many drinks she had on a typical day when she drank, Client 23 answered, "1 to 2." To all other questions about alcohol, Client 23 answered "Never" or "No." (Pet. Ex. 3, p. 60).

61. The intake questionnaire did not indicate that Client 23 had a substance use disorder. (10-3-23 Tr. 152, 215-16)

62. On her intake questionnaire, Client 23 wrote,

My 16 year old son is 50/50 with father as well but he is in a program right now for substance abuse, mental health issues.

(Pet. Ex. 3, p. 56) (As DPH noted, the questionnaire does not make it clear whether the son or father was in the program. (10-3-23 Tr. 199) Ms. Landry later clarified that it was the son. (10-4-23 Tr.182))

63. A Diagnostic Evaluation of Client 23 – not by Ms. Landry, but by a Ph.D. whose name is blacked out – referred to the client’s “alcoholic birth father.” (Pet. Ex. 3, p. 104)<sup>10</sup>

64. On July 2, 2021, Ms. Landry created a diagnosis and treatment plan for Client 23. (Pet. Ex. 3, p. 65)

65. The diagnosis and treatment plan for Client 23 had two diagnoses: chronic post-traumatic stress disorder, and adjustment disorder with anxiety. (Pet. Ex. 3, p. 65-66) The diagnoses were not for substance use disorder. (10-3-23 Tr. 154)

66. Ms. Landry knew that Client 23 did not have substance use disorder. (10-4-23 Tr. 188)

67. Ms. Yates did not interview Client 23 or Ms. Landry about Client 23. (10-3-23 Tr. 182) Miss Weil did not interview Client 23. (10-4-23 Tr. 68) Client 23 did not testify.

Proposed revocation of Ms. Landry’s Licensed Alcohol and Drug Counselor license

68. On August 11, 2022, DPH issued a Notice of Agency Action: Proposed Revocation of Alcohol and Drug Counselor License. (Pet. Ex. 11, p. 171)

69. DPH’s grounds were that Ms. Landry had “obtained her License through fraud or misrepresentation and...that she is practicing outside the scope of her license.” (Pet. Ex. 11, p. 171)

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<sup>10</sup> This diagnostic evaluation by another provider apparently made its way into Ms. Landry’s file for Client 23. How it did so is not the subject of evidence.

70. More specifically, DPH alleged that

- when Ms. Landry applied for an LADC I license in 2018 and
- applied to renew her license in 2020 and
- had been asked whether she had been disciplined by any licensing or certification

board,

she did not mention that in 2012 the Board of Registration of Allied Mental Health Professions had revoked her rights to practice as an LMHC in Massachusetts, revoked her rights to renew her license, and had fined her \$1,000. (Pet. Ex. 7, p. 172-73)

71. In support of its proposed revocation of Ms. Landry's LADC I license, DPH stated the following grounds:

- A. Fraud or misrepresentation in obtaining a license, or its renewal;  
[105 C.M.R. 168.019 (A)(1)];
- B. Provision and marketing of services outside the scope of practice authorized under LADC I #17980;  
[105 C.M.R. 168.004];
- C. Failure to abide by the Ethical Standards for counselors set by the National Association of Alcoholism and Drug Counselors;  
[105 C.M.R. 168.023]; [Principle I-21][Principle III-2, 5, 13]
- D. Respondent's actions constitute violations of ethical standards which the Department determines to be of such a nature as to render her unfit to practice as a licensed alcohol and drug counselor.  
[105 C.M.R. 168.019 (A)(4)];
- E. Respondent's actions constitute just and sufficient cause which the Department has determined renders her unfit to practice as a licensed alcohol and drug counselor. [105 C.M.R. 168.019 (A)(5)];

(Pet. Ex. 11, pp. 174-75) (bold deleted; brackets in original) (The principles appear in Pet. Ex. 1.)

72. On September 27, 2022, Ms. Landry asked for a hearing. (Pet. Ex. 12, p. 185)

73. This case became PH-22-0414.



Ms. Landry's 2022 application to renew her Licensed Alcohol and Drug Counselor license

74. On November 3, 2022, Ms. Landry applied to renew her LADC I license. When asked, "Has any disciplinary action been taken against you by a licensing or certification board...?" Ms. Landry answered,

In 2007 voluntary surrender of LMHC for 4 years for having a dual/social relationship with a former client within 2 years of termination of therapy with a client I had seen for 7 appointments from the period of October 2004-February 2005. Client terminated February 2005. In February 2006 complaint filed, agreement entered 12/2007 for 4 years. In 2011 ability to reapply was revoked due to lack of response from me after the Board performed a google search saw I was listed by a 3rd party the NPI had sold my information to as an LMHC. The DPL sent an investigator out under the guise of a potential client for my Life coaching business as I was not practicing as an LMHC. Investigator saw mail addressed to LMHC and an old business card. I was ill needing emergency surgery and not working or able to afford an attorney any longer so ability to reapply after the voluntary surrender agreement was revoked due to lack of response. Due to lack of legal representation I was never cleared of allegation and deny to this day.

I was in close contact with Board Director who gave permission for me to take the LMHC exam again in 2016 and passed. We had emailed about potentially going before the Board to petition reinstatement.

(Pet. Ex. 13, pp. 217-18)<sup>11</sup>

75. When asked, "Are you the subject of pending disciplinary action by a licensing or certification board...?" Ms. Landry answered,

In 2021 the parent of an adolescent filed a complaint with Social work board stating I was practicing outside my scope as LSW in retaliation for a [Chapter] 51A [report] I filed as a mandated reporter. I was being supervised by an LICSW bi weekly and had licensure agreement through the social work board, entered

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<sup>11</sup> I made no findings on whether Ms. Landry's statements are accurate. With this answer, Ms. Landry mentioned both sets of discipline that the Board of Registration of Allied Mental Health Professions had imposed on her. Regarding the 2012 discipline, Ms. Landry mentioned that the Board had revoked her *rights to renew* her license, but not that the Board had revoked her *rights to practice* as an LMHC and had fined her \$1,000. (Pet. Ex. 5, p. 128)

into after a meeting with the board with subsequent approval.<sup>12</sup> I was also Licensed as an LADC1 at the time and the parent was unaware that this allowed me to practice counseling independently, as the family was going through a divorce due to ETOH and SUD.<sup>13</sup> The SW board then referred the issue to DPH which is where it stands.

(Pet. Ex. 13, p. 218)

76. Ms. Landry electronically signed the application under the pains and penalties of perjury. She “attest[ed] that the answers and statements in this application are true.” (Pet. Ex. 13, p. 220)

77. DPH did not approve Ms. Landry’s 2022 application to renew her LADC I license. (10-3-23 Tr. 56)

Proposed refusal to renew Ms. Landry’s Licensed Alcohol and Drug Counselor license

78. On February 2, 2023’ DPH issued a second Notice of Agency Action: Refusal of Renewal. DPH notified Ms. Landry that under G. L. c. 111J, § 6 and 105 C.M.R. 168.019, it intended to refuse to renew her LADC I license. (Pet. Ex. 16, p. 241)

79. DPH invoked two regulations:

A. 105 CMR168.019(A)(11), which authorizes DPH to revoke an LADC I license or refuse to renew a license if a licensee has

been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in 105 CMR 168.000;

and

B. 1105 CMR 68.019(A)(1), which authorizes DPH to pursue the same discipline if a licensee engaged in “fraud or misrepresentation in obtaining a license, or its renewal.” (Pet. Ex.

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<sup>12</sup> I assume this refers to the Board of Registration of Social Workers’ later approval of an LSW license for Ms. Landry.

<sup>13</sup> Alcohol abuse and substance use disorder.

16, p. 241)

80. In support, DPH stated:

In your LADC renewal application #39972 submitted to the Department on or about November 3, 2022, you responded under the pains and penalties of perjury as follows when asked: Has any disciplinary action been taken against you by a licensing or certification board located in the United States or any country or foreign jurisdiction?

*“In 2007 voluntary surrender of LMHC for 4 years for having a dual/social relationship with a former client within 2 years of termination of therapy with a client I had seen for 7 appointments from the period of October 2004-February 2005. Client terminated February 2005. In February 2006 complaint filed, agreement entered 12/2007 for 4 years. In 2011 ability to reapply was revoked due to lack of response from me after the Board performed a google search saw I was listed by a 3rd party the NPI had sold my information to as an LMHC. The DPL sent an investigator out under the guise of a potential client for my Life coaching business as I was not practicing as an LMHC. Investigator saw mail addressed to LMHC and an old business card. I was ill needing emergency surgery and not working or able to afford an attorney any longer so ability to reapply after the voluntary surrender agreement was revoked due to lack of response. Due to lack of legal representation I was never cleared of allegation and deny to this day. I was in close contact with Board Director who gave permission for me to take the LMHC exam again in 2016 and passed. We had emailed about potentially going before the Board to petition reinstatement.”<sup>14</sup>*

This characterization of the basis for the Board’s revocation constitutes fraud or misrepresentation given the Board’s findings as detailed in its January 12, 2012, Final Decision and Order by Default. [A footnote pointed to Exhibit A, which is Jan. 2012 action.] Specifically, the Board found that that you violated M.G.L. c. 112 § 65A, “Unlicensed practice of trade or profession for which license is required,” and M.G.L. c. § 164 which prohibits individuals who are not licensed or exempted from licensure from advertising or using the title of licensed mental health counselor. The Board revoked your LMHC license, revoked any right to renew, and required you to pay a \$1000.00 civil administrative penalty.<sup>15</sup>

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<sup>14</sup> The instant decision previously quoted the italicized language.

<sup>15</sup> As stated above, the Board of Registration of Allied Mental Health Professions (1) revoked Ms. Landry’s rights to practice as an LMHC in Massachusetts, (2) revoked her rights to renew her license, and (3) fined her \$1,000. (Pet. Ex. 5, p. 128) (When DPH wrote that the Board had “revoked your LMHC license,” I assume that is in the same as, or close to, revoking her rights to practice as an LMHC.) Thus, DPH issued its second Notice of Agency Action on February 2, 2023 because Ms. Landry reported on her 2022 application to renew her LADC1 license that the Board had taken disciplinary action (2) against her, but did not report disciplinary acts (1) and (3). DPH issued its second Notice of Agency Action even though it knew about all three of the

For the reasons outlined above, the Department finds adequate grounds to refuse to renew your LADC I #17980 due to the underlying basis for the prior revocation by the Board<sup>16</sup> and fraud or misrepresentation in your application for renewal of your license.

(Pet. Ex. 16, pp. 242-43)

81. On February 15, 2023, Ms. Landry requested a hearing. (Pet. Ex. 17)

82. This case became PH-23-0133.

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Board's disciplinary acts. DPH knew about all three disciplinary acts because they were the basis of DPH's *first* Notice of Agency Action against Ms. Landry on August 11, 2022.

<sup>16</sup> This passing statement, which means that DPH has refused to renew Ms. Landry's LADC 1 license because the Board of Registration of Allied Mental Health Professionals revoked her LMHC license, reveals that DPH considered the discipline by the Board to have been "discipline[] in another jurisdiction." 105 CMR168.019(A)(11). DPH so confirmed in its brief. (Pet. Br. 27 & n.7)

Summary of DPH’s four actions against Ms. Landry (including actions that are not part of these two appeals)

Date	DPH’s proposed action	Basis	Docket #	DALA’s decision
Aug. 11, 2022	Revocation of LADC I license	(1) Ms. Landry did not mention on her <b>2018 application</b> for LADC I license and her <b>2020 application</b> to renew her license that the Board of Registration of Allied Mental Health Professions had disciplined her in 2012. (2) Ms. Landry practiced and marketed outside the scope of her license.	PH-22-0414	DPH may revoke. (This decision)
Feb. 2, 2023	Refusal to renew LADC I license	(1) Ms. Landry did not mention on her <b>2022 application</b> to renew her LADC I license two disciplinary acts by the Board of Registration of Allied Mental Health Professions in 2012. (2) Ms. Landry had been disciplined in another jurisdiction.	PH-23-0133	DPH may refuse to renew, although only on the first ground. (This decision.)
July 28, 2023	Summary suspension of LADC I license	Ms. Landry’s treatment of Patient A, including continued practice outside the scope of her license.	PH-23-0408	DPH may summarily suspend, although not on all of DPH’s grounds. (April 4, 2024)
"	Permanent revocation of LADC I license	Ms. Landry’s treatment of Patient A, including when Patient A did not have a substance use disorder.	"	DPH may permanently revoke, although not on all of DPH’s grounds. (Same date as this decision.)

## Discussion

The standard of proof in these cases is preponderance of the evidence. 105 CMR 168.020(A)(2).<sup>17</sup>

G. L. c. 111J, § 6, governing LADCs, provides in part:

Grounds for denial, refusal to renew, revocation, limitation, suspension or other discipline shall include the following:

(1) fraud or misrepresentation in obtaining a license;

....

(3) violation of any rule or regulation of the department governing the practice of alcohol and drug counselors;

(4) violation of ethical standards which the department determines to be of such a nature as to render such person unfit to practice as a licensed alcohol and drug counselor;

(5) other just and sufficient cause which the department may determine would render a person unfit to practice as a licensed alcohol and drug counselor.

With similar wording, 105 CMR 168.019 provides:

(A) The Department [of Public Health] may revoke a license or refuse to renew a license on the following grounds, each of which, in and of itself, shall constitute full an[d] adequate grounds for revocation or refusal to review<sup>18</sup>:

(1) fraud or misrepresentation in obtaining a license, or its renewal;

....

(3) violation of any rule or regulation of [t]he department governing the practice of alcohol and drug counselors;

(4) violations of ethical standards which the department determines to be of such a nature as to render such person unfit to practice as a licensed alcohol and drug counselor;

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<sup>17</sup> 105 CMR 168.020 has two subsections marked (A). The standard of review is in the second subsection.

<sup>18</sup> Presumably, this word is supposed to be “renew.”

(5) Other just and sufficient cause which the department may determine would render a person unfit to practice as a licensed alcohol and drug counselor.

....

(11) Having been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in 105 CMR 168.000;

....

Thus, DPH may revoke a licensee’s LADC I license on broad grounds: “just and sufficient cause,” G.L. c. 111J, §6; 105 CMR 168.018. DPH may revoke an LADC I license on these broad grounds, even if a licensee has not violated a specific statutory or regulatory provision or an ethical standard of the National Association for Addiction Professionals (NAADC). See 105 CMR 168.023 (referring to Ethical Standards for counselors set by the National Association of Alcoholism and Drug Counselors).<sup>19</sup> In addition, DPH may revoke an LADC I license if the licensee has violated a relevant regulation or ethical standard.

First Agency Action, revocation of LADC license (PH-22-0414)

[Ground for revocation A:] Fraud or misrepresentation in obtaining a license, or its renewal;  
[105 C.M.R. 168.019 (A)(1)];

As stated above, 168.019(A)(1) authorizes DPH to discipline an LADC I who engaged in “[f]raud or misrepresentation in obtaining a license, or its renewal.” In professional license cases involving allegations of fraud, a tribunal need not find the common-law elements of fraud, such as intent and reliance. *Welter v. Board of Registration in Medicine*, 490 Mass. 718, 718 (2022),

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<sup>19</sup> The Code of Massachusetts Regulations refers to the National Association of Alcoholism and Drug Counselors. 105 CMR 168.004, 168.023. The organization’s name has apparently changed to the National Association for Addiction Professionals – even though it still uses the acronym “NAADC.” (Pet. Ex. 1)

*cert. denied*, 143 S. Ct. 2561 (2023).

The Board of Registration of Allied Mental Health Professions imposed two separate sets of discipline on Ms. Landry, and she knew or should have known that they were separate. In 2007, Ms. Landry *voluntarily surrendered* her LMHC license; agreed to stop performing, providing, offering, or participating in any service or activity in Massachusetts constituting practice as a mental health counselor or requiring a LMHC license; and agreed that she could not apply for an LMHC license for four years. (Pet. Ex. 4, p. 119-20) More than four years later, in 2012, the Board of Registration of Allied Mental Health Professions *revoked* Ms. Landry's rights to practice as an LMHC in Massachusetts and her rights to renew her license, and *fined her \$1,000*. (Pet. Ex. 5, p. 128) The fine, at least, should have stuck in her mind.

Not only were the sets of discipline separate and different – separated by time, different in nature, and different in severity – they followed two different allegations. The first set of discipline was because Ms. Landry had a personal relationship with a person whom she counseled. (Pet. Ex. 4, p. 119) The second set was because Ms. Landry held herself out and practiced as an LMHC when she was not licensed to do so. (Pet. Ex. 5, pp. 124-25)

On June 1, 2018, when Ms. Landry applied for a LADC I license and was asked whether she had been disciplined, she answered, “In 2007 a voluntary return of LMHC.” (Pet. Ex. 7, p. 131) By not answering completely, she made a misrepresentation, if not engaged in fraud, in obtaining her LADC I license.

On October 5, 2020, Ms. Landry applied to renew her LADC I license. When asked the same question, she referred to her incomplete answer in 2018. (Pet. Ex. 8, p. 141) She made a misrepresentation, if not engaged in fraud, in renewing her LADC I license.

Ms. Landry has at least three unavailing responses to this ground for revocation. One,



“The voluntary surrender, civil administrative fine, and revocation of her right to license renewal were all one case.....” (Resp. Br. 7) This is incorrect on its face.

Two, Ms. Landry *thought* that the two sets of discipline were all one case. (10-4-23 Tr. 131-32) In light of the factors that separated the two sets of discipline and should have separated them in Ms. Landry’s mind, her testimony that she thought that they were part of the same case is not persuasive. Furthermore, in 2015, Ms. Landry initialed a document that indicated that the Board of Registration of Allied Mental Health Professions had disciplined her twice. (Pet. Ex. 6, p. 131)

Three, Ms. Landry’s response is that she gave DPH enough information that it should have investigated further. (Resp. Br. 6-10, 12, 44-47) Ms. Landry goes so far as to accuse DPH of being negligent, dissembling to cover up its incompetence, and projecting blame on Landry. (Resp. Br. 9 , 45, 47) Courts has called this the “stop me before I kill again” defense. *E.g., In re Moragne*, No. 12-00324, 2013 WL 3336605, at \*3 (Bankr. D. Haw. July 2, 2013) (rejecting the “stop me before I kill again” claim by the debtor that Office of the U.S. Trustee should have discovered debtor’s mistake); *Ford Motor Credit Co. v. Hairston*, No. 4:06 CV 00004, 2006 WL 2850615, at \*3 (W.D. Va. Oct. 2, 2006) (rejecting the defendant’s ““stop me before I breach contract again’ defense” that the plaintiff’s audit should have revealed the contract breach).

DPH asked Ms. Landry to reveal fully whether she had been disciplined; it did not ask her for enough information so that it could proceed to check public records and other licensing agencies for complete details of Ms. Landry’s discipline. Ms. Landry attested that the information she provided was “true” (Pet. Ex. 7, p. 134; Pet. Ex. 8, p. 147), when it was not.

Just as Ms. Landry’s intimidating language toward Patient A was not the fault of her former husband, PH-23-0408 (decision allowing DPH to permanently revoke Ms. Landry’s

license), Ms. Landry's misrepresentations to DPH were not DPH's fault.

DPH may revoke Ms. Landry's LADC I license on this ground.

[Ground for revocation B:] Provision and marketing of services outside the scope of practice authorized under LADC I #17980; [105 C.M.R. 168.004];

This ground has two parts: Ms. Landry *provided* services outside of the scope of practice of her LADC I license. And Ms. Landry *marketed* services outside of the scope of practice of her license.

As I wrote in PH-23-0408, allowing DPH to permanently revoke Ms. Landry's license:

105 C.M.R. 168.004 is a definitions section with 19 definitions. DPH means the definition of LADC I, which is "a person Licensed by the Department to conduct an independent practice of alcohol and drug counseling...." (Pet. Br. 22-23) ....

A definition of a term is usually not a substantive directive, although I suppose that it can impliedly be a directive. By invoking a definition, DPH seems to be saying that a person licensed to counsel a patient for alcohol and drug abuse can treat a patient (1) only if that patient has an alcohol or substance use disorder and (2) only for that alcohol or substance use disorder and nothing else.

As I wrote in PH-23-0408, allowing DPH to summarily suspend Ms. Landry's license:

[A] license to provide one kind of therapy implies that is a license for only that kind of therapy, just as a license to drive a motorcycle is not a license to drive a truck.

*See Commonwealth v. Magarosian*, 261 Mass. 228, 229 (1927) (license to drive a car is not a license to drive a truck).

DPH's position is that an LADC I license does not authorize a licensee to treat any mental health conditions other than substance use disorder. (10-3-23 Tr. 217) If a patient's primary diagnosis is substance use disorder and the patient has a secondary diagnosis of a co-occurring disorder, an LADC I licensee should refer the patient to another practitioner who is licensed to treat that co-occurring disorder. (*E.g.*, 10-4-23 Tr. 5, 64-65) (A co-occurring disorder

is a mental health diagnosis in a patient who has a diagnosis of substance use disorder. (10-4-23 Tr. 5))

Ms. Landry’s position is that she was “a licensed mental health professional with a specialty in substance use disorder.” (10-4-23 Tr. 141-42) She testified that her understanding was that she could treat (1) patients with substance use disorders, including any co-occurring disorders, and (2) patients who have family members with substance use disorders. (10-4-23 Tr. 142, 145) She testified that her understanding came partly from trainings and publications that she received from NAADAC, the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA), and BSAS. (10-4-23 Tr. 142).

Ms. Landry testified that one document that she relied on for her understanding was the career ladder issued by NAADAC and SAMHSA. She testified that BSAS’s website linked to the document. (10-4-23 Tr. 144-45) The “Addiction Professional Education & Career Ladder” is a grid as follows. (I have omitted the substance to make it easier to comprehend.)

Education	SAMHSA Career Ladder Level	Career Opportunities	Scope of Practice	Required State Credential or License	NCC AP <sup>20</sup> National Certification
High School or G.E.D.					
Certificate Program, Training Series, Some College					
Associate’s Degree					
Bachelor’s Degree					
Master’s Degree					
Doctorate					

(Resp. Ex. 28)

The career ladder summarizes what an aspiring or established substance abuse counselor

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<sup>20</sup> It is unclear what these acronyms stand for, but that is insignificant.

can do with different levels of training. (Resp. Ex. 28). According to the career ladder, a counselor with a master's degree may engage in "[c]linical evaluation, including screening, assessment, and diagnosis of SUDs and CODs," that is, substance use disorders and co-occurring disorders," and engage in "[t]reatment planning for SUDs & CODs." (Resp. Ex. 28, p. 686)

According to the career ladder, the Required State Credential or License for a counselor with a master's degree is "[d]ependent on state regulations. Most states require license or certification." (Resp. Ex. 28, p. 686)

The career ladder reads as if it is general career advice. The career ladder does not read as substantive authority for a counselor's scope of practice. The career ladder's statement that the required state credential or license for a counselor depends on "state regulations" (Pet. Ex. 28, p. 686) does not read as if the career ladder itself overrides or replaces state regulations. The career ladder's reference to "[m]ost states" cautions that the career ladder itself does not apply to all states.

If Ms. Landry relied on the career ladder as substantive authority for her scope of practice in Massachusetts, her reliance was unreasonable.

Ms. Landry also introduced BSAS's *Practice Guidance: Ensuring Effective Treatment for Person With Co-occurring Disorders*. It read in part:

The incidence of co-occurrence of substance-related and mental health disorders...is well documented. Since the 1980's, studies have reported, and confirmed, that approximately 50% of individuals with a known diagnosis of one disorder also have a co-occurring disorder....

BSAS is committed to promoting integrated treatment of co-occurring disorders. BSAS Principles of Care call for treatment the responds to the whole person, based on evidence of effectiveness....[I]ntegrated treatment is the goal...

(Resp. Ex. 17, p. 212) (footnotes omitted)

The *Practice Guidance* enunciates BSAS policy about its "internal and inter-agency

systems.” (Resp. Ex. 17, p. 213) DPH’s position is that the *Practice Guidance* is not intended specifically for LADCs, who should work with other practitioners who would treat the patients’ co-occurring disorders. (10-4-23 Tr. 47-48) The document does not read as if it enunciates policy about or govern individual LADC I licensees. If Ms. Landry relied on the document as substantive authority for her scope of practice in Massachusetts, her reliance was unreasonable.

Ms. Landry also introduced pages from BSAS’s website titled “Substance Addiction Services Descriptions.” The subtitle is “A brief description of each of the Bureau of Substance Addiction Services program types including eligibility criteria.” (Resp. Ex. 15, p. 197)

The program types are Prevention Services, Regional Centers for Healthy Communities (RCHCs), Prevention Programs, Youth Intervention, Residential Treatment Under 30 Days, Acute Treatment Services (ATS) (Detoxification), Transitional Support Services (TSS), Tewksbury Stabilization Program, Residential Treatment Over 30 Days, Recovery Home, Therapeutic Community, Social Model, Specialized Residential Services for Women (SRW), Specialized Residential Services for Families, and 19 other programs. (Resp. Ex. 15)

One *program* that BSAS operates is called “Outpatient Counseling.” Its description follows:

Outpatient Counseling provides treatment for adults and adolescents, their families, and/or their significant others who are affected by the use of alcohol or other drugs. Clients are assisted in gaining and maintaining skills for a substance-free lifestyle. Services include assessment and treatment planning, individual, group, and family counseling.

Eligibility: Any person with concerns about a substance addiction problem, or a family member/significant other who has concerns about someone else’s substance addiction problem. Individuals must be medically stabilized and not in need of acute inpatient services.

(Resp. Ex. 15, p. 4)

Ms. Landry was not a counselor for BSAS’s Outpatient Counseling program. The

statement on BSAS's website was for licensed treatment facilities and programs. (10-4-23 Tr. 38-39) BSAS's description of its Outpatient Counseling program does not read like a BSAS policy statement for how LADC Is should offer services in individual practice. If Ms. Landry relied on the BSAS web pages as substantive authority for her scope of practice, her reliance was unreasonable.

None of the exhibits that Ms. Landry introduced authorized her to treat the co-occurring disorders of patients with substance use disorders. As for why Ms. Landry *understood* that her LADC I license authorized her to treat the co-occurring disorders of patients with substance use disorders, her reasons are not reasonable. (10-4-23 Tr. 140-65) Ms. Landry argues that DPH's policy is wrong and that LADC Is should be able to treat patients' co-occurring disorders. (*E.g.*, Resp. Br. 22, 24, 31 (discussion of Health Policy Commission), 33 (citing three articles), 50) However, I leave policy to DPH, especially because DPH's policy is not before me. The cogency of DPH's position is simply not the subject of Ms. Landry's appeals.

However, Ms. Landry's position goes further. She argues that her LADC I license entitled her to treat, not only patients with substance use disorders who have co-occurring disorders, but patients *without* substance use disorder who have people in their lives who *do* have substance use disorders. (10-4-23 Tr. 142, 188) (DPH disagrees. (10-4-23 Tr. 90)) This set of potential patients is different from the set of patients with substance use disorders who also have co-occurring disorders. What is Ms. Landry's rationale for this *different* position about treating people *without* substance use disorders? Her rationale seems to be she was entitled to and should be able to treat patients with substance use disorders who also have co-occurring disorders. (Resp. Br. 50-51) On two different issues, her rationale is the same. Thus, Ms. Landry takes her unavailing argument that she should be able to treat co-occurring disorders, such as post-

traumatic stress disorder and anxiety, in patients with substance use disorders and inverts it. She in effect considers the presence in a patient's life of people with substance use disorder as a co-occurring condition of that patient's non-substance use diagnoses, such as post-traumatic stress syndrome and anxiety. In her view, a patient's *non-substance* diagnoses co-occur with *another* person's substance use disorder. Again, where is Ms. Landry's support for this position?

Nowhere.

Ms. Landry treated Client 23, who did not seek treatment for a substance use disorder. (Pet. Ex. 3, p. 55) Her diagnosis and treatment plan for Client 23 had two diagnoses: chronic post-traumatic stress disorder, and adjustment disorder with anxiety. (Pet. Ex. 3, p. 65-66) While Client 23's birth father was alcoholic (Pet. Ex. 3, p. 104) and her son was in a program for substance abuse and mental health issues (Pet. Ex. 3, p. 56), she herself did not have a substance use disorder. Ms. Landry's treatment of Client 23 was outside the scope of her LADC I license. DPH may revoke her license for this reason.

When DPH posits that Ms. Landry may not practice outside the scope of her license and invokes a definition as support for its position, the definition is a slender reed, but the reed holds. However, when DPH posits that Ms. Landry may not *market* her potential services outside the scope of her license and invokes the same definition, the slender reed no longer holds.

Administrative agencies deserve deference in interpreting their regulations, but the deference has limits. *Craft Beer Guild, LLC v. Alcoholic Beverages Control Commission*, 481 Mass. 506, 527 (2019).

DPH may not, *under 105 C.M.R. 168.004*, revoke Ms. Landry's LADC I license because she marketed outside of its scope. (DPH may revoke her license because she marketed outside of its scope under other authorities, as discussed below.)

[Ground for revocation C:] Failure to abide by the Ethical Standards for counselors set by the National Association of Alcoholism and Drug Counselors; [105 C.M.R. 168.023]; [Principle I-21][Principle III-2, 5, 13]

By invoking 105 C.M.R. 168.023, I assume that DPH means 105 C.M.R. 168.023(A)(6).

The regulation requires an LADC I *applicant* to “accept the standards set forth in the Code of Ethical Principles by signing an affidavit agreeing to abide by the Code.” I assume that the regulation refers to the ethical standards set by the National Association of Alcoholism and Drug Counselors (which, as noted above, has apparently changed its name to the National Association for Addiction Professionals). If the regulation is read strictly, it requires an *applicant* to sign an affidavit and *accept* the Code of Ethical Principles. DPH does not allege that Ms. Landry did not sign such an affidavit; it alleges that she did sign one. (Pet. Ex. 11, p. 272) If the regulation is read strictly, it does not require an LADC I license *holder* to *adhere* to the code. This regulation, too, is a slender reed. However, this slender reed also holds. The regulation implies that an LADC I licensee must adhere to the Code of Ethical Principles. The regulation inartfully requires what no other DPH regulation requires and what this ground for revocation asserts: An LADC I licensee must “abide by the Ethical Standards for counselors.” I now examine the four principles that DPH cites.

Principle I-21 states in part:

Providers shall refer to culturally and linguistically appropriate resources when a client presents with any impairment that is beyond the scope of the provider’s education, training, skills, expertise, and licensure.

(Pet. Ex. 1, p. 26) The Notice of Agency Action mischaracterizes this principle as requiring a provider “to make referrals” when a patient has impairments beyond the provider’s licensure.

(Pet. 11, p. 172) The principle does not do so. If a patient has impairments beyond a provider’s licensure, the provider must “refer to culturally and linguistically appropriate resources.” (Pet.



Ex. 1, p. 26)

DPH may not revoke Ms. Landry's LADC1 license under this principle.

Principle II-2 states:

Addiction professionals shall conduct themselves with integrity. Providers shall maintain integrity in their professional and personal relationships and activities. Providers shall communicate honestly, accurately, and appropriately to clients, peers, and the public, regardless of the communication medium used.

(Pet. Ex. 1, p. 28)

Ms. Landry communicated dishonestly with the public by misrepresenting on her website and LinkedIn profile that she could validly provide treatment other than drug and alcohol counseling. (Pet. Exs. 2, 14) She communicated dishonestly with the public on her LinkedIn profile by calling herself a Licensed Social Worker (Pet. Ex. 2, p. 43), when her LSW license had expired. DPH may revoke Ms. Landry's LADC1 license under this principle.

DPH argues that Ms. Landry violated this principle by not accurately reporting her disciplinary history on her three applications to DPH. (Pet. Br. 21-22) However, the principle requires honest and accurate communications with "clients, peers, and the public," not regulatory agencies. (Pet. Ex. 1, p. 28) DPH may revoke Ms. Landry's LADC1 license under this principle, but not because she did not accurately report her disciplinary history to DPH.

Principle III-5 states: "Addiction Professionals shall not participate in, condone, or be associated with any form of dishonesty, fraud, or deceit." (Pet. Ex. 1, p. 30) Ms. Landry participated in deceit by incompletely revealing her disciplinary history on her 2018 and 2020 applications to DPH, misrepresenting to the public on her website and LinkedIn profile that she could validly provide treatment other than drug and alcohol counseling, and calling herself a Licensed Social Worker on her LinkedIn profile, when her LSW license had expired. DPH may revoke Ms. Landry's LADC1 license under this principle. (As for her 2022 application, it does

not fall under this Notice of Agency Action.)

Principle III-13 states: “Addiction professionals shall only provide services within their scope of practice and competency....” (Pet. Ex. 1, p. 31)

Ms. Landry provided counseling to Client 23 that was outside the scope of her license. DPH may revoke Ms. Landry’s LADC1 license under this principle.

[Ground for revocation D:] Respondent’s actions constitute violations of ethical standards which the Department determines to be of such a nature as to render her unfit to practice as a licensed alcohol and drug counselor. [105 C.M.R. 168.019 (A)(4)];

This ground for revocation restates the regulation that it cites. I assume that by “ethical standards,” DPH means the principles in the previous ground for revocation. DPH may revoke Ms. Landry’s LADC I license under Principle III-2, 5, and 13, and not under Principle I-21, as discussed in the previous ground for revocation.

[Ground for revocation E:] Respondent’s actions constitute just and sufficient cause which the Department has determined renders her unfit to practice as a licensed alcohol and drug counselor. [105 C.M.R. 168.019 (A)(5)];

DPH has not specified which of Ms. Landry’s acts make her unfit to practice as an LADC I. However, DPH may revoke Ms. Landry's license for incompletely revealing her disciplinary history on her 2018 and 2020 applications to DPH, and practicing and marketing outside the scope of her license.

Second Agency Action, Refusal to renew LADC license (PH-23-0133)

In 2022, Ms. Landry applied to renew her LADC I license. When asked, “Has any disciplinary action been taken against you by a licensing or certification board...?,” Ms. Landry mentioned the voluntary surrender of her LMHC license in 2007, and the revocation of her right to reapply for an LMHC license in 2012 (she gave the date as 2011). She did not mention that the Board of Registration of Allied Mental Health Professionals had revoked her rights to practice as

an LMHC and had fined her \$1,000. (Pet. Ex. 13, pp. 217-18)

When DPH notified Ms. Landry that it intended to refuse to renew her LADC I license, it invoked G. L. c. 111J, § 6, which authorizes DPH to discipline an LADC I on five grounds, including “fraud or misrepresentation in obtaining a license.” It also invoked 105 C.M.R. 168.019(A)(1) and (11). (Pet. Ex. 16, p. 241) The first regulation authorizes DPH to discipline an LADC I for, as discussed above, “fraud or misrepresentation in obtaining a license, or its renewal.” The second regulation authorizes DPH to discipline an LADC I for “[h]aving been disciplined in another jurisdiction.”

If Ms. Landry’s application is read strictly, on November 3, 2022, Ms. Landry misrepresented her 2012 discipline by omitting two of its three components, including the fine. However, by that date in 2022, DPH knew the full extent of Ms. Landry’s discipline in 2012 because DPH described Ms. Landry’s discipline in DPH’s first Notice of Intended Agency Action, dated August 11, 2022. (Pet. 11, p. 172; 10-3-23 Tr. 78, 81, 83) Therefore, this misrepresentation is not as egregious as her previous ones. DPH may, if it wishes, refuse to renew Ms. Landry’s license for not having fully described her previous discipline that DPH knew about. In addition, DPH may, if it wishes, refuse to renew Ms. Landry’s license in addition to revoking her license (PH-22-0414) and permanently revoking her license (PH-23-0408). DPH’s refusal to renew Ms. Landry’s license will not have any practical effect that I know of, but it may refuse to renew it.

As for the allegation that Ms. Landry had “been disciplined in another jurisdiction,” 105 C.M.R. 168.019(A)(11), DPH did not allege or present evidence that Ms. Landry had been disciplined outside Massachusetts. Rather, DPH refused to renew Ms. Landry’s LADC I license because the Board of Registration of Allied Mental Health Professionals in Massachusetts had

revoked Ms. Landry's LMHC license. However, the regulation does not authorize DPH to refuse to renew Ms. Landry's LADC I license on the ground that another agency in Massachusetts has disciplined her. DPH may not refuse to renew her license on this ground.

**Conclusion and Order**

The Department of Public Health may revoke Ms. Landry's LADC I license and refuse to renew it.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/

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Kenneth Bresler  
Administrative Magistrate

Dated: