

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

2 **IN THE MATTER OF:**

3 **KATHLEEN A. EMERLING,**
4 **An Unlicensed Individual**
5 **in the State of Arizona,**

6 **Respondent.**

CEASE AND DESIST ORDER

7
8 The above-captioned matter came before the Arizona State Board of Behavioral Health
9 Examiners ("Board") on August 4, 2017, for the purposes of determining whether grounds
10 existed to issue a Cease and Desist Order to Kathleen A. Emerling ("Respondent"). Respondent
11 and her attorney, David S. Cohen, appeared and addressed the Board.

12 **FACTS REVIEWED**

- 13 1. Respondent was certified in May of 2002 as a Counselor.
- 14 2. On 07/01/2004, Respondent was grandfathered to licensure as a Licensed
15 Professional Counselor ("LPC").
- 16 3. Respondent's LPC license expired on 04/30/2016 based on her failure to renew.
- 17 4. The Board received information that indicated Respondent:
- 18 a. Has continued to practice behavioral health through her private practice
19 after her LPC license expired.
- 20 b. Provided an altered copy of Respondent's license to Blue Cross/Blue
21 Shield ("BC/BS") indicating her license expired on 04/30/2018.
- 22 c. Continued to bill BC/BS for reimbursement as a licensed professional
23 after her license had expired.
- 24 3. Board staff sent Respondent a letter requesting information on the nature of her
25 practice including her use of psychotherapy.
26

1 4. Respondent's response indicated:

- 2 a. In 2013, Respondent opened a private practice.
- 3 b. The financial and time commitment related to maintaining a consistent and
- 4 stable practice alone greatly impacted her practice.
- 5 c. It became increasingly difficult to afford the costs of her professional
- 6 expenses.
- 7 d. Although she completed the continuing education required for renewal of
- 8 her license, she could not afford the additional expense of renewal costs.
- 9 e. Her practice does include psychotherapy.
- 10 f. Her explanation for submitting an altered license was solely out of fear
- 11 and desperation to sustain an income.
- 12 g. She takes full responsibility for her decisions and apologizes to the Board
- 13 and BC/BS.

14

15 **VIOLATION**

16 1. The services Respondent is providing constitute the unauthorized practice of

17 behavioral health as defined at A.R.S. § 32-3286(A).

18 **ORDER**

19 1. Under authority set forth in A.R.S. § 32-3284(A), the Board orders Respondent to

20 immediately **Cease and Desist** from practicing behavioral health services as defined at A.R.S. §

21 32-3286(A) until such time she is licensed to do so.

22

23 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

24 Pursuant to A.R.S. § 41-1092.03 and § 32-3284(A), Respondent has the right to

25 obtain an administrative hearing in this matter by submitting a written request to the Board. The

26 Board must receive the request at its office within thirty (30) days after service of this Order.

1 A.R.S. § 41-1092.03(B). Service of this order is effective five (5) days after date of mailing. The
2 request must contain a concise statement of the reasons for the hearing. If Respondent requests a
3 hearing, pursuant to A.R.S. § 41-1092.06, Respondent has the additional right to request that the
4 Board conduct an informal settlement conference. To request an informal settlement conference,
5 Respondent must submit a written request to the Board no later than 20 days before the hearing
6 that may be scheduled in this matter. If a motion for rehearing is not filed, the Board's Order
7 becomes effective thirty-five (35) days after it is mailed to Respondent.

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

11 Dated this 10th day of August, 2017

12
13 M. Zavala
14 TOBI ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

15 ORIGINAL filed this
16 10th day of August, 2017, with

17 Arizona Board of Behavioral Health Examiners
3443 North Central Ave., Suite 1700
18 Phoenix, Arizona 85012

19 COPY of the foregoing mailed by certified mail
20 No. 7014224000018041348 this
10th day of August, 2017 to:

21 Kathleen A. Emerling
22 Address of Record
Respondent

23 COPY of the foregoing mailed this
24 10th day of August, 2017 to:

25 Marc Harris
Assistant Attorney General
1275 W. Washington
26 Phoenix, Arizona 85007