

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
BOARD OF LICENSED
CLINICAL MENTAL HEALTH
COUNSELORS

IN THE MATTER OF:)
)
KIMBERLY D’AMICO, LCMHC)
)
Respondent.)
)
Case No. 1837)

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 December 9, 2022, pursuant to a charge letter issued by the Board on April 25, 2022, 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 clinical mental health counselor 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. At all times relevant to this cause, Respondent owned and operated her counseling practice, AlphaMind Brain Centers, in Cary, North Carolina (“AlphaMind”).
3. On or about August 13, 2020, Client X came to Respondent’s counseling practice to receive a free Brain Map Evaluation (qEEG), and returned approximately two weeks later for the results of the evaluation and a counseling session with Respondent to discuss a proposed treatment plan.
4. During those two meetings with Client X, Respondent discussed the client’s mental health issues, a proposed treatment plan that included counseling services, as well as nutraceutical supplements that Respondent sold at her counseling office. According to Client X, the treatment plan recommended 5 months of neurofeedback, to be provided primarily at her home, with Respondent’s husband supervising remotely, at a cost of \$4,330.00.
5. According to Client X, Respondent’s husband, who claimed to be a “Certified NeuroModulation Practitioner,” was present during Respondent’s meetings with Client X. Respondent admits that her husband was present during the brain-mapping and brain map review portions of the sessions only.

6. On her website, Respondent holds herself out to the public as certified in the following areas: 1) Eye Movement Desensitization and Reprocessing (EMDR), 2) Neurofeedback/Brain mapping, and 3) Complex Trauma/being a Certified Clinical Trauma Professional. The Board asserts, and Respondent denies, that Respondent's training is insufficient to hold herself out as an expert in those specialties to the public. Furthermore, the Board asserts, and Respondent denies, that Respondent has not demonstrated that she is competent to provide Neurofeedback and Brain Mapping services through training, education, and supervised experience.
7. Respondent admits that her husband was acting as a "NeuroModulation Practitioner" under Respondent's clinical supervision to provide Neurofeedback and Brain Mapping services. The Board asserts, and Respondent denies, that Respondent had no competence to provide supervision in this area.
8. The Board asserts that Respondent also offered psychological testing as part of her services. Respondent admits to offering certain assessments and screenings but denies that they were for psychological services outside of the scope of counseling.
9. The Board asserts, and Respondent admits, that Respondent also promoted and sold nutraceutical supplements out of her counseling office.
10. Respondent further admits to paying for two prior clients to receive additional coaching services.
11. Respondent further admits to advertising certain professionals on her website and in her office as part of the "Alpha team," when, in fact, these professionals did not render any psychotherapeutic or related services to clients at Respondent's office. The Board asserts, and Respondent denies, that such advertising misrepresented the type and scope of Respondent business' services to the public.
12. The Board asserts, and Respondent denies, that the conduct in which Respondent has admitted to engaging described in the above Paragraphs 5 through 9 fell outside the boundaries of demonstrated competence. Further, the Board asserts, and Respondent denies, that Respondent allowed her husband, who Respondent agrees was not licensed to practice clinical mental health counseling in North Carolina, to engage in unauthorized practice of counseling in her office.
13. Respondent admits that the conduct described in the above Paragraphs 3 through 12 above, as alleged, collectively constitutes violations of Sections A.2.a., A.2.b., A.6.b., A.6.c., A.6.d., B.3.a., C.2.a., C.2.b., C.3.a., C.3.f., C.4.a., E.2.a., E.3.a., E.5.a., and I.1.a. of the American Counseling Association Code of Ethics (2014) and violations of N.C. Gen. Stat. §§ 90-340 (a)(4), (a)(5), (a)(7), (a)(8), (a)(9), (a)(10) and (a)(12) of the North Carolina Licensed Clinical Mental Health Counselors Act.

14. Following the investigation by the Board, Respondent informed the Board that she has taken several measures to bring her counseling practice into compliance including the following:
 - a. Respondent has informed the Board that her husband has been transitioned to a strictly administrative/office manager position. According to Respondent, her husband is no longer engaging in any Neurofeedback services;
 - b. Respondent has informed the Board that she has discontinued use of the CNS Vital Signs software for assessments and screenings and returned to paper copies (noting, however, that she admits only to ever using the assessments within the CNS Vital Signs software that she was competent to give as a licensed clinical mental health counselor);
 - c. Respondent has informed the Board that the AlphaMind website has been revised to clarify the scope of services offered, remove reference to providers who did not render services within the office, and remove any language and terminology that could be interpreted as medical in nature; and
 - d. Respondent has informed the Board that her office no longer sells nutraceutical supplements.
15. 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.
16. 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.
17. Respondent forever releases the State of North Carolina, the North Carolina Board of Licensed Clinical Mental Health 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 and related to the matter at issue in this Consent Order.
18. 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.
19. 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.

20. This Consent Order shall constitute disciplinary action against the license of Respondent, pursuant to N.C. Gen. Stat. §90-340(a).

Based upon the record and the foregoing stipulations,

NOW, THEREFORE IT IS HEREBY ORDERED as follows:

- I. Respondent shall complete twelve (12) hours of supervision over a period of six (6) months to cover the content areas stated in Paragraphs 3 through 14 of this Consent Order. Supervision shall be performed by a Board-approved supervisor and shall be comprised of a minimum of one hour of individual, face-to-face (in person or via telehealth) supervision sessions per forty (40) hours of supervised professional practice for a total of two (2) such sessions per month. In no event shall Respondent complete fewer than two (2) sessions in a single one-month period.
- II. Respondent shall file a supervision contract, and the supervisor shall be approved by the Board prior to the beginning of supervision. The supervision contract must be filed with the Board office no later than 30 days after the date of this Consent Order.
- III. Respondent shall provide a copy of this Consent Order to her approved supervisor. The supervisor shall confirm the receipt of the documents in his/her supervision report.
- IV. At the end of each quarter (i.e., every three calendar months) of supervision, Respondent's approved supervisor shall submit quarterly supervision reports to the Board and to the Board's Ethics Consultant and Investigator, Nick DeJesus, at dejesus@ncblcmhc.org.
- V. At the conclusion of the supervision, Respondent's supervisor shall submit a Final Supervision Report to the Board and to the Board's Ethics Consultant and Investigator, Nick DeJesus, at dejesus@ncblcmhc.org. Respondent shall receive at least average ratings from her supervisor on all reports in order to be released from supervision. In the event Respondent does not receive at least average ratings on all reports, she must continue supervision until receiving a total of twelve (12) reports with at least average ratings.
- VI. Respondent shall bear any costs and associated expenses of this supervision.
- VII. Within five (5) days from the date of this Consent Order, Respondent shall remove the language stating that she is certified in 1) EMDR, 2) Neurofeedback/Brain Mapping, and 3) Complex Trauma, on her website and any platform where Respondent advertises her services.
- VIII. Respondent shall cease offering Neurofeedback and Brain Mapping services effective December 14, 2022.
- IX. Within five (5) days from the date of this Consent Order, Respondent shall provide accurate

description of training and credentials of Respondent and her team members, including counseling students and interns, on her website and any platform where Respondent advertises her services.

- X. Respondent shall notify the Board of her compliance with Paragraphs VII through IX no later than December 20, 2022.
- XI. 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, including seeking an injunction in Superior Court, in the Board's discretion.
- XII. 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.

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This the 13 day of December, 2022.

CONSENTED TO BY:

NORTH CAROLINA BOARD OF
LICENSED CLINICAL MENTAL HEALTH COUNSELORS

Mark Schwarze 12/13/2022
Dr. Mark Schwarze, LCMHCS, NCC, LCAS, CCS date
Board Chairperson

RESPONDENT:

Kimberly D'Amico, LCMHC 12/08/2022
Kimberly D'Amico, LCMHC date

APPROVED AS TO FORM BY:

Jilliann L. Tate 12/18/22
Jilliann L. Tate date

Ann C. Rowe by Jillian L. Tate 12/18/22
Ann C. Rowe with permission date

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