

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

2
3 **In the Matter of:**
4 **Jay E. Lambert, LCSW-12295,**
5 **Licensed Clinical Social Worker,**
6 **In the State of Arizona.**

Respondent.

COMPLAINT NO. 2016-0066

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

7 On September 15, 2017, the Arizona Board of Behavioral Health Examiners ("Board") held a
8 formal hearing in the above matter. The State was represented by Assistant Attorney General Marc H.
9 Harris and the Board was advised independently by Assistant Attorney General Michael Raine. The
10 Respondent was properly noticed but did not appear.

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. LCSW-12295, for the practice of social work in
15 Arizona.

16 2. From 09/11 – 12/15, Respondent provided behavioral health services to a minor client
17 ("Minor") through his private practice.

18 3. In 12/15, the Board received a complaint against Respondent alleging, amongst other
19 things, that Respondent had numerous inappropriate communications with Minor through text and email
20 messaging.

21 4. In 02/16, the Board received information from a law enforcement agency that identified
22 several inappropriate messages between Respondent and Minor.

23 5. As an example, on 10/11/13, Respondent and Minor exchanged the following messages:

24 a. Respondent: "Wish I could [be] one of your boys ;)"

1 b. Minor: "Lol no u don't, my boys have to do somethings decent men wouldn't want to
2 do or be."

3 c. Respondent: "Being twice your age probably means I've got no shot right?"

4 d. Respondent: "Well added up I'm sure I'll get shot down. Old, bald, chubby... I'll
5 have to buy you lots of presents to have a real chance huh? ;)"

6 e. Minor: "Oh gosh no. I hate it when guys buy girls presents, especially useless stuff
7 like flowers and chocolate"

8 f. Respondent: "Well girl you tell me what it will take for me to win your heart and I'm
9 all over it ;)"

10 g. Respondent: "I don't stand a chance..."

11 h. Minor: "Aww... You have your pretty wife. She seems nice."

12 i. Respondent: "Well if you run out guys [*sic*] call me I'm sure my wife is willing to
13 share :)"

14 6. In review of Minor's progress notes, Respondent failed to maintain any information
15 regarding the content of the behavioral health services provided to Minor.

16 7. In 03/16, Respondent agreed to enter into an Interim Consent Agreement until the Board
17 could complete its investigation.

18 8. In 11/16, Respondent requested to voluntarily surrender his license.

19 9. Subsequently, a proposed Consent Agreement was offered to Respondent for the
20 voluntary surrender of his license.

21 10. Upon his review, Respondent requested that numerous and significant changes be made
22 to the proposed Consent Agreement.

23 11. Based on the seriousness of the conduct, Respondent was informed that his requested
24 changes would not be made.

25 12. Since 12/16, Respondent has stopped communicating with the Board.

CONCLUSIONS OF LAW

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

4 2. The conduct and circumstances described in the Findings of Fact constitute a violation of
5 A.R.S. § 32-3251(16)(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. For the purposes of this
7 subdivision, "dual relationship" means a licensee simultaneously engages in both a professional and
8 nonprofessional relationship with a client that is avoidable and not incidental.

9 3. The conduct and circumstances described in the Findings of Fact constitute a violation of
10 A.R.S. § 32-3251(16)(l), any conduct, practice or condition that impairs the ability of the licensee to
11 safely and competently practice the licensee's profession.

12 4. The conduct and circumstances described in the Findings of Fact constitute a violation of
13 A.R.S. § 32-3251(16)(q), failing or refusing to maintain adequate records of behavioral health services
14 provided to a client.

ORDER

15 Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues the following
16 order:
17

18 License No. LCSW-12295 issued to Jay E. Lambert is hereby REVOKED.

RIGHT TO PETITION FOR REHEARING OR REVIEW

19 Respondent is hereby notified of the right to petition for a rehearing or review by filing a petition
20 with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-
21 1092.09. The petition must set forth legally sufficient reasons for granting a rehearing. A.A.C. R4-6-
22 1002. Service of this order is effective five (5) days after date of mailing. If a motion for rehearing is not
23 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.
24
25

1 Respondent is further notified that the filing of a motion for rehearing is required to preserve any
2 rights of appeal to the Superior Court.

3 Dated this 3rd day of October, 2017.

4 

5 Tobi Zavala, Executive Director
6 Arizona Board of Behavioral Health Examiners

7 **ORIGINAL** of the foregoing filed
8 This 3rd day of October, 2017, with:

9 The Board of Behavioral Health Examiners
3443 North Central Avenue, Suite 1700
10 Phoenix, AZ 85012

11 **COPY** of the foregoing mailed via
Certified mail no. 011450000086887989
12 This 3rd day of October, 2017, to:

13 Jay E. Lambert
Address of Record
14 Respondent

15 **COPY** of the foregoing sent by mail
This 3rd day of October, 2017 to:

16 Marc Harris
Assistant Attorney General
17 1275 West Washington CIV/LES
Phoenix, AZ 85007
18 Attorney for the State of Arizona

19 **COPY** of the foregoing sent by mail
This 3rd day of October, 2017 to:

20 Michael Raine
Assistant Attorney General, Solicitor General's Office
21 1275 West Washington CIV/LES
Phoenix, AZ 85007
22 Attorney for the Board of Behavioral Health Examiners

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

3 **In the Matter of:**
4 **Jay E. Lambert, LCSW-12295,**
5 **Licensed Clinical Social Worker,**
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CASE NO. 2016-0066
INTERIM CONSENT AGREEMENT

Respondent

8 By mutual agreement and understanding, between the Arizona State Board of
9 Behavioral Health Examiners ("Board") and Jay E. Lambert ("Respondent"), the parties enter
10 into this Interim Consent Agreement, Findings of Fact, Conclusions of Law and Order ("Interim
11 Consent Agreement") as an interim disposition of this matter.

12 **RECITALS**

13 Respondent understands and agrees that:

14 1. The Board may adopt this Interim Consent Agreement, or any part thereof,
15 pursuant to A.R.S. § 32-3251 *et seq.* and A.R.S. § 41-1092.07(F)(5).

16 2. Respondent has read and understands this Interim Consent Agreement as set
17 forth herein, and has had the opportunity to discuss this Interim Consent Agreement with an
18 attorney or has waived the opportunity to discuss this Interim Consent Agreement with an
19 attorney. Respondent voluntarily enters into this Interim Consent Agreement and by doing so
20 agrees to abide by all of its terms and conditions.

21 3. By entering into this Interim Consent Agreement, Respondent freely and
22 voluntarily relinquishes all rights to an administrative hearing on the matters set forth herein, as
23 well as all rights of rehearing, review, reconsideration, appeal, judicial review or any other
24 administrative and/or judicial action, concerning the matters related to the Interim Consent
25 Agreement.

1 4. Respondent understands that this Interim Consent Agreement does not
2 constitute a dismissal or resolution of this matter or any matters that may be currently pending
3 before the Board and does not constitute any waiver, express or implied, of the Board's
4 statutory authority or jurisdiction regarding any other pending or future investigations, actions,
5 or proceedings. Respondent also understands that acceptance of this Interim Consent
6 Agreement does not preclude any other agency, subdivision, or officer of this State from
7 instituting civil or criminal proceedings with respect to the conduct that is the subject of this
8 Interim Consent Agreement.

9 5. Respondent acceptance of this Interim Consent Agreement is not an admission
10 of any facts and he enters into this agreement as an interim compromise of a pending matter.
11 Respondent further does not relinquish his rights to an administrative hearing, rehearing,
12 review, reconsideration, judicial review or any other administrative and/or judicial action,
13 concerning the matters related to a final disposition of this matter, unless he affirmatively does
14 so as part of the final resolution of this matter.

15 6. Respondent acknowledges and agrees that upon signing this Interim Consent
16 Agreement and returning it to the Board's Executive Director, Respondent may not revoke his
17 acceptance of this Interim Consent Agreement or make any modifications to it. Any
18 modification of this original document is not effective and void unless mutually approved by the
19 parties in writing.

20 7. Respondent understands that this Interim Consent Agreement shall not become
21 effective unless and until it is adopted by the Board and signed by its Executive Director.

22 8. Respondent understands and agrees that if the Board does not adopt this
23 Interim Consent Agreement, he will not assert in any future proceedings that the Board's
24 consideration of this Interim Consent Agreement constitutes bias, prejudice, prejudgment, or
25 other similar defense.

1 9. Respondent understands that this Interim Consent Agreement is a public record
2 that may be publicly disseminated as a formal action of the Board, and that it shall be reported
3 as required by law to the National Practitioner Data Bank.

4 10. Respondent understands that this Interim Consent Agreement does not alleviate
5 his responsibility to comply with the applicable license-renewal statutes and rules. If this Interim
6 Consent Agreement is in effect at the time Respondent's behavioral health licenses come up
7 for renewal, he must renew his licenses if Respondent wishes to retain his licenses. If
8 Respondent elects not to renew his licenses as prescribed by statute and rule, Respondent's
9 licenses will not expire but rather, by operation of law (A.R.S. § 32-3202), become suspended
10 until the Board takes final action in this matter. Once the Board takes final action, in order for
11 Respondent to be licensed in the future, he must submit a new application for licensure and
12 meet all of the requirements set forth in the statutes and rules at that time.

13 11. Respondent understands that any violation of this Interim Consent Agreement
14 constitutes unprofessional conduct under A.R.S. § 32-3251(16)(n), violating a formal order,
15 consent agreement, term of probation or stipulated agreement, and may result in disciplinary
16 action under A.R.S. § 32-3281.

17 Respondent understands and agrees that:

18 **INTERIM FINDINGS OF FACT**

19 1. The Board is the duly constituted authority for licensing and regulating the
20 practice of social work in the State of Arizona.

21 2. Respondent is the holder of License No. LCSW-12295 for the practice of social
22 work in Arizona.

23 3. In December 2015, the Board received a complaint against Respondent. Among
24 other things, the complaint alleges that Respondent had numerous inappropriate
25 communications with client, a minor, through text and or email messaging.

1 4. In February 2016, the Board received a report from a law enforcement agency
2 that identified several messages purported to be between Respondent and his minor client that
3 appear to the Board to be inappropriate.

4 5. Because there has not been sufficient time to complete the investigation and
5 assess what would be an appropriate final disposition in this matter, the parties agreed to enter
6 into this Interim Consent Agreement. The Interim Consent Agreement is intended to protect the
7 public and ensure that Respondent is able to safely engage in the practice of behavioral health
8 in Arizona.

9 **INTERIM CONCLUSIONS OF LAW**

10 1. The Board possesses subject matter and personal jurisdiction over Respondent
11 pursuant to A.R.S. § 32-3251 *et seq.*

12 2. The Board is authorized to enter into an interim consent agreement with a social
13 worker to limit or restrict the professional's practice in order to protect the public and ensure that
14 the professional is able to safely engage in the practice of social work pursuant to A.R.S. § 32-
15 3281.

16 **INTERIM ORDER**

17 Based on the Interim Findings of Fact and Interim Conclusions of Law, and pursuant to
18 the authority granted to the Board under A.R.S. § 32-3281:

19 **IT IS HEREBY ORDERED** that Respondent shall not practice under his license until
20 such time as he submits a written request for the reinstatement of his license to the Board and
21 the Board affirmatively approves Respondent's request for reinstatement. The Board may, in its
22 discretion, require any combination of staff-approved physical, psychiatric, or psychological
23 examinations, or other types of examinations, evaluations or interviews it believes are
24 necessary to assist the Board in determining whether Respondent is able to safely and
25 competently return to the practice of social work. The Board's affirmative approval to permit

Respondent to return to practicing under his license shall not preclude the Board from taking any other action it deems appropriate based upon the conduct set forth in the Interim Findings of Fact.

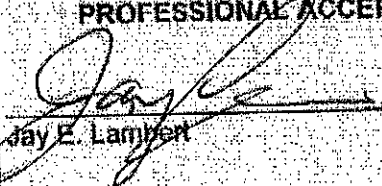
Respondent's agreement not to practice under License No. LCSW-12295 will be considered an interim suspension of his license.

Practice Termination Plan

Within 14 days of the effective date of the Interim Consent Agreement, Respondent shall submit a written plan for terminating his 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.

PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT


Jay E. Lambert

2/29/2016
Date

BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

1
2 Dated this 8th day of March, 2016.

3 By:

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

5 **ORIGINAL** of the foregoing filed

6 This 8th day of March, 2016, with:

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

9 **COPY** of the foregoing mailed via Interagency Mail

10 This 8th day of March, 2016, to:

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

13 **COPY** of the foregoing mailed via

Certified mail no. 7042870000189575488
14 This 8th day of March, 2016, to:

15 Jay E. Lambert
Address of Record
16 Respondent

17 **COPY** of the foregoing mailed via Mail

18 This 8th day of March, 2016 to:

19 DeeDee Holden
Holden & Armer, P.C.
4505 East Chandler Boulevard, Suite #210
20 Phoenix, Arizona 85048
Attorney for Respondent
21
22
23
24
25