

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE NORTH CAROLINA
ADDICTIONS SPECIALIST
PROFESSIONAL PRACTICE BOARD
EC CASE NO. 758-22

NORTH CAROLINA ADDICTIONS)
SPECIALIST PROFESSIONAL)
PRACTICE BOARD,)
Petitioner,)
v.)
DAVID F. CUNHA)
(LCAS NO. 1780),)
Respondent)

CONSENT ORDER

THIS MATTER is before a Panel of the Ethics Committee (“the Panel”) of the North Carolina Addictions Specialist Professional Practice Board (“the Board”), pursuant to Chapter 150B, Article 3A of the North Carolina General Statutes; the North Carolina Substance Use Disorder Professional Practice Act; and Chapter 68 of the North Carolina Administrative Code. The Board, with a quorum present, and Respondent stipulate and agree to the entry of the following Consent Order:

FINDINGS OF FACT

1. Petitioner Board was established by the North Carolina General Assembly to credential and regulate substance use disorder professional in North Carolina, in accordance with Chapter 90, Article 5C, of the North Carolina General Statutes.
2. Respondent currently is a citizen and resident of North Carolina; and is neither a minor nor an incompetent person.
3. On February 25, 2011, David F. Cunha. (the “Respondent”) initially obtained credentials by the Board as a Licensed Clinical Addictions Specialist (“LCAS”) (LCAS No. 1780).

4. On November 15, 2022, the Board received a complaint filed by Client A, a former client of the Respondent at Tree of Life, alleging Respondent engaged in a dual relationship with Client A while serving Client A in a clinical capacity and solicited and engaged in a sexual relationship thereafter. The complaint was designated by the Board as EC Case No. 758-22.
5. Information gathered by the Board in support of EC Case No. 758-22 tends to show the following:
 - a. During all times relevant to this matter, Respondent was an employee of Tree of Life, a provider of counseling and therapy services in Jacksonville, North Carolina.
 - b. Specifically, Respondent provided counseling services to Client A from approximately March 2018 to September 2018 while employed at Tree of Life.
 - c. Board Investigator James McDougle (“McDougle”) interviewed the Respondent on February 6, 2023. Respondent admitted to the following during the interview:
 - i. Respondent provided clinical services to Client A beginning in March 2018 until September 2018.
 - ii. On or about a week after terminating clinical services in September 2028, Respondent and Client A initiated a romantic and sexual relationship, which continued until September 2022.

CONCLUSIONS OF LAW

6. Respondent is subject to the North Carolina Addictions Specialist Professional Practice Act and the rules promulgated pursuant to that Act. The Board has jurisdiction over Respondent and the subject matter of this proceeding.

7. The actions of Respondent, as described above, constitute violations of N.C. Gen. Stat. §§ § 90-113.44(a)(6), (a)(9), and (a)(10), as well as 21 N.C.A.C. 60 .0507(a) and (c); 21 N.C.A.C. 68 .0509; 21 N.C.A.C 68 .0601(4).

8. Respondent committed one or more of the violations described above. Pursuant to N.C. Gen. Stat. § 90-113.33(2), the Board has the authority to deny, suspend, or revoke Respondent's licensure, certification, or registration to practice in this State or reprimand or otherwise discipline Respondent's license, certificate, or registration in North Carolina.

BASED upon the foregoing Findings of Fact and Conclusions of Law, and in lieu of further proceedings, Respondent wishes to resolve this matter by consent and agrees that Board staff and counsel may discuss this Consent Order with the Board *ex parte* whether or not the Board accepts this Consent Order as written.

Whereas Respondent acknowledges that he read this entire document and understands it;

Whereas Respondent acknowledges that he enters into this Consent Order freely and voluntarily;

Whereas Respondent acknowledges that he had full and adequate opportunity to confer with legal counsel in connection with this matter;

Whereas Respondent understands that this Consent Order must be presented to the Board for approval and that Respondent hereby waives any argument that any Board members considering this Consent Order are disqualified from participating in a hearing of this matter; and

Whereas the Board has determined that the public interest is served by resolving this matter as set forth below.

THEREFORE, with the consent of Respondent, it is ORDERED that:

1. Respondent's credential as a Licensed Clinical Addiction Specialist (LCAS No. 1780) from the North Carolina Addictions Specialist Professional Practice Board is hereby revoked. Respondent agrees not to re-apply for credentials from the Board for a period of five (5) years following the effective date of this Consent Order.
2. The parties agree that this Consent Order contains an adverse action and, therefore, will be reported to the National Practitioners Data Bank (the "Data Bank") through the Public Protection Database ("PPD") as follows: Respondent's license is voluntarily surrendered with basis for action of Unprofessional Conduct; Sexual Dual Relationship or Boundary Violation; and narrative description as follows: On November 15, 2022, the Board received a complaint that outlined dual role concerns and the initiation of a sexual relationship within a week of terminating clinical services. An investigation substantiated the allegations made in the complaint.
3. The Board shall retain jurisdiction under Article 3A, Chapter 150B for all administrative hearings held in connection with or pursuant to this Consent Order. If the Board receives evidence that Respondent has violated any term of this Consent Order or any other law or rule enforced by the Board, the Board shall schedule a show cause hearing for a determination of the violations. If the Board determines that a violation has occurred, the Board may impose such disciplinary action as it determines is appropriate and is authorized by law.
4. This Consent Order shall take effect immediately upon its execution by the Board and Respondent and reflect the entire agreement between Respondent and the Board, there

being no agreement of any kind, verbal or otherwise, which varies, alters, or modifies this Consent Order.

5. No modification or waiver of any provision of this Consent Order shall be effective unless it is in writing, adopted and approved by the Board, and signed by the parties affected.
6. Both the Board and Respondent participated in the drafting of this Consent Order. Any ambiguities herein shall not be construed against either party in any future civil or administrative proceeding.
7. Respondent hereby waives any requirement under any law or rule that this Consent Order be served upon them.
8. Each party to this proceeding shall bear their own costs, and the Board shall bear its own costs of investigation.
9. Upon its execution by the Board and Respondent, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof.

CONSENTED TO:

DAVID F. CUNHA

David F Cunha Date: 3-3-2023

By Order of the North Carolina Addictions Specialist Professional Practice Board, this the

3rd day of March, 2023.

By: Nyi Myint
Nyi Myint, Ethics Chair