

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

3 **In the Matter of:**

4 **Craig W. Carpenter, LPC-0537,**
5 **Licensed Professional Counselor,**
6 **In the State of Arizona.**

CASE NO. 2017-0056
CONSENT AGREEMENT

7 **RESPONDENT**

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

14 **RECITALS**

15 Respondent understands and agrees that:

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

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

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

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

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

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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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

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

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

21 9. The Board therefore retains jurisdiction over Respondent and may initiate
22 disciplinary action against Respondent if it determines that they have failed to comply with the
23 terms of this Consent Agreement or of the practice act.

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

25 ...

FINDINGS OF FACT

1
2 1. Respondent is the holder of License No. LPC-0537 for the practice of counseling
3 in Arizona.

4 2. From 09/14 to present, Respondent has provided behavioral health services to a
5 minor female client ("Daughter").

6 3. On 09/23/14, after having only met with Daughter on two occasions, and having
7 never met Daughter's father ("Father"), Respondent sent a letter to the court indicating:

- 8 a. Father is verbally abusive according to Daughter.
- 9 b. Father should be court ordered to see a psychologist or psychiatrist for
10 the possible diagnosis of bipolar disorder.
- 11 c. Why should Daughter be the only person seeking counseling.

12 4. Respondent's letter was particularly concerning where:

- 13 a. At the time of the writing of the letter, there was no evidence suggesting
14 that the court requested information from Respondent regarding
15 Daughter's treatment, or regarding Father.
- 16 b. Respondent had never met Father.
- 17 c. Respondent did not provide Father notice of his intent to provide
18 information to the court pertaining to Father.
- 19 d. Respondent's decision to submit unsolicited information to the court and
20 provide behavioral health recommendations for a non-client appears to be
21 outside the scope of his duties.

22 5. The court incorporated Respondent's recommendation as evidenced by a
23 09/29/14 Minute Entry which indicated in part:

- 24 a. "Let the record reflect the Court advises [Father] that when this matter
25 goes to a hearing, the Court will be looking for evidence about [Father's]

1 psychological or mental health condition, as this has been directly called
2 into question by [Daughter's] counselor, [Respondent]."

3 6. On 11/24/14, Respondent submitted an additional letter to the court indicating:

4 a. "It is my professional opinion that [Daughter] is not ready to resume
5 visitation with her father. She is still very emotional when we discuss her
6 father and the possibility of returning to a schedule of visitation."

7 b. Daughter has improved since Respondent first saw her but she is not
8 ready for visitation, even if supervised.

9 7. In a 12/10/14 Minute Entry, the court indicated in part:

10 a. "It is ordered that, based on the recommendations of [Respondent],
11 [Father] shall exercise supervised parenting with [Daughter] for one hour
12 during the week commencing on February 2, 2015."

13 8. On 02/04/15, Respondent again authored a letter to the court expressing concern
14 that Father hadn't undergone a psychological evaluation and stating that he cannot recommend
15 supervised visitation until an evaluation has taken place.

16 9. During the timeframe that Respondent wrote the letters to the court, there is no
17 documentation indicating Respondent was requested or required to submit information or
18 recommendations to the court.

19 10. On 10/17/16, Father requested copies of Daughter's entire clinical record from
20 Respondent.

21 11. Despite Father having joint legal decision making authority of Daughter and a
22 05/13/16 court Minute Entry indicating both parents have equal access to Daughter's medical
23 records, Respondent failed to provide Daughter's clinical records to Father.

24 12. When asked by Board staff why Respondent did not provide Daughter's records
25 to Father, Respondent indicated:

1 a. Due to Father's history of anger, the court suspended his visitation rights
2 with Daughter.

3 b. Nowhere in the court minute entries does it require Respondent to
4 provide records to Father.

5 c. "The rule states 'In addition, the rule allows a licensed health provider to
6 deny a parent who is a personal representative access to a minor's
7 protected health information if, in the professional's judgement, access
8 would likely cause substantial harm to the minor or someone else'."

9 13. Contrary to Respondent's representation, the 05/13/16 Minute Entry clearly
10 stated that both parents are entitled to Daughter's medical records.

11 14. In addition, if Respondent had reservations about releasing Daughter's records to
12 Father, pursuant to A.R.S. § 12-2293, he must:

13 a. Note the determination in the client's record.

14 b. Provide the patient's health care decision maker written explanation of the
15 reason for the denial of access.

16 15. Respondent indicated he did not provide Father with Daughter's records because
17 he felt it would lead to retaliation against Daughter, but he failed to document this in Daughter's
18 clinical record or provide Father a written explanation as required.

19 16. Prior to Respondent's initial session with Daughter, Respondent was provided
20 behavioral health treatment records from Daughter's previous provider ("Agency").

21 17. Agency's clinical records for Daughter included:

22 a. A 09/17/14 Suicide Risk Assessment

23 b. A letter written by Daughter indicating a desire to harm herself and go to a
24 hospital and the ways in which she would accomplish this.

1 18. Respondent's clinical records included several instances of Daughter expressing
2 thoughts of suicide or self-harm.

3 19. Despite reviewing Agency's records and Daughter's subsequent discussions
4 about suicidal thoughts, Respondent failed to conduct a Suicide Risk Assessment.

5 20. A review of Respondent's clinical documentation maintained for Daughter
6 identified the following deficiencies:

- 7 a. Daughter's Consent for Treatment lacked all required elements.
- 8 b. Daughter's Treatment Plan lacked various required elements.
- 9 c. Daughter's Progress Notes lacked various required elements.
- 10 d. For at least five sessions, Respondent failed to document the behavioral
11 health service that was provided other than a date and a 2-3 word review
12 of a strategy used.

13 **CONCLUSIONS OF LAW**

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

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

20 3. The conduct and circumstances described in the Findings of Fact constitute a
21 violation of A.R.S. § 32-3251(15)(k), any conduct or practice that is contrary to the recognized
22 standards of ethics in the behavioral health profession or that constitutes a danger to the health,
23 welfare or safety of a client, as it relates to the following section of the 2014 ACA Code of
24 Ethics:

25 ...

1 **C.6.b, Reports to Third Parties:**

2 Counselors are accurate, honest, and objective in reporting their professional
3 activities and judgements to appropriate third parties, including courts, health
4 insurance companies, those who are the recipients of evaluation reports, and
5 others.

6 4. The conduct and circumstances described in the Findings of Fact constitute a
7 violation of A.R.S. § 32-3251(15)(kk), failing to make client records in the licensee's possession
8 promptly available to the client, a minor client's parent, the client's legal guardian or the client's
9 authorized representative on receipt of proper authorization to do so from the client, a minor
10 client's parent, the client's legal guardian or the client's authorized representative.

11 5. The conduct and circumstances described in the Findings of Fact constitute a
12 violation of A.R.S. § 32-3251(15)(p), failing to conform to minimum practice standards as
13 developed by the board, as it relates to the following:

- 14 a. A.A.C. R4-6-1101 Consent for Treatment.
15 b. A.A.C. R4-6-1102 Treatment Plan.
16 c. A.A.C. R4-6-1103 Client Record.

17 **ORDER**

18 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree to
19 the provision and penalties imposed as follows:

- 20 1. As of the effective date of the Consent Agreement, Respondent shall not practice
21 under their license.
22 2. Respondent's license, LPC-0537, shall by rule, expire on 08/31/18.
23 3. Respondent agrees not to renew their license.
24 4. Respondent agrees not to submit any type of new license application to the
25 Board for a minimum of five (5) years.

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Practice Termination Plan

5. Within 14 days of the effective date of the Consent Agreement, Respondent shall submit a written plan for terminating their private practice for pre-approval by the Board Chair or designee. At a minimum, the proposed termination plan must include each of the following:

- a. A written protocol for the secure storage, transfer and access of the clinical records of Respondent's clients and former clients.
- b. The procedure by which Respondent shall notify each client and former client in a timely manner regarding the future location of the clinical records of Respondent's clients and former clients and how those records can be accessed after the termination of Respondent's practice.
- c. A written protocol for developing an appropriate referral for continuation of care for Respondent's current clients.
- d. A list of Respondent's current clients and the timeframe for terminating services to each client. The timeframe for terminating services shall not exceed 30 days.

6. This Consent Agreement is conclusive evidence of the matters described herein and may be considered by the Board in determining appropriate sanctions in the event a subsequent violation occurs.

PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

Craig W. Carpenter
Craig W. Carpenter

APRIL 3, 2017
Date

BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

Dated this 18th day of April, 2017.

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

1 ORIGINAL of the foregoing filed
This 13th day of April, 2017 with:

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

5 COPY of the foregoing mailed via Interagency Mail
This 13th day of April, 2017, to:

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

10 COPY of the foregoing mailed via
11 Certified mail no. 7016714000001040479
This 13th day of April, 2017, to:

12 Craig W. Carpenter
13 Address of Record
14 Respondent
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