



STATE OF ARIZONA
BOARD OF BEHAVIORAL HEALTH EXAMINERS
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DOUGLAS A. DUCEY
Governor

TOBI ZAVALA
Executive Director

May 19, 2016

Dr. Martin Lara

Dear Dr. Lara:

On May 6, 2016, the Board reviewed your application for licensure as a Licensed Independent Substance Abuse Counselor and determined that you are not eligible for licensure pursuant to A.R.S. § 32-3275(6). Specifically, the Board found that you engaged in conduct that had you been licensed, would have constituted grounds for disciplinary action. The Board determined that the disciplinary action invoked the following violations that were based upon the conduct referenced thereafter:

1. A.R.S. § 32-3251(12)(m), engaging or offering to engage as a licensee in activities that are not congruent with the licensee's professional education, training or experience.
2. A.R.S. § 32-3251(12)(l), any conduct, practice or condition that impairs the ability of the licensee to safely and competently practice the licensee's profession.
A.R.S. § 32-3251(12)(k), any oral or written misrepresentation of a fact by an applicant or licensee regarding the any conduct r practice that is contrary to recognized standards of ethics in the behavioral health profession or that constitutes a danger to the health, welfare or safety of a client, as it relates to the following section of the NAADAC Code of Ethics: The Evaluation, Assessment and Interpretation of Client Data – Standard 1: Scope of Competency – The addiction professional uses only those assessment instruments for which they have been adequately trained to administer and interpret.
3. A.R.S. § 32-3251(12)(b), use of fraud or deceit in connection with rendering services as a licensee or in establishing qualifications pursuant to this chapter.
4. A.R.S. § 32-3251(12)(m), engaging or offering to engage as a licensee in activities that are not congruent with the licensee's professional education, training or experience.
5. A.R.S. § 32-3251(12)(n), failing to comply with or violating, attempting to violate or assisting in or abetting the violation of any provision of this chapter, any rule adopted pursuant to this chapter, any lawful order of the Board, or any formal order, consent agreement, term of probation or stipulated agreement issued under this chapter.
6. A.R.S. § 32-3251(12)(l), any conduct, practice or condition that impairs the ability of the licensee to safely and competently practice the licensee's profession.

These violations were based on the following findings:

Case No. 2013-0011

1. As a LASAC, your scope of practice is limited to substance abuse, chemical dependency and related issues.

2. In 06/12, a probation department ("Probation") referred a probationer/client ("Client") to you for a psychological evaluation.
3. You accepted Client's referral and performed a Comprehensive Personality Assessment Inventory consisting of various tests, including the Abel Assessment Sexual Inventory and the Minnesota Sex Offender Screening Tool-Revised, which are both exclusively used to evaluate sexual behavior problems.
4. Considering that your scope of practice is limited to associate level substance abuse counseling, it appears highly problematic that you conducted such evaluations.
5. Your actions not only relate to your conduct and communication with Probation, but also to Client who was the subject of various unsolicited evaluations, which were conducted by an untrained and unqualified associate level substance abuse counselor.
6. When Probation questioned you about your reasoning for conducting sexual evaluations on Client, you attempted to offer a clinical justification rather than acknowledge that you were out of scope.
7. When asked by Board staff why you accepted a psychological evaluation considering your scope of practice is limited to substance abuse, you indicated the following:
 - a. "We'd been struggling financially and I thought, I thought it could help our business do something for probation."
 - b. "I've never denied making a mistake and I've been waiting for the Board to punish me for that."
8. In retrospect, you now acknowledge that it was inappropriate for you to complete a psychological evaluation on Client, and inappropriate for you to bill Probation for one.
9. In further support that you were practicing outside the scope of your license, Probation provided the Board with correspondence pertaining to another client ("Client 2") that you treated.
10. The correspondence that was provided regarding Client 2 included a letter and email, both written by you and sent to Probation, where you indicated the following:
 - a. Based on the screening results and clinical interview, Client 2 was found to be having problems related to posttraumatic stress and possible borderline personality disorder.
 - b. Although Client 2 did not participate in a full psychological evaluation, she presented obvious indications of the above mentioned disorders.
 - c. Therefore, she requested individual sessions for these matters.
 - d. Client 2 was diagnosed with Borderline Personality Disorder and recommended to attend anger management and individual cognitive behavior therapy to deal with issues related to Borderline Personality Disorder and PTSD.
 - e. In 07/11, Client 2 began attending individual psychotherapy to deal with issues related to prior diagnosis of Borderline Personality Disorder and PTSD.
11. When questioned by Board staff about this issue, you indicated the following:
 - a. You acknowledged that Client 2 was your client, although you did not remember the details of her treatment.
 - b. "I might have seen that lady, yes."
 - c. "Trying to make my business, trying to make some money, yes."
 - d. You acknowledged that the services provided to Client 2 were outside the scope of your license.

Case No. 2013-0041

12. As a LASAC, you were required to:
 - a. Work under direct and clinical supervision.
 - b. Not have ownership interest of the entity in which you were providing behavioral health services.

13. Despite these rules, in 06/08, you and your wife ("Wife") opened a behavioral health agency ("Agency") and acquired the contractual services of a clinical supervisor ("Clinical Supervisor").
14. Upon the Board's knowledge of this issue in 2011, Board staff informed you of the following:
 - a. "[Clinical Supervisor] cannot provide direct or clinical supervision to you because you employ her."
 - b. "It does not appear there is any way for [Clinical Supervisor] to be objective while supervising the person who employs her."
 - c. "It appears that your practice at [Agency] puts you in violation of Board rules."
15. In response, you submitted an 11/11 letter to the Board that indicated, "Based on the fact that we have a rental agreement for period of five years and that [Agency] has engaged in multiple other responsibilities, [Clinical Supervisor] has decided to take ownership of [Agency]."
16. During further correspondence, you submitted an 08/12 letter to the Board that indicated:
 - a. "The manner by which the change of ownership was effected is by verbal agreement."
 - b. "[Clinical Supervisor's] obligation to return ownership: Upon [Respondent] obtains his LISAC, [Respondent] will return to his previous position as statutory agent, [Clinical Supervisor] will no longer be partial owner and the only owner will be [Wife]."
17. Your conduct surrounding the ownership issues of Agency appear problematic for the following reasons:
 - a. Recognizing that he needed a direct and clinical supervisor, Respondent acquired the contractual services of Clinical Supervisor.
 - b. However, even after being informed of the rule A.A.C. R4-6-210 that prohibits such a supervision relationship to exist due to his ownership interest, and even after being educated on the potential conflict of interest that existed as a result of him receiving supervision from a person whom he employs, Respondent replied with, "With all due respect, this statement is a matter of opinion."
 - c. Furthermore, Respondent acknowledges that upon the time he obtains his LISAC, Clinical Supervisor will no longer be a partial owner and the only owner will be Wife.
 - d. This statement appears to further clarify that Respondent's corrective efforts were merely a temporary attempt to appease the Board until he receives independent licensure, as his ownership interest of Agency remains.
 - e. Despite repeated efforts by Board staff over the course of several years informing Respondent of the issues surrounding his ownership interest of a behavioral health agency as an associate counselor, Respondent has still not fully complied with the Board's rules and regulations regarding this issue.

Per A.R.S. §41.1092.03.B, you may request a Formal Hearing by notifying the agency in writing within thirty-five (35) days from the date of this letter. If you do request a Formal Hearing, you also have the right, pursuant to A.R.S. §41-1092.06, to request a settlement conference. If you do not request a Formal Hearing by the close of business on June 22, 2016, your file will be closed without further recourse to appeal and the licensure denial will be reported to the federal data banks that record this information. If you desire licensure at a later date, you must submit a new application and fee.

PLEASE BE FURTHER ADVISED that, pursuant to the Board's new licensure statute, as of July 1, 2004, only persons holding licenses to practice social work may do so unless they are exempt from licensure pursuant to A.R.S. § 32-3271.

If you have any questions, I can be reached at (602) 542-1617.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tobi Zavala', with a long horizontal flourish extending to the right.

Tobi Zavala
Executive Director