

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

3 **In the Matter of:**
4 **Van E. Cave, LPC-2363,**
5 **Licensed Professional Counselor,**
6 **In the State of Arizona.**

CASE NOS. 2015-0107
2017-0023

AMENDED
CONSENT AGREEMENT

RESPONDENT

7
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), Van E. Cave ("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 his right to such formal hearing concerning these allegations and irrevocably waives his
22 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 his
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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 he 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-2363 for the practice of
3 professional counseling in Arizona.

4 2. From 03/13 – 12/13, Respondent worked for a behavioral health agency
5 (“Agency 1”).

6 3. In 12/13, Respondent was involuntary terminated for backdating and falsifying
7 medical records.

8 4. In 04/14, Respondent submitted an application for employment to another
9 behavioral health agency (“Agency 2”).

10 5. On that employment application, Respondent misrepresented the basis of his
11 termination from Agency 1 as a disagreement with a supervisor.

12 6. After approximately 1 month after beginning his employment with Agency 2,
13 Respondent was involuntarily terminated for various performance issues and poor interpersonal
14 relationships with staff members.

15 7. In 08/14, Respondent submitted an application for employment to another
16 behavioral health agency (“Agency 3”).

17 8. On that employment application, Respondent failed to disclose his employment
18 history from Agency 1, an agency in which he was previously involuntarily terminated from.

19 9. Based on Respondent’s actions, it appears that he intentionally provided
20 inaccurate information on his employment applications to avoid full disclosure of his conduct.

21 10. On at least 2 occasions, Respondent failed to inform the Board of his change of
22 employment within 30 days, as required.

23 11. In 06/15, Respondent entered into a Consent Agreement with the Board.

24 12. In 12/15, Respondent requested tolling from the requirements of the Consent
25 Agreement indicating he could not find employment in the behavioral health field.

1 13. Respondent was granted tolling from the clinical supervision requirements, but
2 was notified that he was still responsible for completing the continuing education required in the
3 Consent Agreement.

4 14. Due to noncompliance with the continuing education requirements, Respondent
5 was notified that the stay of suspension of his license was being lifted.

6 15. On 08/05/16, the Board reviewed the license suspension at Respondent's
7 request, and offered Respondent a Consent Agreement for the voluntary surrender of his
8 license.

9 16. On 04/07/17, the Board again reviewed the matter and offered Respondent an
10 amended Consent Agreement allowing Respondent to continue to practice under restrictions
11 including a stayed revocation.

12 CONCLUSIONS OF LAW

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

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

19 3. The conduct and circumstances described in the Findings of Fact constitute a
20 violation of A.R.S. § 32-3251(15)(b), use of fraud or deceit in connection with rendering services
21 as a licensee or in establishing qualifications pursuant to this chapter.

22 4. The conduct and circumstances described in the Findings of Fact constitute a
23 violation of A.R.S. § 32-3251(15)(p), failing to conform to minimum practice standards as
24 developed by the Board as it relates to the following:

- 25 a. A.A.C. R4-6-205, Change of Address

1 5. The conduct and circumstances described in the Findings of Fact constitute a
2 violation of A.R.S. § 32-3251(16)(n), failing to comply with or violating, attempting to violate or
3 assisting in or abetting the violation of any provision of this chapter, any rule adopted pursuant
4 to this chapter, any lawful order of the board, or any formal order, consent agreement, term of
5 probation or stipulated agreement issued under this chapter.

6 **ORDER**

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

9 **Stayed Revocation**

10 1. As of the effective date of this Consent Agreement, Respondent's license, LPC-
11 2363, shall be **REVOKED** for 24 months. However, the revocation shall be stayed and
12 Respondent's license shall be placed on probation.

13 2. During the stayed revocation portion of the Order, if Respondent is noncompliant
14 with the terms of the Order in any way, the stay of the revocation shall be lifted and
15 Respondent's license shall be automatically revoked as set forth above.

16 3. If Respondent contests the lifting of the stay as it relates to this paragraph,
17 Respondent shall request in writing, within 10 days of being notified of the automatic revocation
18 of licensure, that the matter be placed on the Board agenda for the Board to review and
19 determine if the automatic revocation of Respondent's license was supported by substantial
20 evidence.

21 4. If the written request is received within 10 days of a regularly scheduled Board
22 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
23 scheduled Board meeting.

24 5. Pending the Board's review, Respondent's license shall be reported as revoked -
25 under review. Respondent may not work in any capacity as a licensed behavioral health

1 professional pending the Board's review. The Board's decision and Order shall not be subject
2 to further review.

3 Probation

4 6. Respondent's license, LPC-2363, will be placed on probation, effective from the
5 date of entry as signed below.

6 7. Respondent shall not practice under his license, LPC-2363, unless he is fully
7 compliant with all terms and conditions in this Consent Agreement. If, for any reason,
8 Respondent is unable to comply with the terms and conditions of this Consent Agreement, he
9 shall immediately notify the Board in writing and shall not practice under his license until he
10 submits a written request to the Board to re-commence compliance with this Consent
11 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

12 8. In the event that Respondent is unable to comply with the terms and conditions
13 of this Consent Agreement, all remaining time frames shall be tolled and remain tolled until
14 such time as he is granted approval to re-commence compliance with the Consent Agreement.

15 Continuing Education

16 9. In addition to the continuing education requirements of A.R.S. § 32-3273, within
17 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock
18 hours of the NASW Staying Out of Trouble continuing education course or an equivalent course.
19 All required continuing education shall be pre-approved by the Board Chair or designee. Upon
20 completion, Respondent shall submit a certificate of completion of the required continuing
21 education.

22 10. In addition to the continuing education requirements of A.R.S. § 32-3273, within
23 12 months of the effective date of this Consent Agreement, Respondent shall take and pass a
24 three semester credit hour graduate level behavioral health ethics course from a regionally
25 accredited college or university, pre-approved by the Board Chair or designee. Upon

1 completion, Respondent shall submit to the Board an official transcript establishing completion
2 of the required course.

3 Clinical Supervision

4 11. While on probation, Respondent shall submit to clinical supervision for 24 months
5 by a masters or higher level behavioral health professional licensed at the independent level.
6 Within 30 days of the date of this Consent Agreement, Respondent shall submit the name of a
7 clinical supervisor for pre-approval by the Board Chair or designee. Also within 30 days of the
8 date of this Consent Agreement, the clinical supervisor shall submit a letter disclosing his/her
9 prior relationship to Respondent. In that letter, the clinical supervisor must address why he/she
10 should be approved, acknowledge that he/she has reviewed the Consent Agreement and
11 include the results of an initial assessment and a supervision plan regarding the proposed
12 supervision of Respondent. The letter from the supervisor shall be submitted to the Board.

13 Focus and Frequency of Clinical Supervision

14 12. The focus of the supervision shall relate to how Respondent relates to authority,
15 countertransference, and documentation. Respondent shall meet in person with the supervisor
16 twice monthly.

17 Reports

18 13. Once approved, the supervisor shall submit quarterly reports for review and
19 approval by the Board Chair or designee. The quarterly reports shall include issues presented in
20 this Consent Agreement that need to be reported and the supervisor shall notify the Board if
21 more frequent supervision is needed. Quarterly reports shall include the following:

- 22 a. Dates of each clinical supervision session.
- 23 b. A comprehensive description of issues discussed during supervision
24 sessions.
- 25 c. The results of each clinical documentation review by the supervisor.

1 14. All quarterly supervision reports shall include a copy of clinical supervision
2 documentation maintained for that quarter. All clinical supervision documentation maintained by
3 the supervisor shall comply with requirements set forth in A.A.C. R4-6-212(C).

4 15. After Respondent's probationary period, the supervisor shall submit a final
5 summary report for review and approval by the Board Chair or designee. The final report shall
6 also contain a recommendation as to whether the Respondent should be released from this
7 Consent Agreement.

8 Therapy

9 16. During the period of probation, Respondent shall attend therapy for 24 months
10 with a masters or higher level behavioral health professional. Within 30 days of the date of this
11 Consent Agreement, Respondent shall submit the name of his therapist and the therapist's
12 curriculum vitae for pre-approval by the Board Chair or designee. Also within 30 days of the
13 date of this Consent Agreement, the therapist shall submit a letter addressing why he/she
14 should be approved, acknowledging that he/she has reviewed the Consent Agreement and
15 include the results of an initial assessment and a treatment plan regarding the proposed
16 treatment of Respondent.

17 17. Upon approval, the Board will provide the therapist with copies of any required
18 evaluations completed at the request of the Board prior to this Consent Agreement and the
19 Board's investigative report.

20 Focus and Frequency of Therapy

21 18. The focus of the therapy shall relate to loss, grief, and stressors. Respondent
22 shall meet in person with the therapist twice monthly.
23 ...
24 ...
25 ...

1
2
3 **Early Release**

4 19. After 12 months, and upon the recommendation of the supervisor and therapist,
5 Respondent may request early release from the Consent Agreement if all other terms of the
6 Consent Agreement have been met.

7 **GENERAL PROVISIONS**

8 **Provision of Clinical Supervision**

9 20. Respondent shall not provide clinical supervision while subject to this Consent
10 Agreement.

11 **Civil Penalty**

12 21. Subject to the provisions set forth in paragraph 22, the Board imposes a civil
13 penalty against the Respondent in the amount of \$1,000.00.

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

21 23. Within 10 days of being notified of the lifting of the stay, Respondent may request
22 that the matter be reviewed by the Board for the limited purpose of determining whether the
23 automatic lifting of the stay was supported by substantial evidence. If the Board receives the
24 written request within 10 days or less of the next regularly scheduled Board meeting, the
25

1 request will not be heard at that meeting, but will be heard at the next regularly scheduled Board
2 meeting. The Board's decision on this matter shall not be subject to further review.

3 24. The Board reserves the right to take further disciplinary action against
4 Respondent for noncompliance with this Consent Agreement after affording Respondent notice
5 and an opportunity to be heard. If a complaint is filed against Respondent for failure to comply
6 with this Consent Agreement, the Board shall have continuing jurisdiction until the matter is final
7 and the period of probation shall be extended until the matter is final.

8 25. If Respondent currently sees clients in their own private practice, and obtains any
9 other type of behavioral health position, either as an employee or independent contractor, where
10 he provides behavioral health services to clients of another individual or agency, he shall
11 comply with requirements set forth in Paragraphs 26 through 28 below.

12 26. Within 10 days of the effective date of this Order, if Respondent is working in a
13 position where Respondent provides any type of behavioral health related services or works in a
14 setting where any type of behavioral health, health care, or social services are provided,
15 Respondent shall provide the Board Chair or designee with a signed statement from
16 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this
17 Consent Agreement. If Respondent does not provide the employer's statement to the Board
18 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a
19 copy of the Consent Agreement.

20 27. If Respondent is not employed as of the effective date of this Order, within 10
21 days of accepting employment in a position where Respondent provides any type of behavioral
22 health related services or in a setting where any type of behavioral health, health care, or social
23 services are provided, Respondent shall provide the Board Chair or designee with a written
24 statement providing the contact information of his new employer and a signed statement from
25 Respondent's new employer confirming Respondent provided the employer with a copy of this

1 Consent Agreement. If Respondent does not provide the employer's statement to the Board
2 within 10 days, as required, Respondent's failure to provide the required statement to the Board
3 shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
4 employer(s) with a copy of the Consent Agreement.

5 28. If, during the period of Respondent's probation, Respondent changes
6 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
7 extended leave of absence for whatever reason that may impact his ability to timely comply with
8 the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform the
9 Board of his change of employment status. After the change and within 10 days of accepting
10 employment in a position where Respondent provides any type of behavioral health related
11 services or in a setting where any type of behavioral health, health care, or social services are
12 provided, Respondent shall provide the Board Chair or designee a written statement providing
13 the contact information of his new employer(s) and a signed statement from Respondent's new
14 employer(s) confirming Respondent provided the employer(s) with a copy of this Consent
15 Agreement. If Respondent does not provide the employer's statement to the Board within 10
16 days, as required, Respondent's failure to provide the required statement to the Board shall be
17 deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
18 employer(s) with a copy of the Consent Agreement.

19 29. Respondent shall practice behavioral health using the name under which he is
20 licensed. If Respondent changes his name, he shall advise the Board of the name change as
21 prescribed under the Board's regulations and rules.

22 30. Prior to the release of Respondent from probation, Respondent must submit a
23 written request to the Board for release from the terms of this Consent Agreement at least 30
24 days prior to the date he would like to have this matter appear before the Board. Respondent
25 may appear before the Board, either in person or telephonically. Respondent must provide

1 evidence that he has successfully satisfied all terms and conditions in this Consent Agreement.
2 The Board has the sole discretion to determine whether all terms and conditions of this Consent
3 Agreement have been met and whether Respondent has adequately demonstrated that he has
4 addressed the issues contained in this Consent Agreement. In the event that the Board
5 determines that any or all terms and conditions of this Consent Agreement have not been met,
6 the Board may conduct such further proceedings as it determines are appropriate to address
7 those matters.

8 31. Respondent shall bear all costs relating to probation terms required in this
9 Consent Agreement.

10 32. Respondent shall be responsible for ensuring that all documentation required in
11 this Consent Agreement is provided to the Board in a timely manner.

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

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

16 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

17 *Van E. Cave*
18 Van E. Cave

4/21/17
Date

19
20 **BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

21 Dated this 1st day of May, 2017.

22 By: *Tobi Zavala*
23 TOBI ZAVALA, Executive Director
24 Arizona Board of Behavioral Health Examiners
25

1 ORIGINAL of the foregoing filed

This 1st day of May, 2017 with:

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

4 COPY of the foregoing mailed via Interagency Mail

This 1st day of May, 2017, to:

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

8 COPY of the foregoing mailed via

Certified mail no: 7016 2140 0000 1804 0853

This 1st day of May, 2017, to:

9 Van E. Cave
10 Address of Record
11 Respondent