

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

2 **In the Matter of:**

3 **Heather D. Sestili, LPC-12830**
4 **Licensed Professional Counselor,**
5 **In the State of Arizona.**

CASE NO. 2012-0100

RELEASE FROM
CONSENT AGREEMENT AND ORDER

6 **RESPONDENT**

7 The Board received a request from Respondent to release her from the terms and
8 conditions of the Consent Agreement and Order dated June 24, 2015. After consideration, the
9 Board voted to release Respondent from the terms and conditions of the Consent Agreement
10 and Order dated June 24, 2015.

11 **ORDER**

12 **GOOD CAUSE APPEARING, IT IS THEREFORE ORDERED THAT:**

13 Respondent is hereby released from all terms and conditions of the Consent Agreement
14 and Order dated June 24, 2015.

15 Dated this 7th day of December, 2015.

16
17 By:



18 **TOBI ZAVALA, Executive Director**
Arizona Board of Behavioral Health Examiners

19 **ORIGINAL** of the foregoing filed

20 This 7th day of December, 2015, with:

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

23 **COPY** of the foregoing mailed via

24 Certified mail no. 70142870000189571794
This 7th day of December, 2015, to:

25 Heather D. Sestili
Address of Record
Respondent

1 **COPY** of the foregoing mailed via Mail
2 This 7th day of December, 2015, to:

3 Susan McLellan
4 Schneider & Onofry PC
5 3101 N Central Ave., Ste. 600
6 Phoenix, AZ 85012
7 Attorney for Respondent

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

**In the Matter of:
Heather D. Sestili, LPC-12830,
Licensed Professional Counselor,
In the State of Arizona.**

**CASE NO. 2012-0100
CONSENT AGREEMENT**

RESPONDENT

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

RECITALS

Respondent understands and agrees that:

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

2. Respondent has the right to a formal administrative hearing at which Respondent can present evidence and cross examine the State's witnesses. Respondent hereby irrevocably waives her right to such formal hearing concerning these allegations and irrevocably waives her right to any rehearing or judicial review relating to the allegations contained in this Consent Agreement. 1.

3. Respondent has the right to consult with an attorney prior to entering into this 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 her
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(15)(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 she has 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-12830 for the practice of
3 counseling in Arizona.

4 2. From 09/11 – 01/12, Respondent provided family and individual therapy to a
5 family including: minor client ("Child"), Child's mother ("Mother"), and Child's father ("Father").

6 3. Respondent was aware that Mother and Father were involved in a contentious
7 relationship.

8 4. In 01/12, at Mother's request, Respondent voluntarily wrote a letter to the court.

9 5. Despite any concerns that Respondent may have had of Father, it appears that it
10 was outside her scope of practice to comply with Mother's request and provide any information
11 or recommendation to the court.

12 6. In 01/12, through treatment and journal entries, Child disclosed to Respondent
13 that Father was verbally abusive and used hands-on intimidation such as placing his hands
14 around Child's neck. Respondent represents that this was to push Child around where he
15 wanted her to go.

16 7. Respondent failed to file a report of the suspected child abuse to Child Protective
17 Services.

18 8. Respondent failed to provide Client's records to Father after repeated requests.

19 9. Respondent indicated she felt releasing the records to Father could be potentially
20 harmful for Child's wellbeing, but failed to document the determination in Child's clinical record,
21 or provide Child's health care decision maker with a written explanation of the reason for the
22 denial of access.

23 ...

24 ...

25 ...

CONCLUSIONS OF LAW

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

4 2. The conduct and circumstances described in the Findings of Fact constitute a
5 violation of A.R.S. § 32-3251(12)(l), any conduct, practice or condition that impairs the ability of
6 the licensee to safely and competently practice the licensee's profession.

7 3. The conduct and circumstances described in the Findings of Fact constitute a
8 violation of A.R.S. § 32-3251(12)(p), failing to conform to minimum practice standards as
9 developed by the Board, as it relates to the following:

- 10 • A.A.C. R4-6-1103 Client Record

11 4. The conduct and circumstances described in the Findings of Fact constitute a
12 violation of A.R.S. § 32-3251(12)(ii), violating any federal or state law, rule or regulation
13 applicable to the practice of behavioral health as it relates to A.R.S. § 12-2293.

ORDER

14 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree to
15 the provisions and penalties imposed as follows:
16

17 1. Respondent's license, LPC-12830, will be placed on probation, effective from the
18 date of entry as signed below.

19 2. Respondent shall not practice under her license, LPC-12830, unless she is fully
20 compliant with all terms and conditions in this Consent Agreement. If, for any reason,
21 Respondent is unable to comply with the terms and conditions of this Consent Agreement, she
22 shall immediately notify the Board in writing and shall not practice under her license until she
23 submits a written request to the Board to re-commence compliance with this Consent
24 Agreement. All such requests shall be pre-approved by the Board Chair or designee.
25

Civil Penalty

1 8. Subject to the provisions set forth in paragraph 9, the Board imposes a civil
2 penalty against the Respondent in the amount of \$1,000.00.

3 9. Respondent's payment of the civil penalty shall be stayed so long as Respondent
4 remains compliant with the terms of this Consent Agreement. If Board staff determines that
5 Respondent is noncompliant with the terms of this Consent Agreement in any respect, with the
6 exception of the tolling provision under Paragraph 3, the stay of the civil penalty payment shall
7 be automatically lifted and payment of the civil penalty shall be made by certified check or
8 money order payable to the Board within 30 days after being notified in writing of the lifting of
9 the stay.

10 10. Within 10 days of being notified of the lifting of the stay, Respondent may request
11 that the matter be reviewed by the Board for the limited purpose of determining whether the
12 automatic lifting of the stay was supported by substantial evidence. If the Board receives the
13 written request within 10 days or less of the next regularly scheduled Board meeting, the
14 request will not be heard at that meeting, but will be heard at the next regularly scheduled Board
15 meeting. The Board's decision on this matter shall not be subject to further review.

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

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

25

1 13. Within 10 days of the effective date of this Order, if Respondent is working in a
2 position where Respondent provides any type of behavioral health related services or works in a
3 setting where any type of behavioral health, health care, or social services are provided,
4 Respondent shall provide the Board Chair or designee with a signed statement from
5 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this
6 Consent Agreement. If Respondent does not provide the employer's statement to the Board
7 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a
8 copy of the Consent Agreement.

9 14. If Respondent is not employed as of the effective date of this Order, within 10
10 days of accepting employment in a position where Respondent provides any type of behavioral
11 health related services or in a setting where any type of behavioral health, health care, or social
12 services are provided, Respondent shall provide the Board Chair or designee with a written
13 statement providing the contact information of her new employer and a signed statement from
14 Respondent's new employer confirming Respondent provided the employer with a copy of this
15 Consent Agreement. If Respondent does not provide the employer's statement to the Board
16 within 10 days, as required, Respondent's failure to provide the required statement to the Board
17 shall be deemed a violation of A.R.S. § 32-3251(15)(n) and the Board will provide Respondent's
18 employer(s) with a copy of the Consent Agreement.

19 15. If, during the period of Respondent's probation, Respondent changes
20 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
21 extended leave of absence for whatever reason that may impact her ability to timely comply with
22 the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform the
23 Board of her change of employment status. After the change and within 10 days of accepting
24 employment in a position where Respondent provides any type of behavioral health related
25 services or in a setting where any type of behavioral health, health care, or social services are

1 provided, Respondent shall provide the Board Chair or designee a written statement providing
2 the contact information of her new employer(s) and a signed statement from Respondent's new
3 employer(s) confirming Respondent provided the employer(s) with a copy of this Consent
4 Agreement. If Respondent does not provide the employer's statement to the Board within 10
5 days, as required, Respondent's failure to provide the required statement to the Board shall be
6 deemed a violation of A.R.S. § 32-3251(15)(n) and the Board will provide Respondent's
7 employer(s) with a copy of the Consent Agreement.

8 16. Respondent shall practice behavioral health using the name under which she is
9 licensed. If Respondent changes her name, she shall advise the Board of the name change as
10 prescribed under the Board's regulations and rules.

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

22 18. Respondent shall bear all costs relating to probation terms required in this
23 Consent Agreement.

24 19. Respondent shall be responsible for ensuring that all documentation required in
25 this Consent Agreement is provided to the Board in a timely manner.

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

21. 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

Heather D. Sestili 6-17-15
Heather D. Sestili Date

BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

Dated this 24th day of June, 2015.

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

ORIGINAL of the foregoing filed
This 24th day of June, 2015 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 24th day of June, 2015, to:

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

COPY of the foregoing mailed via
Certified mail no. 7014 2870 00018957 0667
This 24th day of June, 2015, to:

Heather D. Sestili
Address of Record
Respondent

COPY of the foregoing mailed via Mail

1 This 24th day of June, 2015 to:

2 Susan McLellan
3 3101 N. Central Ave., Ste. 600
4 Phoenix, AZ 85012
5 Attorney for Respondent
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