

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

2 **In the Matter of:**

3 **Mariela B. Pacheco, LAC-15165,**
4 **Licensed Associate Counselor,**
5 **In the State of Arizona.**

6 **RESPONDENT**

CASE NO. 2015-0003

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER OF REVOCATION**

7 On November 6, 2014, the Arizona Board of Behavioral Health Examiners (“Board”) held a
8 formal hearing in the above matter. Assistant Attorney General Marc H. Harris appeared on behalf of the
9 State. Christopher Munns of the Solicitor General’s Office was present to provide independent legal
10 advice to the Board. Respondent was not present.

11 After having considered all the testimony and evidence presented, the Board issues the following
12 Findings of Fact, Conclusions of Law and Order.

13 **FINDINGS OF FACT**

- 14 1. Respondent is the holder of License No. LAC-15165 for the practice of associate
15 counseling in Arizona.
- 16 2. From 03/13 to 06/14, Respondent worked as a Psychology Associate at a men’s
17 correctional facility (“Agency”).
- 18 3. While working at Agency, Respondent was assigned to provide behavioral health
19 services to an adult male client/inmate (“Client”).
- 20 4. In 05/14, Agency’s Criminal Investigation Unit (“CIU”) conducted an investigation
21 surrounding a possible inappropriate relationship between Respondent and Client.
- 22 5. During the CIU investigation, Client acknowledged the following:
- 23 a. He and Respondent had a personal relationship and he would have liked it to progress
24 to a physical one.
- 25 b. He knew a great deal of personal information about Respondent and her family.

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- c. Client and Respondent corresponded through letters.
- 6. During the CIU investigation, Respondent acknowledged the following:
 - a. She and Client had a friendship where she shared personal information with him.
 - b. Respondent wrote the letters found in Client's housing area.
 - c. Her relationship with Client filled an emotional void and she had a desire for it to progress to a physical level.
- 7. The CIU confiscated 3 letters that were written by Respondent and sent to Client.
- 8. The letters written by Respondent:
 - a. Reflect an inappropriate and dual relationship between Respondent and Client.
 - b. Contained sexual undertones such as:
 - "And once you ask me in that romantic setting you dreamed about, I want to be able to make love to you."
 - "It would be very tough to have you close and not be able to touch you, kiss you or even love you."
 - "I wish I could taste your sexy smile anytime I want to. I wish I could make sweet love or raw, rough love/sex whenever we get the urge or craving."
 - "How long do you think it'll be before I officially become your lover?"
- 9. During the course of the Board's investigation, Respondent's coworker, an Agency behavioral health provider, reported the following information to the Board:
 - a. Information surrounding the criminal investigation regarding Respondent and Client began circulating around the prison near the end of 05/14.
 - b. As a result, Client has become the victim of "prison politicking."
 - c. Also, because of Respondent's conduct, other inmates have linked her as a potential resource to bring in drugs and contraband to the prison.

- 1 d. The other inmates demand that Client arrange the delivery of drugs and contraband
2 through Respondent.
- 3 e. Regardless of the fact that Respondent is no longer working at the prison, the other
4 inmates still demand that Client make arrangements with her.
- 5 f. Client has received death threats from the other inmates for his failure to comply with
6 their demands.
- 7 g. A "shank" was found in one of the housing areas and it was allegedly intended to be
8 used on Client.
- 9 h. On 1 occasion, Coworker saw that Client was being held on "suicide watch."

10 10. Coworker acknowledges that all information regarding Client was reported to her by
11 other staff members, including correctional officers and nursing staff.

12 11. Board staff made multiple oral and written attempts to contact Respondent for an
13 investigative interview.

14 12. Respondent failed to respond to Board staff's requests.

15 **CONCLUSIONS OF LAW**

16 1. The Board has jurisdiction over Respondent pursuant to A.R.S. § 32-3251 *et seq.* and the
17 rules promulgated by the Board relating to Respondent's professional practice as a licensed behavioral
18 health professional.

19 2. The conduct and circumstances described in the Findings of Fact constitute a violation of
20 A.R.S. § 32-3251(15)(k), any conduct or practice that is contrary to recognized standards of ethics in the
21 behavioral health profession or that constitutes a danger to the health, welfare or safety of a client.

22 3. The conduct and circumstances described in the Findings of Fact constitute a violation of
23 A.R.S. § 32-3251(15)(l), any conduct, practice or condition that impairs the ability of the licensee to
24 safely and competently practice the licensee's profession.

25 ...

1 4. The conduct and circumstances described in the Findings of Fact constitute a violation of
2 A.R.S. § 32-3251(15)(o), failing to furnish information within a specified time to the Board or its
3 investigators or representatives if legally requested by the Board.

4 5. The conduct and circumstances described in the Findings of Fact constitute a violation of
5 A.R.S. § 32-3251(15)(y), engaging in a dual relationship with a client that could impair the licensee's
6 objectivity or professional judgment or create a risk of harm to the client.

7 **ORDER**

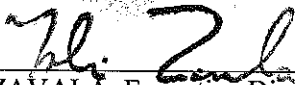
8 Based upon the foregoing Findings of Fact and Conclusion of Law, the Board issues the
9 following order:

10 1. Respondent's license, LAC-15165, is hereby REVOKED, effective immediately.

11 **FINDING OF EMERGENCY**

12 Pursuant to A.A.C. R4-6-1002(F), the Board finds that the immediate effectiveness of this Order
13 is necessary to preserve the public health, safety, and welfare, and that a rehearing or review of the
14 decision is impracticable, unnecessary, and contrary to the public interest. Accordingly, the Board hereby
15 issues the decision as a FINAL DECISION, immediately effective without an opportunity for a rehearing
16 or review. Respondent may apply for judicial review of the decision in accordance with A.R.S. § 12-901
17 et seq.

18
19 Dated this 13th day of November, 2014

20
21 By: _____
22 TOBÍ ZAVALA, Executive Director
23 Arizona Board of Behavioral Health Examiners

1 ORIGINAL of the foregoing filed
2 This 13th day of November, 2014 with:

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

5 COPY of the foregoing mailed via Interagency Mail
6 This 13th day of November, 2014, to:

7 Marc Harris
Assistant Attorney General
8 1275 West Washington
Phoenix, Arizona 85007

9 Christopher Munns
Assistant Attorney General, Solicitor General's Office
10 1275 West Washington
Phoenix, AZ 85007
Attorney for the Board of Behavioral Health Examiners

11 COPY of the foregoing mailed via
12 Certified mail no. 7014 1700 0900 6633 1701
13 This 13th day of November, 2014, to:

14 Mariela B. Pacheco
Address of Record
15 Respondent

16 Donna Dalton
Donna Dalton, Assistant Director
17 602-542-1811

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

3 **In the Matter of:**

4 **MARIELA B. PACHECO, LAC-15165,**
5 **Licensed Associate Counselor**
6 **In the State of Arizona.**

7 **RESPONDENT**

Case No. 2015-0003

PRELIMINARY FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER
OF SUMMARY SUSPENSION

8 The above-captioned matter came before the Arizona State Board of Behavioral
9 Health Examiners ("Board") on September 26, 2014, for the purposes of determining whether
10 grounds existed to summarily suspend Mariela B. Pacheco's ("Respondent") license to practice
11 associate counseling in the State of Arizona. The Board provided Respondent with notice of
12 the meeting at her address of record and appeared telephonically.

13 After having considered all of the information presented and in accordance with
14 A.R.S. § 32-3281(C), the Board issues the following Preliminary Findings of Fact, Preliminary
15 Conclusions of Law, Findings of Emergency and Order for Summary Suspension, pending
16 formal hearing or other Board action.

17 **PRELIMINARY FINDINGS OF FACT**

- 18 1. Respondent is the holder of License No. LAC-15165 for the practice of
19 associate counseling in Arizona.
- 20 2. From 03/13 to 06/14, Respondent worked as a Psychology Associate at a men's
21 correctional facility ("Agency").
- 22 3. While working at Agency, Respondent was assigned to provide behavioral
23 health services to an adult male client/inmate ("Client").
- 24 ...
- 25 ...

1 4. In 05/14, Agency's Criminal Investigation Unit ("CIU") conducted an
2 investigation surrounding a possible inappropriate relationship between Respondent and
3 Client.

4 5. During the CIU investigation, Client acknowledged the following:

- 5 a. He and Respondent had a personal relationship and he would have liked it
6 to progress to a physical one.
- 7 b. He knew a great deal of personal information about Respondent and her
8 family.
- 9 c. Client and Respondent corresponded through letters.

10 6. During the CIU investigation, Respondent acknowledged the following:

- 11 a. She and Client had a friendship where she shared personal information with
12 him.
- 13 b. Respondent wrote the letters found in Client's housing area.
- 14 c. Her relationship with Client filled an emotional void and she had a desire for
15 it to progress to a physical level.

16 7. The CIU confiscated 3 letters that were written by Respondent and sent to
17 Client.

18 8. The letters written by Respondent:

- 19 a. Reflect an inappropriate and dual relationship between Respondent and
20 Client.
- 21 b. Contained sexual undertones such as:
- 22 • "And once you ask me in that romantic setting you dreamed about, I
23 want to be able to make love to you."
- 24 • "It would be very tough to have you close and not be able to touch you,
25 kiss you or even love you."

- 1 • "I wish I could taste your sexy smile anytime I want to. I wish I could
- 2 make sweet love or raw, rough love/sex whenever we get the urge or
- 3 craving."
- 4 • "How long do you think it'll be before I officially become your lover?"

5 9. During the course of the Board's investigation, Respondent's coworker, an
6 Agency behavioral health provider, reported the following information to the Board:

- 7 a. Information surrounding the criminal investigation regarding Respondent and
- 8 Client began circulating around the prison near the end of 05/14.
- 9 b. As a result, Client has become the victim of "prison politicking."
- 10 c. Also, because of Respondent's conduct, other inmates have linked her as a
- 11 potential resource to bring in drugs and contraband to the prison.
- 12 d. The other inmates demand that Client arrange the delivery of drugs and
- 13 contraband through Respondent.
- 14 e. Regardless of the fact that Respondent is no longer working at the prison,
- 15 the other inmates still demand that Client make arrangements with her.
- 16 f. Client has received death threats from the other inmates for his failure to
- 17 comply with their demands.
- 18 g. A "shank" was found in one of the housing areas and it was allegedly
- 19 intended to be used on Client.
- 20 h. On 1 occasion, Coworker saw that Client was being held on "suicide watch."

21 10. Coworker acknowledges that all information regarding Client was reported to her
22 by other staff members, including correctional officers and nursing staff.

23 11. Board staff made multiple oral and written attempts to contact Respondent for
24 an investigative interview.

25 12. Respondent failed to respond to Board staff's requests.

1 **PRELIMINARY CONCLUSIONS OF LAW**

2 1. The Board has jurisdiction over Respondent pursuant to A.R.S. § 32-3251 *et*
3 *seq.* and the rules promulgated by the Board relating to Respondent's professional practice as
4 a licensed behavioral health professional.

5 2. The conduct and circumstances described in the Preliminary Findings of Fact
6 constitute a violation of A.R.S. § 32-3251(15)(k), any conduct or practice that is contrary to
7 recognized standards of ethics in the behavioral health profession or that constitutes a danger
8 to the health, welfare or safety of a client.

9 3. The conduct and circumstances described in the Preliminary Findings of Fact
10 constitute a violation of A.R.S. § 32-3251(15)(l), any conduct, practice or condition that impairs
11 the ability of the licensee to safely and competently practice the licensee's profession.

12 4. The conduct and circumstances described in the Preliminary Findings of Fact
13 constitute a violation of A.R.S. § 32-3251(15)(o), failing to furnish information within a specified
14 time to the Board or its investigators or representatives if legally requested by the Board.

15 5. The conduct and circumstances described in the Preliminary Findings of Fact
16 constitute a violation of A.R.S. § 32-3251(15)(y), engaging in a dual relationship with a client
17 that could impair the licensee's objectivity or professional judgment or create a risk of harm to
18 the client.

19 **FINDINGS OF EMERGENCY AND ORDER**

20 Based on the Preliminary Findings of Fact and Preliminary Conclusions of Law as set
21 forth above, and consistent with its authority under A.R.S. § 32-3281(C), the Board finds that
22 the public health, welfare and safety require emergency action.

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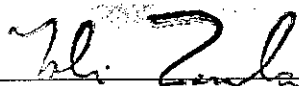
1 **IT IS THEREFORE ORDERED THAT:**

2 1. License No. LAC-15165 issued to Respondent is hereby summarily suspended.
3 Respondent shall immediately surrender License No. LAC-15165 to the Board or its duly
4 authorized agent.

5 2. The Preliminary Findings of Fact and Preliminary Conclusions of Law constitute
6 written notice to Respondent of the charges of unprofessional conduct made by the Board
7 against her. Respondent is entitled to a formal administrative hearing to defend these charges
8 as expeditiously as possible after the issuance of this Order. The suspension of Respondent's
9 license shall remain in effect until the conclusion of the hearing.

10 3. The Board's Executive Director is instructed to schedule this matter before the
11 Board for the purposes of holding a formal administrative hearing which shall be commenced
12 as expeditiously as possible from the date of the issuance of this Order, unless stipulated and
13 agreed otherwise by Respondent.

14 Dated this 29th day of September, 2014.

15
16 By: 
17 TOBIN ZAVALA, Executive Director
18 Arizona Board of Behavioral Health Examiners

19 **ORIGINAL** of the foregoing filed
20 This 29th day of September, 2014 with:

21 Arizona Board of Behavioral Health Examiners
22 3443 N. Central Ave., Suite 1700
23 Phoenix, AZ 85012

24 **COPY** of the foregoing mailed via Interagency Mail
25 This 29th day of September, 2014, to:

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

1 Christopher Munns
Assistant Attorney General, Solicitor General's Office
2 1275 W. Washington
Phoenix, Arizona 85007
3

4 **COPY** of the foregoing mailed via
Certified mail no. 7014 0510 0001 3719 4393
5 This 29th day of September, 2014, to:

6 Mariela B. Pacheco
Address of Record
7 Respondent

8 Donna Dalton
9 Donna Dalton
Assistant Director
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