

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
BOARD OF LICENSED
CLINICAL MENTAL HEALTH
COUNSELORS

IN THE MATTER OF:)
)
ESTHER MENDEZ, LCMHC)
)
Respondent.)
)
Case No. 1798)

CONSENT ORDER

THIS CAUSE, coming on to be heard and being heard before the North Carolina Board of Licensed Clinical Mental Health Counselors (“the Board”), at its meeting on July 21-22, 2022, pursuant to a charge letter issued by the Board on October 18, 2021, which is now pending; and

IT APPEARING to the Board that the Respondent has stipulated to certain facts and to the entry of a Consent Order in conformity therewith;

IT IS HEREBY STIPULATED by the undersigned Respondent and the Board that:

1. Respondent was at all times relevant to this cause a licensed clinical mental health counselor¹ and is subject to the Board’s jurisdiction pursuant to the North Carolina Licensed Clinical Mental Health Counselors Act, Chapter 90, Article 24, of the North Carolina General Statutes.
2. During the time period on or about April 1, 2019 through on or about May 31, 2019, Respondent provided home-based counseling services as a licensed professional counselor to at-risk students. While providing counseling services to at-risk students, Respondent repeatedly cancelled and no-showed her clients, which left students and families feeling neglected and abandoned.
3. In addition, Respondent displayed behavior that raised competency and impairment concerns among the students’ guardians and her colleagues in the community. Respondent asserts with supporting evidence that her impairment resulted from undiagnosed medical issues relating to her gallbladder and pancreas, for which Respondent had requested reasonable accommodation from her employer.
4. Respondent admits that her conduct described in Paragraphs 2 through 4 above constitutes

¹ On 1 January 2020, the name “licensed professional counselor” was changed to “licensed clinical mental health counselor.” See Act of Nov. 6, 2019, Ch. 240, sec. 2(a), 2019 N.C. Sess. Laws 240.

violations of Sections A.1.a., A.4.a., C.2.d., and C.2.g. of the American Counseling Association Code of Ethics (2014) and violations of N.C. Gen. Stat. §§ 90-340 (a)(7), (a)(9), and (a)(11), of the North Carolina Licensed Clinical Mental Health Counselors Act.

5. The Board and Respondent wish to avoid the time and the costs associated with full litigation of this matter and, *in lieu* of any proceedings, enter into this Consent Order.
6. Respondent expressly waives notice of hearing, a hearing, the making of findings of fact and conclusions of law, and all further proceedings before the Board to which the Respondent may be entitled by law. Respondent further agrees that presentation of this Consent Order to the Board for approval shall not constitute improper *ex parte* communication between the Board and its counsel, or the Board and its staff, nor require the recusal of the members of the Board from consideration of this matter before the full Board, should a hearing be required in this case.
7. Respondent forever releases the State of North Carolina, the North Carolina Board of Licensed Clinical Mental Health Counselors, and all its members, officials, agents, representatives and employees, both past and present, in their individual or official capacities from any and all liability, suits, claims, and causes of action, arising prior to or as a result of the execution of this Consent Order.
8. Respondent waives the right to seek judicial review or to otherwise challenge the validity of this Consent Order in any court. Respondent understands and agrees that this Consent Order shall be effective only after approval by the full Board and signature of its Chairperson.
9. This Consent Order contains the entire agreement between the undersigned, there being no agreement of any kind, verbal or otherwise, which varies, alters, or adds to this Consent Order.
10. This Consent Order shall constitute disciplinary action against the license of Respondent, pursuant to N.C. Gen. Stat. §90-340(a).

Based upon the record and the foregoing stipulations,

NOW, THEREFORE IT IS HEREBY ORDERED as follows:

- I. Respondent shall complete a fitness for practice evaluation by an appropriate clinical professional, selected by her and approved by the Board (preferably face-to-face but if necessary, by telehealth) as soon as possible but not to exceed 120 days after the date of the Consent Order. The clinical professional shall be currently licensed in North Carolina as a psychologist or psychiatrist (the "Evaluator").
- II. Respondent shall provide a copy of this Consent Order to her evaluator. The evaluator

shall confirm the receipt of the documents in the evaluation report.

- III. Any expenses associated with the evaluation shall be borne by Respondent.
- IV. The evaluator shall submit the evaluation and recommendations to the Board within 30 days of assessment.
- V. The Board will review the evaluation and recommendations, and if necessary, may take any action as authorized by N.C. Gen. Stat. § 90-340, including revocation, if Respondent is determined not to be fit to practice.
- VI. Within six months of the date of this Consent Order, Respondent shall complete continuing education coursework from a Board approved continuing education sponsor, as set forth in 21 NCAC 53.0603(c), in the following area: six hours on counselor self-care and wellness. This requirement shall be in addition to the continuing education coursework required for all licensees under Board rule.
- VII. All costs associated with this continuing education shall be borne by Respondent.
- VIII. Upon successful completion of this continuing education coursework, Respondent shall submit a certificate of completion provided by the continuing education sponsor to the Board.
- IX. The failure of Respondent to abide by any provisions of this Consent Order, if proven true by a preponderance of the evidence following notice and an opportunity for hearing, may result in the suspension, revocation, or other disciplinary action against Respondent's license, including seeking an injunction in Superior Court, in the Board's discretion.
- X. The Board shall maintain this Consent Order as a public record pursuant to N.C. Gen. Stat. §§132-1 and 90-340(f) and shall provide copies to the American Counseling Association and the National Board of Certified Counselors, and to other agencies or individuals as required by law.

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This the 26 day of July, 2022.

CONSENTED TO BY:

NORTH CAROLINA BOARD OF
LICENSED CLINICAL MENTAL HEALTH COUNSELORS

BY: Mark Schwarze 7/26/22
Dr. Mark Schwarze, LCMHCS, NCC, LCAS, CCS date
Board Chairperson

Esther Mendez 7/6/2022
Esther Mendez, LCMHC date
Respondent

Donald R. Vaughan 7-6-2022
Donald R. Vaughan date
Donald R. Vaughan and Associates
Attorneys and Counselors at Law
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