

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
ADDICTIONS SPECIALIST
PROFESSIONAL PRACTICE BOARD
EC CASE NO. 814-24

NORTH CAROLINA ADDICTIONS)
SPECIALIST PROFESSIONAL)
PRACTICE BOARD,)
Petitioner,)
)
v.)
)
CHARLA MARIE DURANTE ALVAREZ)
(LCAS-A No. 22401),)
Respondent.)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL AGENCY DECISION

In accordance with the Administrative Procedure Act, N.C. Gen. Stat. § 150B, the North Carolina Substance Use Disorder Professional Practice Act, N.C. Gen. Stat. § 90, Article 5C, and the rules and regulations adopted by the Board and codified in Title 21, Chapter 68 of the North Carolina Administrative Code, the North Carolina Addictions Specialist Professional Practice Board (hereinafter the “Board”) issues the following Findings of Fact, Conclusions of Law and Final Agency Decision in the above-captioned matter.

The record reflects that a quorum of the Board was present at the hearing held on October 25, 2024, when the Board made this decision. At the hearing, Mrs. Catherine E. Lee and Ms. Carolyn E. Duhon, General Counsel, appeared on behalf of Board Staff. Respondent was present and represented by Mr. Nicholas Dowgul.

Before the Board issued this Final Agency Decision, the following inquiry was read aloud in accordance with state ethics laws: “[d]oes any board member have any known conflict of interest with respect to this matter coming before the Board today? If so, please identify the conflict or appearance of conflict and refrain from any undue or inappropriate participation in the particular matter involved.” No Board members stated that they had a conflict of interest or the appearance of a conflict of interest.

Kendra Davis heard the case as presiding Board Chair. Board Members Flo Stein, Lauren Quick, Virginia Johnson, Katie Salmons, and Anita Daniels heard the case. Board Member Kathy Allen was recused from hearing the case. Board Members Stephanie Robinson and Johnny Bass were not present.

PETITIONER'S LIST OF EXHIBITS

EXHIBIT	DATE	DESCRIPTION	BATES #
1	10/03/2024	Notice of Hearing	01-06
2	10/18/2024	Acceptance of Service	07
3	02/22/2024	Email attaching Self-Reporting Letter and Letter of Representation	08-12
4	02/23/2024	Board Request for Additional Information	13
5	03/06/2024	Respondent's Response to Board Request for Additional information / documentation and attached documents: <ul style="list-style-type: none"> • Certificate of Completion – Prime for Life.....17 • Community Service Completion.....18 • DWI Affidavit and Revocation Report.....19 • DWI Alcohol Concentration Restriction.....20 • DWI Appearance Bond for Pretrial Release.....21 • DWI Assessments Recommendations.....22 • DWI Conditions and Release Order.....23 • DWI Limited Driving Privilege.....24-25 • DWI Magistrate's Order.....26-27 • DWI Revocation Order.....28 • DWI Substance Use Assessment and ADETS Completion.....29 • DWI Suspension Notice.....30 	14-30
6	04/17/2024	Board Request for Assessment	31-32
7	05/10/2024	Assessment Report from Phyllis Barnette, M.A., CSAC, LCAS	33-34
8	-----	Certified Copy of New Hanover County 23 CR 369636 (redacted)	35-55

RESPONDENT'S LIST OF EXHIBITS

EXHIBIT	DESCRIPTION
1	SUD Assessment Summary
2	Judgment Suspending Sentence - Level Five DUI
3	Mitigating Factors
4	Proof of Successful Completion of 16 Hour Alcohol

	And Drug Education Traffic School (“ADETS”) Program, Prime for Life
5	Self-Report
6	Habitat for Humanity Community Service Verification

JURISDICTION

The North Carolina Addictions Specialist Professional Practice Board is an occupational licensing board of the State of North Carolina, organized under the provisions of N.C. Gen. Stat. § 90, Article 5C, and has jurisdiction over this matter pursuant to the provisions of N.C. Gen. Stat. § 90-113.33, N.C. Gen. Stat. § 150B, and the Board’s duly enacted rules, 21 N.C. Administrative Code, Chapter 68.

FINDINGS OF FACT

1. On February 23, 2021, Respondent was registered by the Board as a Licensed Clinical Addictions Specialist Associate (“LCAS-A”) (LCAS-A No. 22401), which will expire on February 21, 2026, if not renewed.
2. On February 22, 2024, Respondent submitted a self-report to the Board via counsel disclosing Respondent was convicted of Driving While Impaired (“DWI”) on January 22, 2024. The Complaint was designated by the Board as Ethics Complaint (“EC”) Case No. 814-24.
3. Pursuant to N.C. Gen. Stat. §§ 90-113.46A and 93B-8.1, the Board must consider all of the following factors when considering Respondent’s criminal conviction:
 - a. The level and seriousness of the crime;
 - b. The date of the crime;
 - c. The age of the person at the time of the crime and at the time of the conviction;
 - d. The circumstances surrounding the commission of the crime, if known;
 - e. The nexus between the criminal conduct of the person and the prospective job duties of the position to be filled;
 - f. The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed;
 - g. The completion of, or active participation in, rehabilitative drug or alcohol treatment;
 - h. Whether a Certificate of Relief has been granted, pursuant to G.S. 15A-173.2;
 - i. The subsequent commission by the person of a crime as defined in G.S. 90-113.31A(14) or otherwise; and

- j. Any affidavit or other written documents, including character references, submitted by the person.
4. Pursuant to N.C. Gen. Stat. § 90-113.44(a)(2a), grounds for disciplinary action include the use of alcoholic beverages to the extent that a substance use disorder professional suffers impairment.
5. Pursuant to N.C. Gen. Stat. § 90-113.44(a)(6), grounds for disciplinary action include engaging in any act or practice in violation of any of the provisions of this Article or any of the rules adopted pursuant to it, or aiding, abetting, or assisting any other person in such a violation.
6. Pursuant to N.C. Gen. Stat. § 90-113.44(a)(9), grounds for disciplinary action include engaging in conduct that could result in harm or injury to the public.
7. Pursuant to 21 NCAC 68 .0503(e), a substance use disorder professional who knows of unethical conduct by a substance use disorder professional shall report such violations to the Board.
8. Pursuant to 21 NCAC 68 .0503(i), a substance use disorder professional shall recognize the negative impact impairment has on her functioning in public and professional performance.
9. Pursuant to 21 NCAC 68 .0601(5)(b), conviction for violating any driving while impaired law constitutes grounds for disciplinary action.
10. Pursuant to 21 NCAC 68 .0601(6)(c), use of drugs, including alcohol, to the extent that professional competency is affected or that the professional suffers impairment constitutes professional incompetency or failure to meet standards of practice, and is grounds for disciplinary action.
11. Pursuant to 21 NCAC 68 .0606(c)-(d), a substance use disorder professional shall notify the Board within 30 days from the date of any charges, conviction or finding of guilt, or pleading of nolo contendere for all criminal convictions, including DWI charges, arrests, and convictions, and failure to report these criminal convictions shall be considered a violation of the ethical principles of the Board.
12. On October 3, 2024, a Notice of Hearing was issued to Respondent, served by Acceptance of Service, accepted by Respondent counsel Mr. Nicholas Dowgul on October 18, 2024.
13. The Presiding Officer convened the hearing on Friday, October 25, 2024, in person and administered before a Court Reporter.
14. Board staff was represented by Mrs. Catherine E. Lee and Ms. Carolyn E. Duhon, Hedrick Gardener Kincheloe and Garofalo, L.L.P., who served as prosecutors for Board staff. Respondent was present and represented by Mr. Nicholas Dowgul, North State Law.

15. At hearing, the Board heard testimony and other evidence regarding Respondent's criminal conviction and the factors enumerated in N.C. Gen. Stat. § 90-113.46A(b) and N.C. Gen. Stat. § 93B-8.1(b1).
16. Board staff presented credible evidence to establish Respondent was convicted of the criminal offense identified in Paragraph 2 of this Final Agency Decision. On January 22, 2024, Respondent pled guilty to Driving While Impaired – Level 5.
17. The Board notes that, as of the date of the hearing, no Certificate of Relief had been obtained for Respondent's conviction.
18. In considering the date of the crime, the Board finds that Respondent's criminal conduct occurred on July 26, 2023, while Respondent was convicted of the above-referenced DWI on January 22, 2024.
19. In considering the level and seriousness of the above-referenced crime, the Board considered that Respondent's conviction was a Driving While Impaired – Level Five conviction. Credible evidence was presented that, on July 26, 2023, Respondent was charged with Driving While Impaired – Level 5. The corresponding criminal case was heard in New Hanover County District Court, court file no. 2023 CR 369636-640-M. Respondent was released pursuant to a \$2,000.00 unsecured bond.
20. The Board considered Respondent's age at the time of her criminal conviction. As Respondent was born on December 1, 1969, the Board considered that Respondent was approximately fifty-four (54) years old when she was convicted of the above-referenced crime on January 22, 2024.
21. The Board considered the circumstances surrounding the commission of the crime. Respondent testified credibly that, on the date of offense, Respondent was driving home from a restaurant in Wrightsville Beach, North Carolina. Respondent testified that she had consumed alcohol at the restaurant. Respondent testified as to a dispute with her husband which took place outside of the restaurant, and that, after the dispute, Respondent operated a motor vehicle in an attempt to drive home. Respondent credibly testified that she approached a Law Enforcement Officer in a church parking lot, as Respondent was unsure how to get home, and that the Law Enforcement Officer had questioned Respondent's behavior before requesting that Respondent submit to a breathalyzer.
22. The Board considered Respondent's prison, jail, probation, parole, rehabilitation, and employment records since the date of Respondent's commission of the above-referenced crime. On January 22, 2024, Respondent pled guilty to the above-referenced Driving While Impaired – Level 5 charge and was sentenced to twelve (12) months of court-mandated unsupervised probation, with a suspended sentence of sixty (60) days of imprisonment. Respondent was required by the Court to pay \$293.00 in associated costs.

23. The Board finds Respondent complied with the terms of criminal sentencing imposed for her conviction, which included probation, payment of costs, and court-mandated treatment.
24. Per the Revocation Order when Person Present, as a result of the above-referenced DWI offense, Respondent's driver's license or privilege to drive was revoked for at least thirty (30) days from July 26, 2023. On January 24, 2024, the NC Department of Transportation issued a letter detailing an alcohol concentration restriction placed on Respondent's driver's license upon reinstatement, providing Respondent may not operate a vehicle with an alcohol concentration greater than or equal to 0.04 for a period of three (3) years, and that Respondent must submit to chemical analysis, in the event a law enforcement officer requests such.
25. Respondent completed twenty-four (24) hours of community service at Cape Fear Habitat for Humanity Restore in Wilmington, North Carolina prior to entering the above-referenced guilty plea.
26. On August 18, 2023, following the issuance of the above-referenced criminal charge, Respondent participated in an initial DWI-related substance use assessment with D&A Assessment Services, Inc. ("D&A"). The D&A DWI Assessment Recommendations from August 2023 included Alcohol/Drug Education Traffic School ("ADETS"), totaling sixteen (16) hours over a minimum of five (5) days. Per a letter from Patti Cain of D&A dated August 18, 2023, Respondent completed the recommended sixteen (16) hour ADETS program. Respondent also provided a certificate to the Board dated August 18, 2023, demonstrating successful completion of the sixteen (16) hour program.
27. In considering the subsequent commission of a crime by Respondent, the Board notes that Respondent has not received a criminal conviction since the above-referenced conviction.
28. The Board considered the nexus between Respondent's criminal conduct and the job duties of an LCAS-A. Respondent's conviction was a controlled substance related conviction. Respondent testified credibly as to the conviction being related to consumption of alcohol. The Board finds that crimes relating to the consumption of alcohol have a direct nexus to the practice of addictions services. As a clinician, Respondent regularly evaluates and advises clients who use, or have used, controlled substances in a manner that has the potential for harm to themselves and others. The Board finds that, at hearing, Respondent exhibited a poor sense of self-awareness as to her own use of controlled substances, engaging in the high-risk behavior of driving while impaired. Ethics Committee Chair Kathy Allen testified as to the nexus between the criminal conduct and the job duties of an LCAS-A, including concerns relating to Respondent's reported consumption of alcohol following issuance of the DWI charge, as recent as May of 2024.
29. At hearing, the Board also heard testimony and other evidence regarding Respondent's criminal conviction and N.C. Gen. Stat. § 90-113.44(a)(2a). The Board finds that Respondent used alcohol beverages to the extent that Respondent suffered impairment. Per the Affidavit of Revocation Report dated July 26, 2023, Respondent's arresting officer

noted “odor of alcohol on the breath, admission to drinking, glassy eyes, slurred speech.” Per the corresponding Intox EC/IR-II: Subject Test (breath test) from the New Hanover County Wilmington Police Department dated July 26, 2023, Respondent’s ethanol concentration was 0.09 g/210 L, beyond the legal limit.

30. At hearing, the Board also heard testimony and other evidence regarding Respondent’s criminal conviction and N.C. Gen. Stat. § 90-113.44(a)(9). The Board finds that Respondent engaged in conduct that could result in harm or injury to the public by consuming alcohol beyond the legal limit before operating a motor vehicle.
31. At hearing, the Board also heard testimony and other evidence regarding Respondent’s criminal conviction and 21 NCAC 68 .0503(e). The Board finds that Respondent failed to report the issuance of the above-referenced criminal charge to the Board within thirty (30) days and failed to report that Respondent suffered impairment due to consumption of alcohol.
32. At hearing, the Board also heard testimony and other evidence regarding Respondent’s criminal conviction and 21 NCAC 68 .0503(i). The Board finds that Respondent failed to recognize the negative impact that impairment has on her functioning in public and professional performance.
 - a. On April 17, 2024, counsel for the Board issued a letter on behalf of the Board’s Ethics Committee requesting Respondent submit to an independent assessment concerning substance abuse and/or fitness to practice with an independent, Board-approved provider and provide the relevant documentation from the assessment to the Board, in accordance with N.C. Gen. Stat. § 90-113.33(11). The assessment was ultimately conducted by clinician Phyllis Barnette (“Barnett”), MA, LCAS and CCS.
 - b. Per the SUD/Fitness to Practice Assessment Summary dated May 10, 2024, Barnett recommended Respondent remain abstinent from any mind/mood-altering substances unless prescribed by a physician.
 - c. The Board considered Respondent’s failure to maintain recovery and abstinence from controlled substances, including her continued consumption of alcohol beverages. Respondent testified credibly that she still consumes alcohol beverages on occasion. However, the Board finds Respondent’s testimony as to the frequency at which she consumes alcoholic beverages was not credible.
 - d. At hearing, Respondent testified at length as to the faults of others surrounding her conviction for driving while impaired. For instance, Respondent testified that her spouse had upset her prior to her driving while impaired; that the arresting law enforcement officer was unhelpful to her during her arrest; and that her attorney in the DWI criminal case failed to keep her informed regarding her sentencing, including that Respondent was subject to court-mandated probation, of which

Respondent testified she was unaware. Further, Respondent testified that she felt safe to drive on the night of the criminal offense, though she was upset due to the dispute with her husband and had consumed alcoholic beverages. The Board finds that Respondent did not credibly express recognition of her own choices and behaviors that led to the driving while impaired conviction, which is concerning given the job duties performed by an LCAS-A. Further, Respondent testified that the Board may take her license. Tr. 48 (8-9). Respondent also testified that she would surrender her credential before being labeled as an alcoholic, as having poor self-care, or as under investigation. Tr. 49 (1-8).

33. At hearing, the Board also heard testimony and other evidence regarding Respondent's criminal conviction and 21 NCAC 68 .0601(5)(b). The Board finds that Respondent was convicted of violating a Driving While Impaired law.
34. At hearing, the Board also heard testimony and other evidence regarding Respondent's criminal conviction and 21 NCAC 68 .0601(6)(c). The Board finds that Respondent used alcohol to the extent that Respondent suffered impairment. Per the Affidavit of Revocation Report dated July 26, 2023, Respondent's arresting officer noted "odor of alcohol on the breath, admission to drinking, glassy eyes, slurred speech." Per the corresponding Intox EC/IR-II: Subject Test (breath test) from the New Hanover County Wilmington Police Department dated July 26, 2023, Respondent's ethanol concentration was 0.09 g/210 L, beyond the legal limit.
35. At hearing, the Board also heard testimony and other evidence regarding Respondent's criminal conviction and 21 NCAC 68 .0606(c)-(d). The Board finds that Respondent failed to notify the Board within 30 days from the date of any charges, conviction or finding of guilt, or pleading of nolo contendere for all criminal convictions, including DWI charges, arrests, and convictions. While Respondent reported the above-referenced conviction to the Board, Respondent failed to report the issuance of the above-referenced criminal charge within thirty (30) days of issuance.
36. The Board notes that no affidavits or other written documents, such as character references, were presented by Respondent at hearing. Respondent did not present any testimony other than her own to substantiate her current fitness to practice and rehabilitation following her conviction of Driving While Impaired.
37. Respondent testified credibly that her clinical supervisor has been out of the country, and that Respondent has not been meeting with her clinical supervisor for required clinical supervision. The Board finds that Respondent's failure to maintain regular and consistent supervision, as required by 21 NCAC 68 .0204, is indicative of lack of rehabilitation following her criminal conviction.
38. At hearing, the Board also heard testimony and other evidence regarding Respondent's criminal conviction and N.C. Gen. Stat. § 90-113.44(a)(6). The Board finds that

Respondent engaged in acts or practices in violation of the provisions of the Article or any of the rules adopted pursuant to it, as described above.

CONCLUSIONS OF LAW

1. Respondent is subject to the Administrative Procedure Act, N.C. Gen. Stat. § 150B, with the North Carolina Substance Use Disorder Professional Practice Act, N.C. Gen. Stat. § 90, Article 5C, and the rules and regulations adopted by the Board and codified in Title 21, Chapter 68 of the North Carolina Administrative Code.
2. Respondent is subject to jurisdiction before the Board.
3. The Board is authorized under Article 3A, Chapter 150B of the North Carolina General Statutes to hear this matter.
4. To the extent that the Findings of Fact contain conclusions of law, or that the Conclusions of Law are findings of fact, they should be so considered without regard to their given labels. Charlotte v. Heath, 226 N.C. 750, 755, 40 S.E.2d 600, 604 (1946); Peters v. Pennington, 210 N.C. App. 1, 15, 707 S.E.2d 724, 735 (2011).
5. The Board concludes that the acts and omissions of Respondent described in Findings of Fact No. 1-38 violate the following statutes and rules governed by the Board:
 - 1) N.C. Gen. Stat. § 90-113.44(a)(2a);
 - 2) N.C. Gen. Stat. § 90-113.44(a)(6);
 - 3) N.C. Gen. Stat. § 90-113.44(a)(9);
 - 4) 21 NCAC 68 .0503(e);
 - 5) 21 NCAC 68 .0503(i);
 - 6) 21 NCAC 68 .0601(5)(b);
 - 7) 21 NCAC 68 .0601(6)(c); and
 - 8) 21 NCAC 68 .0606(c)-(d).
6. The Board concludes that Respondent committed one or more of the violations described in Conclusions of Law No. 5.
7. Pursuant to N.C. Gen. Stat. §§ 90-113.33(2) and 90-113.44(a), the Board has the authority to issue, renew, deny, suspend, or revoke licensure, certification, or registration to practice in this State or reprimand or otherwise discipline a license, certificate, or registration holder in this State.

FINAL AGENCY DECISION

The North Carolina Addictions Specialist Professional Practice Board hereby issues the following decision:

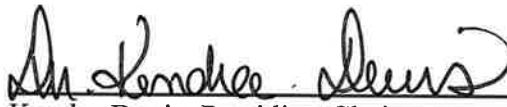
- I. Respondent's registration and credentialing before the Board as a Licensed Clinical Addictions Specialist Associate ("LCAS-A") (LCAS-A No. 22401) is hereby REVOKED for a period of five (5) years.
- II. This Final Agency Decision shall take effect upon service of Respondent in a manner consistent with N.C. Gen. Stat. § 150B-42(a).
- III. Pursuant to N.C. Gen. Stat. § 150B-45(a)(2), Respondent has thirty (30) days from the date that she receives this Final Agency Decision to file a Petition for Judicial Review. The Petition for Judicial Review must be filed in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed. Since this is an administrative appeal, no additional evidence will be taken. If a Petition is filed, a Superior Court Judge will review the Final Agency Decision to determine whether there were any legal errors in the Final Agency Decision.

NOTICE

This Final Agency Decision is issued under the authority of N.C. Gen. Stat. §150B-42. Pursuant to N.C. Gen. Stat. §150B-45, any party wishing to appeal this Final Agency Decision may commence such appeal by filing a Petition for Judicial Review in the Superior Court of the county in which the party resides. The party seeking review must file the Petition within 30 days after being served with a written copy of this Final Agency Decision.

N.C. Gen. Stat. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. N.C. Gen. Stat. §150B-47 requires the Board to file the official record in the contested case with the reviewing court within 30 days of receipt of the Petition.

This, the 29th day of January 2025.

By: 
Kendra Davis, Presiding Chair
NORTH CAROLINA ADDICTIONS SPECIALIST
PROFESSIONAL PRACTICE BOARD

CERTIFICATE OF SERVICE

This is to certify that the undersigned has, this date, served the foregoing **Findings of Fact, Conclusions of Law, and Final Agency Decision** upon the following named persons by depositing a copy of the foregoing document in the United States Mail, First Class, Postage Prepaid, and addressed as follow:

Ms. Charla Alvarez
717 Brewster Ln.
Wilmington, NC 28412

Respondent

Mr. Nick Dowgul, Esq.
North State Law
5840 Faringdon Place, Suite B
Raleigh, NC 27609

Counsel for Respondent

COURTESY COPY:

nick@northstatelawfirm.com
Counsel for Respondent

This, the 24 day of January 2025.

**HEDRICK GARDNER KINCHELOE &
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