

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA
PSYCHOLOGY BOARD

IN THE MATTER OF:

BRIAN PATRICK SULLIVAN, Ph.D.,

Respondent.

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CONSENT ORDER

This cause, coming on to be heard and being heard before the North Carolina Psychology Board (hereinafter "the Board"), at its meeting on November 4, 2022.

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 psychologist and is subject to the Board's jurisdiction pursuant to the North Carolina Psychology Practice Act, Chapter 90, Article 18G of the North Carolina General Statutes.
2. In September 2020, Respondent received a referral for Client X, a 6 year-old male, and conducted a psychological evaluation. Respondent administered the Weschler Intelligence Scale for Children-Third Edition (WISC-III) to assess intelligence, the Conners Parent Rating Scale-Third Edition (Conners-3) to assess behavioral functioning, and the Multidimensional Anxiety Scale for Children-Second Edition (MASC-2) to assess personality functioning. The results of the WISC-III were reported in the psychological evaluation report and Respondent found Client X to be within the average range of intelligence with no evidence of a developmental intellectual disability or cognitive processing disorder. Based on the results of the psychological evaluation, Respondent reported that Client X met criteria for oppositional defiant disorder.
3. The WISC-III was originally released in 1998, and is no longer supported by Pearson, which is the assessment publisher. The Weschler Intelligence Scale for Children-Fourth Edition (WISC-IV) was released in 2003, and the Weschler Intelligence Scale for Children-Fifth Edition (WISC-V), the current version of the WISC, was released in 2014. Respondent's psychological evaluation report does not specify the limitations of using the WISC-III because of it being an outdated instrument or of any concerns about the validity of the testing results. Respondent does not provide any explanation of his decision to use the WISC-III instead of the current WISC-V. Respondent does not provide any reason consistent with current research or data as to why the WISC-III should be used instead of up to date and supported measures.
4. Respondent used the MASC-2 with his 6 year-old client, when the client age range for use of the MASC-2 is 8-19 years old. Respondent's psychological evaluation report does not specify the limitations of the results, since it was administered to the parent of a child who was outside of the age range for use of the measure.

5. The conduct described in Paragraphs 2 through 4 above constitutes violations of N.C. Gen. Stat. §§ 90-270.148(a)(10), (a)(14), & (a)(15) of the North Carolina Psychology Practice Act and constitutes violations of Standards 9.01(a) & (b) and 9.08(a) & (b) of the Ethical Principles of Psychologists and Code of Conduct (*American Psychological Association, 2017*).

6. 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.

7. 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 Consent Review Committee of the Board for approval and presentation of the Consent Order to the full Board shall not constitute improper ex parte communication between the Board and its counsel, or the Board and its staff, nor require the recusal of any members of the Board from consideration of this matter before the full Board, should a hearing be required in this case.

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 the signature of its Chairperson.

9. Respondent forever releases the State of North Carolina, the North Carolina Psychology Board, 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.

10. 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. Respondent shall voluntarily relinquish his license to practice psychology in North Carolina and the Board shall accept his relinquishment. Respondent shall turn in his license to practice psychology in North Carolina, his Health Services Provider-Psychologist (HSP-P) certificate, and his renewal certificate and wallet card for the 2020-2022 biennium, to the Board office no later than December 1, 2022.

II. No later than November 25, 2022, Respondent shall terminate psychological services to all of his patients/clients and shall make provisions for the appropriate transition of his patients/clients to another mental health professional, as appropriate. Respondent shall provide a signed affidavit to the Board no later than December 1, 2022, attesting that he has terminated and transferred all of his patients/clients by November 25, 2022.

III. No later than November 29, 2022, Respondent shall transfer all of his patient/client records to a psychologist licensed in North Carolina to be retained by that psychologist in a secure and confidential manner, as required by N.C. Gen. Stat. § 90-270.148(a)(18). Respondent shall include in the signed affidavit to the Board no later than December 1, 2022, that he has transferred all of his records by November 29, 2022, and to whom he has transferred them.

IV. No later than November 25, 2022, Respondent shall also cease to engage in any other activities that meet the definition of the practice of psychology in N.C. Gen. Stat. § 90-270.136 (8), including the supervision of other mental health professionals. Respondent shall include in the affidavit to the Board no later than December 1, 2022, that he is no longer engaged in the practice of psychology in any way, including providing supervision to any mental health professionals.

V. Respondent shall not practice psychology, as defined in N.C. Gen. Stat. § 90-270.136(8), after he relinquishes his license unless he is relicensed by the Board.

VI. Should Respondent apply for relicensure in the future, he shall complete the following conditions:

- A. Prior to applying for relicensure, he shall successfully complete a minimum of two to four hours of tutorials. The number of sessions and hours shall be determined by the psychologist conducting the sessions, provided that the tutorials shall consist of a total of no fewer than two hours. The tutorials shall be conducted face-to-face with a psychologist designated by the Board regarding the following: use of current and up-to-date assessment instruments; and how Respondent's conduct resulted in this action taken by the Board; Respondent's plan of action to prevent the recurrence of the behavior which resulted in Board action; and general ethical conduct.
- B. The Board shall be provided with a final report by the tutoring psychologist regarding the Respondent's attendance, progress, and response to the tutorials set forth in subparagraph A. Respondent's progress and response must be satisfactory to the tutoring psychologist and the Board. If the tutoring psychologist or the Board does not find Respondent's progress and response to be satisfactory then the tutoring shall continue until such time as Respondent's progress and response is satisfactory to the tutoring psychologist and the Board. All costs and associated expenses of the tutorials shall be borne by the Respondent. The tutorials shall not count for continuing education credit, as required under 21 NCAC 54 .2104.
- C. If Respondent's application for relicensure is approved, Respondent shall receive face to face supervision by a psychologist licensed in North Carolina for one hour per week during any week in which he practices psychology, for a period of one year or the period of time it takes to complete 50 psychological evaluation reports, whichever takes longer to occur. Prior to resuming practice after being relicensed, Respondent shall submit and have approved by the Board a completed supervision contract form.

- D. The supervisor shall review all of Respondent's psychological evaluation reports to ensure that he is using current testing instruments. Respondent's supervisor shall submit quarterly supervision reports on the Board's Supervision Report form, together with a written narrative description of Respondent's practice and response to supervision, including whether Respondent is using current testing instruments. The Board shall not credit any time period in which Respondent does not receive at least average ratings and written narratives consistent with at least average ratings, as counting toward the required time period set forth in subparagraph C. Any costs and associated expense of this supervision shall be borne by Respondent. Once Respondent has completed all supervision he may request to be released from this condition. The Board Chairperson may, in his/her discretion, grant written approval of Respondent's release from supervision prior to a Board meeting, or he/she may decide that the full Board should review the matter at its next scheduled Board meeting.
- E. If Respondent changes supervisors during any required period of supervision under this Consent Order, he shall submit and have approved a new supervision contract before resuming the practice of psychology. Board staff may in its discretion grant written approval of the supervision contract prior to a Board meeting, or in consultation with the Board Chairperson, may decide that the full Board should review the matter at its next scheduled Board meeting.
- F. Respondent shall not supervise any of the below enumerated individuals for any activity which meets the definition of the practice of psychology, as set forth in N.C. Gen. Stat. § 90-270.136 (8), while he is under the supervision set forth in this Consent Order:

Provisionally licensed psychologists; licensed psychological associates; students in graduate psychology programs; applicants with the Board; or any ancillary services personnel, as defined in 21 NCAC 54 .2801.

VII. Pursuant to N.C. Gen. Stat. § 90-270.148(h), the Board retains full jurisdiction to investigate any complaints or alleged violations of the North Carolina Psychology Practice Act and the Board may take disciplinary action, if warranted, as a result of any violations.

VIII. Should Respondent apply for re-licensure in the future, the Board may access and use its entire investigative file in this matter when reviewing Respondent's application.

IX. This Consent Order constitute action by the Board against Respondent's license, pursuant to N.C. Gen. Stat. § 90-270.148.

X. The failure of Respondent to abide by any provisions of this Consent Order shall result in the suspension, revocation, or other disciplinary action against Respondent's license, in the discretion of the Board, or may result in the Board seeking an injunction to prohibit such practice in Superior Court.

XI. The Board will maintain this Consent Order as a public record pursuant to N.C. Gen. Stat. § 90-270.148(e).

XII. The Respondent is assessed three hundred dollars (\$300.00) in costs, pursuant to N.C. Gen. Stat. § 90-270.148 and 21 N.C.A.C. 54.1605, and shall remit this sum to the Board no later than 30 days after the Consent Order is signed by the Board Chairperson.

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4th November HTB

This the 4th day of ~~September~~, 2022.

CONSENTED TO BY:

NORTH CAROLINA
PSYCHOLOGY BOARD

BY: Helen T. Brantley, Ph.D. date
Helen T. Brantley, Ph.D.,
Board Chairperson

Brian Patrick Sullivan date
Brian Patrick Sullivan, Ph.D. date
Respondent