

NORTH CAROLINA

BEFORE THE NORTH CAROLINA

SUBSTANCE ABUSE

PROFESSIONAL
BUNCOMBE COUNTY

PRACTICE BOARD

NORTH CAROLINA SUBSTANCE ABUSE)
PROFESSIONAL PRACTICE BOARD,)
Petitioner)

) **CONSENT ORDER -**
PUBLIC REPRIMAND

v.

) **EC No. 314-14**

)
EDWARD BRADHAM KIZER,)
Respondent)

)
THIS MATTER is before a Panel of the Ethics
Committee ("the Panel") of the North Carolina Substance Abuse
Professional Practice Board ("the Board"), pursuant to Chapter
150B of the North Carolina General Statutes; 21 N.C.A.C. 68.0600,
and N.C. Gen. Stat. §90-113.44, with the consent of Respondent
Edward Bradham Kizer ("Kizer"), in lieu of a formal hearing or
otherwise.

The Board, with the consent of Kizer, makes the
following **FINDINGS OF FACT:**

1. Petitioner North Carolina Substance Abuse Professional
Practice Board ("the Board"), was established by G.S. 90-113.32,
and is recognized as the registering, certifying, and licensing
authority for substance abuse professionals described in the
Practice Act. The Board was established to safeguard the public
health, safety, and welfare, to protect the public from being
harmed by unqualified persons, to assure the highest degree of
professional care and conduct on the part of credentialed
substance abuse professionals, to provide for the establishment of
standards for the education of credentialed substance abuse
professionals, and to ensure the availability of credentialed
substance abuse professionals of high quality to persons in need
of these services. The Board, under authority granted by the
Practice Act regulates Board-credentialed persons offering

substance abuse counseling services, substance abuse prevention services, or any other substance abuse services for which the Board may grant registration, certification or licensure.

2. Kizer has been licensed by the Board as a Licensed Clinical Addictions Specialist ("LCAS"), LCAS-3325, since May 8, 2015.

3. Kizer is a citizen and resident of Buncombe County, North Carolina; and is neither a minor nor an incompetent person. Kizer currently resides at 31 Westgate Road, Asheville, NC 28806.

4. The First Commitment evaluation process is legislatively approved process whereby, initially, only Ph.D. psychologists and physician/psychiatrists were permitted to perform First Commitment examinations in connection with individuals who might be in need of psychiatric commitment to a state or other psychiatric facilities.

5. The General Assembly ultimately permitted qualified individuals having the Licensed Clinical Addiction Specialist ("LCAS") certification, and who passed a test developed by three LCSWs ("the Qualification Test"), to conduct First Commitment evaluations.

6. It is important, given the possibility that individuals could be involuntarily committed, that only qualified individuals be able to carry out the First Commitment work.

7. On February 14, 2012, Anne Romine Sherry ("Sherry") sent an email ("the Original Email") to Dina Paul ("Paul"), with several attachments, including a copy of the Qualification Test. In that email, Sherry noted that:

I cannot promise this is the same test, most likely is.
Please make sure you to not score 100, you can miss up to 17 questions are (sic) something and no one does well on this test.

This is major, major, major hush hush!!!

8. On August 29, 2013, Paul forwarded a copy of the Original Email to Kizer.

9. On September 3, 2013, Kizer forwarded a copy of the Original Email to Anne Brooks ("Brooks") and Al Lyons ("Lyons"), adding the notation "IVC 'practice test'".

10. On September 7, 2013, Kizer forwarded a copy of the Original Email to Elizabeth Putman.

11. On September 13, 2013, Kizer forwarded a copy of the Original Email to Andrea Morris.

12. Kizer contends, and the Board accepts, that, in spite of the text in the Original Email, Kizer believed the

attachments to the Original Email were practice tests.

13. Subsequent to August 29, 2013, Kizer took and passed the Qualification Test. At the time he took the Qualification Test, Kizer recognized that the test he took was very similar to that attached to the Original Email.

14. Kizer should have recognized, no later than the time he took the Qualification Test, that the materials attached to the Original Email included the Qualification Test.

15. Kizer did not report to the Board, or to anyone, that Sherry had, and he had received a forwarded, a copy of what a reasonable person would infer or presume was a copy of the Qualification Test, and which was in fact the Qualification Test.

16. Another individual receiving a copy of the Original Email, as a forwarded copy of the same, did make a report to North Carolina Division of Health and Human Services; which lead to an investigation of the compromise of the Qualification Test by NCDHHS; by this Board, and by other licensing boards.

17. Kizer acknowledges that he should have, no later than when he took the Qualification Test and noted the similarities to the materials attached to the Original Email, reported to NCDHHS, this Board, or some other appropriate authority, that the Qualification Test had, or might have been, compromised; because failure to act exposed the public to harm.

18. The harm to which the public was exposed is that individuals who might not have passed the Qualification Test without the benefit of prior review, received a copy of the Qualification Test prior to taking the same; took and passed the Qualification Test, and were thereafter able to perform First Commitment Evaluations when they might not have been qualified to do so.

19. Kizer cooperated with, and provided material assistance to, the Board in its investigation of the possible compromise of the Qualification Test; and his cooperation is reflected in the discipline imposed herein.

20. The Board and Kizer wish to avoid the time and the costs associated with full litigation of this matter and, in lieu of any further proceedings, enter into this Consent Order.

21. Kizer expressly waives notice of hearing, a hearing, the making of findings of fact and conclusions of law not contained herein, and all further proceedings before the Board to which Kizer may be entitled by law.

22. Kizer forever releases the State of North

Carolina, the Board, and all of its members, officials, agents, representatives and employees, both past and present, in their individual or official capacities from any liability, suits, claims, and causes of action, arising prior to or as a result of execution of this Consent Order.

23. Kizer waives the right to seek judicial review or to otherwise challenge the validity of this Consent Order in any court. Kizer understands and agrees that this Consent Order shall be effective only after approval by the full Board and signature of its Chairperson.

24. 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.

25. Kizer agrees that his conduct warrants a public REPRIMAND.

Based upon the foregoing FINDINGS OF FACT, the Board makes the following CONCLUSIONS OF LAW:

1. The conduct described above, which Kizer does not contest, constitutes violations of, among other things, the following:

a. Engaging in conduct that could result in harm or injury to the public, in violation of N.C.G.S. § 90-113.44(a)(9).

2. Kizer is licensed by the Board, and is subject to the North Carolina Substance Abuse Professional Practice Act and the rules promulgated thereunder. The Board has jurisdiction over the person of the Kizer and the subject matter of this proceeding.

WHEREFORE, based upon the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, and with the consent of the parties, and pursuant to the authority set forth in N.C. Gen. Stat. § 90-113.33, it is ORDERED as follows:

1. Kizer is publically REPRIMANDED for his failure to report that what a reasonable person would infer or presume was the Qualification Test, and was in fact the Qualification Test, after he knew, or should have known the same, that his failure to act exposed the public to potential harm.

2. Kizer shall have no liability to the Board with respect to the costs and expenses incurred in connection with investigation of the Ethics Complaint referenced above.

3. This Order shall be effective as of the date

executed by the Board.

This the 8th day of December, 2016.

NORTH CAROLINA SUBSTANCE ABUSE
PROFESSIONAL PRACTICE BOARD

By: Mark A. Crabtree

Name: Mark L. Crabtree

STATEMENT OF CONSENT

I, Edward Bradham Kizer, do hereby certify that I have read the foregoing Consent Order in its entirety, that I have consulted with counsel concerning the contents and effect of the same, and that I voluntarily accepts that there is a factual basis for the findings of fact set forth herein; and that those findings of fact are legally sufficient to support the findings, conclusions and discipline provided for therein, and that I assent to the terms of the Consent Order. I further express my understanding that the contents of this Consent Order shall become a part of my record with the Board, and are a public record under North Carolina law.

This the 1st day of ~~November~~, 2016.
December



Edward Bradham Kizer

Sworn to and subscribed before me
this the 1st day of ~~November~~, 2016.
December



Notary Public

My commission expires: Sept 2, 2018.

