

1 **BEFORE THE ARIZONA BOARD**
2 **OF BEHAVIORAL HEALTH EXAMINERS**

3 **In the Matter of:**
4 **Maria G. Clark, LPC-13317, LISAC-10628**
5 **Licensed Professional Counselor,**
6 **Licensed Independent Substance Abuse**
7 **Counselor,**

CASE NO. 2014-0049
CONSENT AGREEMENT

8 **In the State of Arizona.**

9 **RESPONDENT**

10 In the interest of a prompt and speedy settlement of the above captioned matter,
11 consistent with the public interest, statutory requirements and responsibilities of the Arizona
12 State Board of Behavioral Health Examiners ("Board"), and pursuant to A.R.S. §§ 32-3281(F)
13 and 41-1092.07(F)(5), Maria G. Clark ("Respondent") and the Board enter into this Consent
14 Agreement, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final
15 disposition of this matter.

16 **RECITALS**

17 Respondent understands and agrees that:

18 1. Any record prepared in this matter, all investigative materials prepared or
19 received by the Board concerning the allegations, and all related materials and exhibits may be
20 retained in the Board's file pertaining to this matter.

21 2. Respondent has the right to a formal administrative hearing at which Respondent
22 can present evidence and cross examine the State's witnesses. Respondent hereby irrevocably
23 waives her right to such formal hearing concerning these allegations and irrevocably waives her
24 right to any rehearing or judicial review relating to the allegations contained in this Consent
25 Agreement.

1 3. Respondent has the right to consult with an attorney prior to entering into this
2 Consent Agreement.

3 4. Respondent acknowledges and agrees that upon signing this Consent
4 Agreement and returning it to the Board's Executive Director, Respondent may not revoke her
5 acceptance of this Consent Agreement or make any modifications to it. Any modification of this
6 original document is ineffective and void unless mutually approved by the parties in writing.

7 5. The findings contained in the Findings of Fact portion of this Consent Agreement
8 are conclusive evidence of the facts stated herein and may be used for purposes of determining
9 sanctions in any future disciplinary matter.

10 6. This Consent Agreement is subject to the Board's approval, and will be effective
11 only when the Board accepts it. In the event the Board in its discretion does not approve this
12 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,
13 nor shall it be relied upon or introduced in any disciplinary action by any party hereto, except
14 that Respondent agrees that should the Board reject this Consent Agreement and this case
15 proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its
16 review and discussion of this document or of any records relating thereto.

17 7. Respondent understands that once the Board approves and signs this Consent
18 Agreement, it is a public record that may be publicly disseminated as a formal action of the
19 Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

20 8. Although Respondent does not agree that all the Findings of Fact set forth in this
21 Consent Agreement are supported by the evidence, Respondent acknowledges that it is
22 the Board's position that, if this matter proceeded to formal hearing, the Board could establish
23 sufficient evidence to support a conclusion that certain of Respondent's conduct constituted
24 unprofessional conduct. Therefore, Respondent has agreed to enter into this Consent
25 Agreement as an economical and practical means of resolving the issues associated with the

1 complaint(s) filed against her. Further, Respondent acknowledges that the Board may use the
2 evidence in its possession relating to this Consent Agreement for purposes of determining
3 sanctions in any further disciplinary matter.

4 9. Respondent further understands that any violation of this Consent Agreement
5 constitutes unprofessional conduct pursuant to A.R.S. § 32-3251(16)(n) and may result in
6 disciplinary action pursuant to A.R.S. § 32-3281.

7 10. The Board therefore retains jurisdiction over Respondent and may initiate
8 disciplinary action against Respondent if it determines that she has failed to comply with the
9 terms of this Consent Agreement or of the practice act.

10 The Board issues the following Findings of Fact, Conclusions of Law and Order:

11 **FINDINGS OF FACT**

12 1. Respondent is the holder of License Nos. LPC-13317 and LISAC-10628 for the
13 practice of counseling in Arizona.

14 2. In 07/12, a mother ("Mother") sought behavioral health services from Respondent
15 for her minor twins ("Children") based on allegations of inappropriate touching and abuse by
16 Children's father ("Father").

17 3. Respondent accepted Children as clients even though she later indicated:

- 18 a. She had no experience with children involved in divorce/custody cases.
19 b. She had not previously worked with the Department of Child Safety
20 ("DCS") and had never had to make a report.

21 4. During Children's 07/24/12 intake with Respondent, Mother indicated:

- 22 a. Her daughter ("Daughter") told her Father touches her private parts.
23 b. Children both told her Father hits them and yells at them.
24 c. Children are having nightmares and are very "clingy".
25

1 d. Mother reported the allegations to police who attempted to conduct an
2 interview with Daughter, but Daughter would not respond to their
3 questions.

4 e. The police recommended Mother seek services with a counselor to help
5 Children feel comfortable in discussing the situation.

6 5. Respondent represents the following regarding the intake information:

7 a. She did not immediately contact DCS because she was unsure if the
8 allegations were true as Mother and Father had an ongoing custody
9 battle.

10 b. She contacted a detective ("Detective 1") on 07/25/12 to discuss her role
11 but Detective 1 did not want to discuss the case.

12 6. Respondent's 12/11/12 progress note documented the following:

13 a. Daughter indicates:

- 14 • Father and a woman who lives with him hit Daughter.
- 15 • Father touches Daughter in her private parts.

16 b. Son indicates he doesn't like Father because he hits him.

17 7. Respondent's 04/02/13 progress note documented the following:

18 a. Daughter indicated Father touches her private parts above her clothing.

19 b. Children indicated that Father spansks them.

20 8. Respondent failed to contact DCS following Children's disclosures, however her
21 clinical notes indicate that she contacted Detective 1 on 12/13/12 to inform him of Children's
22 comments.

23 9. Case documents obtained from police did not contain any record of
24 communication with Respondent on 07/25/12 or 12/13/12, nor did they reflect a Detective 1
25 participating in the case.

1 10. Respondent's only documentation of contacting DCS was a progress note on
2 01/07/14 which was almost eighteen months after her initial intake with Children and more than
3 a month after her final session with Children.

4 11. On 12/31/12, a detective ("Detective 2") was assigned to Children's case.

5 12. In Detective 2's report, there is no mention of Detective 1 ever participating in the
6 case or any prior communication with Respondent.

7 13. In 01/13, Father requested Respondent's clinical records on Children.

8 14. Respondent had concerns for Children's well-being if records were released to
9 Father so she initially denied Father's request.

10 15. On 08/19/13, Father served Respondent a subpoena to provide the clinical
11 records.

12 16. On 01/03/14, a judge granted Father's motion and required that Respondent
13 release the clinical file to Father's attorney.

14 17. Respondent provided some clinical documents, but failed to include:

- 15 a. Billing records
- 16 b. Children's treatment plan
- 17 c. Drawings Children had done as part of therapy

18 18. Respondent's clinical file did not reflect her reason for initially refusing to provide
19 Father the requested documents as required in A.R.S. § 12-2293(D).

20 19. Upon receiving Father's request for clinical records, Respondent indicates that
21 she electronically transcribed her initially handwritten clinical notes and destroyed the originals.

22 20. Respondent's clinical documentation was deficient as follows:

- 23 a. Consent for treatment lacked the date of the client's parent/legal
24 guardian's signature.
- 25

1 b. A.A.C. R4-6-1102, Treatment Plan

2 c. A.A.C. R4-6-1103, Client Record

3 4. The conduct and circumstances described in the Findings of Fact constitute a
4 violation of A.R.S. § 32-3251(12)(ii), violating any federal or state law, rule or regulation
5 applicable to the practice of behavioral health, as it relates to:

6 a. A.R.S. § 13-3620, Duty to Report

7 b. A.R.S. § 12-2293, Release of Medical Records

8 5. The conduct and circumstances described in the Findings of Fact constitute a
9 violation of A.R.S. § 32-3251(12)(m), engaging or offering to engage as a licensee in activities
10 that are not congruent with the licensee's professional education, training or experience.

11 6. The conduct and circumstances described in the Findings of Fact constitute a
12 violation of A.R.S. § 32-3251(12)(k), any conduct or practice that is contrary to recognized
13 standards of ethics in the behavioral health profession as it relates to the 2014 ACA Code of
14 Ethics:

15 **C.2.a. Boundaries of Competence**

16 Counselors practice only within the boundaries of their competence, based on
17 their education, training, supervised experience, state and national professional
18 credentials, and appropriate professional experience. Whereas multicultural
19 counseling competency is required across all counseling specialties, counselors
20 gain knowledge, personal awareness, sensitivity, dispositions, and skills pertinent
21 to being a culturally competent counselor in working with a diverse client
22 population.

23 **ORDER**

24 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree to
25 the provisions and penalties imposed as follows:

Stayed Suspension

1 1. As of the effective date of this Consent Agreement, Respondent's licenses, LPC-
2 13317 and LISAC-10628, shall be **SUSPENDED** for 24 months. However, the suspension shall
3 be stayed and Respondent's licenses shall be placed on probation.

4 2. During the stayed suspension portion of the Order, if Respondent is
5 noncompliant with the terms of the Order in any way, the stay of the suspension shall be lifted
6 and Respondent's licenses shall be automatically suspended as set forth above.

7 3. If Respondent contests the lifting of the stay as it relates to this paragraph,
8 Respondent shall request in writing, within 10 days of being notified of the automatic
9 suspension of licensure, that the matter be placed on the Board agenda for the Board to review
10 and determine if the automatic suspension of Respondent's licenses was supported by clear
11 and convincing evidence.

12 4. If the written request is received within 10 days of a regularly scheduled Board
13 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
14 scheduled Board meeting.

15 5. Pending the Board's review, Respondent's licenses shall be reported as
16 suspended - under review. Respondent may not work in any capacity as a licensed behavioral
17 health professional pending the Board's review. The Board's decision and Order shall not be
18 subject to further review.

Probation

19 6. Respondent's licenses, LPC-13317 and LISAC-10628, will be placed on
20 probation, effective from the date of entry as signed below.

21 7. Respondent shall not practice under her licenses, LPC-13317 and LISAC-
22 10628, unless she is fully compliant with all terms and conditions in this Consent Agreement. If,
23 for any reason, Respondent is unable to comply with the terms and conditions of this Consent
24 Agreement, Respondent's licenses shall be automatically suspended as set forth above.
25

1 Agreement, she shall immediately notify the Board in writing and shall not practice under her
2 licenses until she submits a written request to the Board to re-commence compliance with this
3 Consent Agreement. All such requests shall be pre-approved by the Board Chair or designee.

4 8. In the event that Respondent is unable to comply with the practice restrictions
5 set forth in paragraphs 11 through 18 below, all remaining terms, conditions and time frames
6 relating to the practice restrictions shall be tolled and remain tolled until such time as she is
7 granted approval to re-commence compliance with the practice restriction provisions of
8 probation. All other terms and conditions of probation will remain in effect and not be subject to
9 the tolling provision.

10 **Continuing Education**

11 9. In addition to the continuing education requirements of A.R.S. § 32-3273, within
12 12 months of the effective date of this Consent Agreement, Respondent shall complete 3 clock
13 hours of continuing education in mandatory reporting. All required continuing education shall be
14 pre-approved by the Board Chair or designee. Upon completion, Respondent shall submit a
15 certificate of completion of the required continuing education.

16 10. In addition to the continuing education requirements of A.R.S. § 32-3273, within
17 12 months of the effective date of this Consent Agreement, Respondent shall take and pass a
18 three semester credit hour graduate level behavioral health ethics course from an accredited
19 college or university, pre-approved by the Board Chair or designee. Upon completion,
20 Respondent shall submit to the Board an official transcript establishing completion of the
21 required course.

22 **Practice Restrictions**

23 11. While on probation, if Respondent engages in the practice of behavioral health,
24 she shall do so only while working at an agency licensed by the Department of Health Services
25 and shall not work with children.

Clinical Supervision

1 12. While on probation, Respondent shall submit to clinical supervision for 24 months
2 by a masters or higher level behavioral health professional licensed at the independent level.
3 Within 30 days of the date of this Consent Agreement, Respondent shall submit the name of a
4 clinical supervisor for pre-approval by the Board Chair or designee. Also within 30 days of the
5 date of this Consent Agreement, the clinical supervisor shall submit a letter disclosing his/her
6 prior relationship to Respondent. In that letter, the clinical supervisor must address why he/she
7 should be approved, acknowledge that he/she has reviewed the Consent Agreement and
8 include the results of an initial assessment and a supervision plan regarding the proposed
9 supervision of Respondent. The letter from the supervisor shall be submitted to the Board.

Focus and Frequency of Clinical Supervision

11 13. The focus of the supervision shall relate to mandated reporting, documentation,
12 scope of practice and consultation. Respondent shall meet individually in person with the
13 supervisor twice monthly.

Reports

15 14. Once approved, the supervisor shall submit quarterly reports for review and
16 approval by the Board Chair or designee. The quarterly reports shall include issues presented in
17 this Consent Agreement that need to be reported and the supervisor shall notify the Board if
18 more frequent supervision is needed. Quarterly reports shall include the following:

- 19 a. Dates of each clinical supervision session.
- 20 b. A comprehensive description of issues discussed during supervision
21 sessions.

22 15. All quarterly supervision reports shall include a copy of clinical supervision
23 documentation maintained for that quarter. All clinical supervision documentation maintained by
24 the supervisor shall comply with requirements set forth in A.A.C. R4-6-212(C).

1 16. After Respondent's probationary period, the supervisor shall submit a final
2 summary report for review and approval by the Board Chair or designee. The final report shall
3 also contain a recommendation as to whether the Respondent should be released from this
4 Consent Agreement.

5 **Change of Clinical Supervisor During Probation**

6 17. If, during the period of Respondent's probation, the clinical supervisor determines
7 that he/she cannot continue as the clinical supervisor, he/she shall notify the Board within 10
8 days of the end of supervision and provide the Board with an interim final report. Respondent
9 shall advise the Board Chair or designee within 30 days of cessation of clinical supervision by
10 the approved clinical supervisor and provide the name of a new proposed clinical supervisor.
11 The proposed clinical supervisor shall provide the same documentation to the Board as was
12 required of the initial clinical supervisor.

13 **Provision of Clinical Supervision**

14 18. Respondent shall not provide clinical supervision while subject to this Consent
15 Agreement.

16 **Civil Penalty**

17 19. Subject to the provisions set forth in paragraph 20, the Board imposes a civil
18 penalty against the Respondent in the amount of \$1,000.00.

19 20. Respondent's payment of the civil penalty shall be stayed so long as Respondent
20 remains compliant with the terms of this Consent Agreement. If Board staff determines that
21 Respondent is noncompliant with the terms of this Consent Agreement in any respect, with the
22 exception of the tolling provision under paragraph 8, the stay of the civil penalty payment shall
23 be automatically lifted and payment of the civil penalty shall be made by certified check or
24 money order payable to the Board within 30 days after being notified in writing of the lifting of
25 the stay.

1 21. Within 10 days of being notified of the lifting of the stay, Respondent may request
2 that the matter be reviewed by the Board for the limited purpose of determining whether the
3 automatic lifting of the stay was supported by clear and convincing evidence. If the Board
4 receives the written request within 10 days or less of the next regularly scheduled Board
5 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
6 scheduled Board meeting. The Board's decision on this matter shall not be subject to further
7 review.

8 22. The Board reserves the right to take further disciplinary action against
9 Respondent for noncompliance with this Consent Agreement after affording Respondent notice
10 and an opportunity to be heard. If a complaint is filed against Respondent for failure to comply
11 with this Consent Agreement, the Board shall have continuing jurisdiction until the matter is final
12 and the period of probation shall be extended until the matter is final.

13 23. If Respondent currently sees clients in their own private practice, and obtains any
14 other type of behavioral health position, either as an employee or independent contractor, where
15 she provides behavioral health services to clients of another individual or agency, she shall
16 comply with requirements set forth in paragraphs 24 through 26 below.

17 24. Within 10 days of the effective date of this Order, if Respondent is working in a
18 position where Respondent provides any type of behavioral health related services or works in a
19 setting where any type of behavioral health, health care, or social services are provided,
20 Respondent shall provide the Board Chair or designee with a signed statement from
21 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this
22 Consent Agreement. If Respondent does not provide the employer's statement to the Board
23 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a
24 copy of the Consent Agreement.
25

1 25. If Respondent is not employed as of the effective date of this Order, within 10
2 days of accepting employment in a position where Respondent provides any type of behavioral
3 health related services or in a setting where any type of behavioral health, health care, or social
4 services are provided, Respondent shall provide the Board Chair or designee with a written
5 statement providing the contact information of her new employer and a signed statement from
6 Respondent's new employer confirming Respondent provided the employer with a copy of this
7 Consent Agreement. If Respondent does not provide the employer's statement to the Board
8 within 10 days, as required, Respondent's failure to provide the required statement to the Board
9 shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
10 employer(s) with a copy of the Consent Agreement.

11 26. If, during the period of Respondent's probation, Respondent changes
12 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
13 extended leave of absence for whatever reason that may impact her ability to timely comply with
14 the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform the
15 Board of her change of employment status. After the change and within 10 days of accepting
16 employment in a position where Respondent provides any type of behavioral health related
17 services or in a setting where any type of behavioral health, health care, or social services are
18 provided, Respondent shall provide the Board Chair or designee a written statement providing
19 the contact information of her new employer(s) and a signed statement from Respondent's new
20 employer(s) confirming Respondent provided the employer(s) with a copy of this Consent
21 Agreement. If Respondent does not provide the employer's statement to the Board within 10
22 days, as required, Respondent's failure to provide the required statement to the Board shall be
23 deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
24 employer(s) with a copy of the Consent Agreement.

1 27. Respondent shall practice behavioral health using the name under which she is
2 licensed. If Respondent changes her name, she shall advise the Board of the name change as
3 prescribed under the Board's regulations and rules.

4 28. Prior to the release of Respondent from probation, Respondent must submit a
5 written request to the Board for release from the terms of this Consent Agreement at least 30
6 days prior to the date she would like to have this matter appear before the Board. Respondent
7 may appear before the Board, either in person or telephonically. Respondent must provide
8 evidence that she has successfully satisfied all terms and conditions in this Consent Agreement.
9 The Board has the sole discretion to determine whether all terms and conditions of this Consent
10 Agreement have been met and whether Respondent has adequately demonstrated that she has
11 addressed the issues contained in this Consent Agreement. In the event that the Board
12 determines that any or all terms and conditions of this Consent Agreement have not been met,
13 the Board may conduct such further proceedings as it determines are appropriate to address
14 those matters.

15 29. Respondent shall bear all costs relating to probation terms required in this
16 Consent Agreement.

17 30. Respondent shall be responsible for ensuring that all documentation required in
18 this Consent Agreement is provided to the Board in a timely manner.

19 31. This Consent Agreement shall be effective on the date of entry below.

20 32. This Consent Agreement is conclusive evidence of the matters described herein
21 and may be considered by the Board in determining appropriate sanctions in the event a
22 subsequent violation occurs.
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PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

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Maria G. Clark
Maria G. Clark

04-11-2016
Date

BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

Dated this 12th day of April, 2016.

By: Tobi Zavala
TOBI ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

ORIGINAL of the foregoing filed
This 12th day of April, 2016 with:

Arizona Board of Behavioral Health Examiners
3443 N. Central Ave., Suite 1700
Phoenix, AZ 85012

COPY of the foregoing mailed via Interagency Mail
This 12th day of April, 2016, to:

Marc Harris
Assistant Attorney General
1275 West Washington
Phoenix, Arizona 85007

COPY of the foregoing mailed via
Certified mail no. 701428700001 89575846
This 12th day of April, 2016, to:

Maria G. Clark
Address of Record
Respondent

COPY of the foregoing mailed via Mail
This 12th day of April, 2016 to:

Larry Cohen
P.O. Box 10056
Phoenix, AZ 85064
Attorney for Respondent

DOC #5005522