

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA  
BOARD OF LICENSED  
PROFESSIONAL COUNSELORS

IN THE MATTER OF: )  
 )  
TODD M. CLARK, LPC )  
Respondent. )  
Case Number 1601 )

**CONSENT ORDER**

THIS CAUSE, coming on to be heard and being heard before the North Carolina Board of Licensed Professional Counselors (“the Board”), at its meeting on July 27, 2017, pursuant to a charge letter issued by the Board on February 27, 2017, 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 professional counselor and is subject to the Board’s jurisdiction pursuant to the North Carolina Licensed Professional Counselors Act, Chapter 90, Article 24 of the North Carolina General Statutes.

2. The Board’s evidence would show that on or about April 1, 2016, Respondent wrote and entered notes into the medical records for a men’s therapy group that occurred on March 28, 2016. Respondent was not the therapist providing counseling services to the group, but instead a therapy assistant was present for the group therapy session. Despite the fact that Respondent was not present for the group, he completed a note on each of the nine clients in the group which reflected comments and observations by the group members as if Respondent had been participating in the group session. The Board’s evidence would also show that Respondent allowed a non-licensed individual to serve as the therapist for the men’s therapy group, which constitutes the practice of counseling.

3. Respondent contends that the evidence he would present would show that he was engaged as chief operating officer, not as therapist, and was not responsible for arranging coverage of groups. Respondent further contends that finding no other counselor was available, he arranged for the session to be observed by a therapy assistant with clear instruction that no therapy take place, and no therapy did take place. Respondent contends that he knew the occurrences and the recordkeeping would be addressed by the QA or EOC Committee, which could decide how best to clarify the contemporaneous entries he made from the input received from the assistant. Respondent further contends the therapy assistant was not a person listed on the dropdown EMR, and that Respondent, as a person who could make the entries, undertook to do so, though as a new employee, he had not been trained in EMR.

4. Respondent admits that his conduct as set forth in Paragraph 2 above, if proven, violates N.C. Gen. Stat. §§ 90-340 (a)(4), (a)(8) & (a)(9) of the NC Licensed Professional Counselors Act and

Sections A 1.b, and B. 6.a. of the American Counseling Association Code of Ethics (2014).

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 Professional 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.

Based upon the record and the foregoing stipulations,

NOW, THEREFORE IT IS HEREBY ORDERED as follows:

I. The action taken by the Board in this matter shall constitute, non-disciplinary and non-reportable to the National Practitioners Data Bank, remedial action.

II. The Board understands that Respondent is not engaged in the practice of licensed professional counseling at this time. Should Respondent resume the practice of counseling at any time in the future, Respondent shall be supervised for a period of one year by a Board approved supervisor for one hour of individual face to face supervision for every 40 hours of counseling practice, with no less than one supervision session per month. Respondent must file a supervision contract and the supervisor must be approved by the Board prior to the beginning of the practice of counseling.

III. Respondent's supervisor shall submit quarterly supervision reports with the Board at the end of each quarter of supervision addressing Respondent's progress and response to supervision, specifically addressing proper documentation and maintenance of records. At the conclusion of the

one year of supervision, Respondent's Board approved supervisor shall submit a Final Supervision Report to the Board. Respondent must receive at least average ratings from his supervisor on all reports in order to be released from the supervision. Any costs and associated expenses of this supervision shall be borne by the Respondent.

IV. Respondent shall complete twelve hours of continuing education coursework from a Board approved continuing education sponsor, as set forth in 21 NCAC 53.0603(c), in the area of proper record keeping and documentation. Upon successful completion of this continuing education coursework, Respondent shall submit certificates of completion provided by the continuing education sponsor to the Board. This requirement shall be in addition to the continuing education coursework required for all licensees under Board rule. All costs associated with this continuing education shall be borne by Respondent. Respondent shall complete this continuing education no later than December 27, 2017.

V. Respondent may continue to use his Ph.D. degree, as it was obtained from a program that is accredited by the American Accrediting Association of Theological Institutions Inc.

VI. 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, in the discretion of the Board.

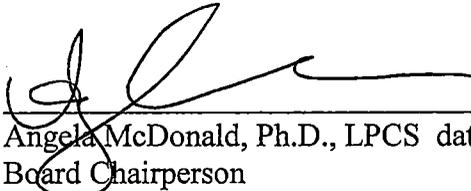
VII. The Board shall maintain this Consent Order as a public record pursuant to N.C. Gen. Stat. §§132-1 and 90-340(f).

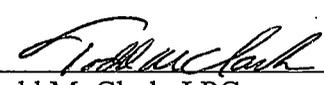
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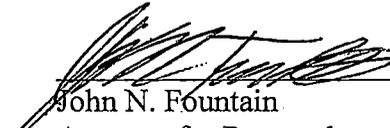
This the 27 day of July, 2017.

CONSENTED TO BY:

NORTH CAROLINA BOARD OF  
LICENSED PROFESSIONAL COUNSELORS

BY:   
\_\_\_\_\_  
Angela McDonald, Ph.D., LPCS date  
Board Chairperson

 7-25-17  
\_\_\_\_\_  
Todd M. Clark, LPC date  
Respondent

 7/25/2017  
\_\_\_\_\_  
John N. Fountain date  
Attorney for Respondent  
3201 Glenwood Avenue, Suite 200  
Raleigh, NC 27622