

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA  
BOARD OF LICENSED CLINICAL  
MENTAL HEALTH COUNSELORS

IN THE MATTER OF: )  
)  
Toni Duncan, LCMHC )  
Respondent )  
No. 7935 )

**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 September 6, 2024, pursuant to a charge letter issued by the Board on February 15, 2018, which is pending; and

IT APPEARING to the Board that 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 counselor<sup>1</sup> [“LCMHC”] 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. From approximately January 1, 2016 through August 17, 2016, Respondent was the CEO of Apex Therapeutic Services in Jacksonville, North Carolina.
3. The Board’s Ethics Review Committee found probable cause that Respondent did the following while serving as the CEO:
  - a. authorized non-licensed staff members to perform assessments and counseling services;
  - b. submitted claims for those services to Medicaid under her provider number and also submitted claims for counseling services that were not rendered, including for time periods where Respondent was out of state;
  - c. failed to maintain adequate documentation to support the counseling services billed to Medicaid; and
  - d. closed her counseling practice and did not transfer or refer one or more patients for counseling services to a different mental health provider.

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<sup>1</sup> 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.

4. Respondent contested these findings but acknowledges that her conduct as set forth above, if proven, violated Sections A.1.b., A.12, C.6.b., and D.1.f. of the American Counseling Association Code of Ethics (2014) and violated N.C. Gen. Stat. §§ 90-340 (a)(4), (a)(5) and (a)(9) of the North Carolina Licensed Professional Counselors Act [now entitled “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 through a contested case hearing and potential judicial review pursuant to Articles 3A and 4 of the Administrative Procedure Act, N.C. Gen. Stat. §§ 150B-38 to 52 [“APA”]. The parties enter into this Consent Order *in lieu* of those potential proceedings.
6. Respondent understands and agrees that this Consent Order is subject to review and potential approval by the Board and shall be effective only upon approval by the full Board and signature of its Chairperson.
7. If the Board approves and enters the Consent Order, Respondent expressly waives the right: (i) to issuance of a notice of hearing, a hearing, the making of findings of fact and conclusions of law, and all further proceedings before the Board, (ii) to seek judicial review, and (iii) to otherwise challenge the validity of this Consent Order in any court or before the Board in the future, which Respondent may be entitled to under the APA or other laws.
8. Respondent acknowledges that she has read this entire Consent Order, assents to its terms and conditions, and, if accepted by the Board, agrees not to contest the stipulations or order in any future potential proceedings by, against, or involving the Board.
9. Respondent agrees to service of the fully executed Consent Order to the email or to the following last known addresses she provided to the Board and waives service by any other method pursuant to the APA or other laws: 1365 Kukana Way, Kailua, HI 96734; PO Box 44260, Pittsburgh, PA 15205.
10. Respondent further agrees that presentation of this proposed 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, including if the Board rejects the proposal or a hearing becomes necessary in this case.
11. Respondent forever releases the State of North Carolina, the North Carolina Board of Licensed Clinical Mental Health Counselors, and all its members, officials, agents, counsel, 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.
12. Respondent acknowledges that she was either represented by legal counsel in connection with her consideration and execution of this Consent Order or, alternatively, that she was free to engage such legal counsel to advise her concerning this Consent Order and its terms prior to the time that Respondent executed this Consent Order and that she alone decided not to engage such legal counsel. The Board was represented in this Consent Order by The Brocker Law Firm, P.A.

13. 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.

14. This Consent Order shall constitute disciplinary action against the license of Respondent, pursuant to N.C. Gen. Stat. §90-340(a) and (b). Respondent understands that this Consent Order may have adverse consequences in other contexts, which shall not be the basis for reconsideration of its terms in the future.

Based upon the record and the foregoing stipulations,

NOW, THEREFORE IT IS HEREBY ORDERED as follows:

I. Respondent permanently surrenders her license to practice clinical mental health counseling in the State of North Carolina, license number 7935, which becomes effective upon entry of this Consent Order, and acknowledges and agrees that she cannot reapply for or regain a license to practice clinical mental health counseling in North Carolina at any time in the future and the Board shall not accept or consider any future application or request from her to obtain a license.

II. Respondent acknowledges and agrees that she is not authorized to engage in any acts constituting the practice of clinical mental health counseling under the North Carolina Licensed Clinical Mental Health Counselors Act in this State or concerning residents of this State. Respondent has submitted to the Board her original license in connection with her permanent surrender.

III. 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.


This the 9<sup>th</sup> day of September, 2024.

CONSENTED TO BY:

NORTH CAROLINA BOARD OF LICENSED CLINICAL MENTAL HEALTH COUNSELORS

BY:  Signed by: 9/9/2024  
E414DBD989A3497... Dr. Yasmin Gay, LCMHCS Date  
Board Chairperson

RESPONDENT:





 08 / 06 / 2024  
\_\_\_\_\_  
Toni Duncan Date

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