



1 Consent Agreement.

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

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

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11 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,  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

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

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

20 **FINDINGS OF FACT**

21 1. Respondent is the holder of License No. LASAC-15149 for the practice of  
22 substance abuse counseling in Arizona.

23 2. From 02/18 – 05/18, Respondent worked for a behavioral health agency  
24 ("Agency") that maintains 14 locations in Arizona.

25 3. Respondent worked for Agency's inpatient facility in Tucson.

1           4.     In 02/18, an adult male behavioral health client ("Client") began receiving  
2 inpatient treatment at Agency's Tucson facility.

3           5.     Client presented with several needs and vulnerabilities, including substance  
4 abuse and a number of criminal incidents.

5           6.     In 05/18, the Board received a complaint from Agency indicating that Respondent  
6 was involuntarily terminated after she was found to have been in a relationship with Client.

7           7.     In response to the complaint allegations, Respondent denied the allegation and  
8 submitted numerous false statements in defense of her behavior.

9           8.     Following receipt of Respondent's written response, Board staff obtained  
10 Respondent's subpoenaed cell phone records, which identified that Respondent and Client  
11 exchanged over 1,100 text messages during a two-month span, from approximately 04/18 -  
12 05/18.

13          9.     Additionally, Board staff obtained email correspondence from Agency's Director,  
14 which provided the following information:

- 15           a.     Director was informed by a facility supervisor that a patient reported that  
16                 Client had a sexual relationship with an Agency counselor, Respondent.  
17           b.     The patient reported that Respondent and Client met at a hotel one weekend,  
18                 and had a sexual encounter.

19          10.    During the Board's investigation, Respondent was questioned by Board staff  
20 about the nature of her relationship with Client, and Respondent once again, denied that their  
21 relationship was anything other than supportive in nature.

22          11.    Following a series of further questions about the nature of their relationship,  
23 Respondent finally answered truthfully and indicated the following:

- 24           a.     When asked if Respondent had a sexual relationship with Client, Respondent  
25                 indicated, "I have."

1           b. When further questioned on whether she had sexual contact with Client when  
2           she visited him in Yuma prior to her termination, Respondent indicated, "I  
3           don't remember."

4           c. Upon repeating the question, Respondent indicated, "Yes."

5           12. Respondent's admission makes clear that she not only engaged in sexual  
6           conduct with Client, but that she also misrepresented information to the Board in multiple  
7           instances, both verbally and in writing, regarding the sexual nature of her relationship with  
8           Client.

9           13. Finally, although Respondent argued that Client was not assigned to her,  
10          however, there appears to be substantial evidence demonstrating otherwise:

- 11           a. Client was a patient of Agency.
- 12           b. Respondent was a behavioral health provided employed by Agency.
- 13           c. Respondent provided Client with housing, employment, and other resources.
- 14           d. During her professional interactions with Client, Respondent acknowledges  
15          the following:
- 16           • Respondent provided Client with information pertaining to places Client  
17           could live, as well as agencies and programs that could assist with job  
18           training placement.
  - 19           • Respondent gave Client the contact information for Second Chance  
20           Rentals and the phone number for an agency in Washington should he be  
21           interested in moving there.
  - 22           • Respondent also gave Client her phone number when he was leaving the  
23           facility because she was aware of his lack of support and wanted him to  
24           be successful going forward.
  - 25           • Respondent agrees that by providing Client with help and resources for

1 his discharge that she was involved in his treatment.

2 **CONCLUSIONS OF LAW**

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

6 2. The conduct and circumstances described in the Findings of Fact constitute a  
7 violation of A.R.S. § 32-3251(16)(v), engaging in any sexual conduct between a licensee and a  
8 client or former client.

9 3. The conduct and circumstances described in the Findings of Fact constitute a  
10 violation of A.R.S. § 32-3251(16)(c)(ii), making any oral or written misrepresentation of a fact in  
11 any statements provided during an investigation or disciplinary proceeding by the Board.

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


15 **ORDER**

16 Based upon the foregoing Findings of Fact and Conclusion of Law, the parties agree to  
17 the provision and penalties imposed as follows:

18 1. Respondent's license, LASAC-15149, shall be surrendered to the Board,  
19 effective from the date of entry as signed below.

20 2. The surrender shall be considered a revocation of Respondent's license.

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

22   
23 \_\_\_\_\_  
24 Melina Y. O'Brien

25 9/11/18  
Date

1 **BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

2 Dated this 12<sup>th</sup> day of September, 2018.

3  
4 By: Tobi Zavala  
5 TOBI ZAVALA, Executive Director  
6 Arizona Board of Behavioral Health Examiners

7 ORIGINAL of the foregoing filed

8 This 12<sup>th</sup> day of September, 2018 with:

9 Arizona Board of Behavioral Health Examiners  
10 1740 West Adams Street, Suite 3600  
Phoenix, AZ 85007

11 COPY of the foregoing mailed via Interagency Mail

This 12<sup>th</sup> day of September, 2018, to:

12 Marc Harris  
13 Assistant Attorney General  
2005 North Central Avenue  
Phoenix, AZ 85004

14 COPY of the foregoing mailed via

15 Certified mail no. 9489 009000276043157645  
This 12<sup>th</sup> day of September, 2018, to:

16 Melina Y. O'Brien  
17 Address of Record  
Respondent

18 COPY of the foregoing mailed via Mail

19 This 12<sup>th</sup> day of September, 2018 to:

20 Robert S. Chelle  
Chelle Law PLC  
21 11811 N Tatum Blvd, Ste 3031  
Phoenix, AZ 85028  
22 Attorney for Respondent