

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

2 **In the Matter of:**

3 **Diana G. Vigil, LPC-0805,**  
4 **Licensed Professional Counselor,**  
5 **In the State of Arizona.**

6 **RESPONDENT**

**CASE NO. 2023-0003**


**RELEASE FROM  
CONSENT AGREEMENT AND ORDER**

7 The Board received a request from Respondent to release them from the terms and  
8 conditions of the Consent Agreement and Order dated March 28<sup>th</sup>, 2023. After consideration,  
9 the Board voted to release Respondent from the terms and conditions of the Consent  
10 Agreement and Order dated March 28<sup>th</sup>, 2023.

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 March 28<sup>th</sup>, 2023.

15 By:  Jul 25, 2023  
16 **TOBI ZAVALA, Executive Director** **Date**  
**Arizona Board of Behavioral Health Examiners**

17  
18 **ORIGINAL** of the foregoing filed Jul 25, 2023  
19 with:

20 Arizona Board of Behavioral Health Examiners  
21 1740 West Adams Street, Suite 3600  
22 Phoenix, AZ 85007

23 **EXECUTED COPY** of the foregoing sent electronically Jul 25, 2023  
24 to:

25 Diana G. Vigil  
Address of Record  
Respondent

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

3 **In the Matter of:**

4 **Diana G. Vigil, LPC-0805,**  
5 **Licensed Professional Counselor,**  
6 **In the State of Arizona.**

7 **RESPONDENT**

**CASE NO. 2023-0003**  
**CONSENT AGREEMENT**

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), Diana G. Vigil (“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 their right to such formal hearing concerning these allegations and irrevocably waives  
22 their 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 their  
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 between only Respondent and the Board for  
7 the final disposition of this matter and may be used for purposes of determining sanctions in any  
8 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 acknowledges and agrees that the acceptance of this Consent  
17 Agreement is solely to settle this Board matter and does not preclude the Board from instituting  
18 other proceedings as may be appropriate now or in the future. Furthermore, and  
19 notwithstanding any language in this Consent Agreement, this Consent Agreement does not  
20 preclude in any way any other state agency or officer or political subdivision of this state from  
21 instituting proceedings, investigating claims, or taking legal action as may be appropriate now or  
22 in the future relating to this matter or other matters concerning Respondent, including but not  
23 limited to violations of Arizona's Consumer Fraud Act. Respondent acknowledges that, other  
24 than with respect to the Board, this Consent Agreement makes no representations, implied or

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1 otherwise, about the views or intended actions of any other state agency or officer or political  
2 subdivision of the state relating to this matter or other matters concerning Respondent.

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

6 9. Respondent further understands that any violation of this Consent Agreement  
7 constitutes unprofessional conduct pursuant to A.R.S. § 32-3251(16)(n) and may result in  
8 disciplinary action pursuant to A.R.S. § 32-3281.

9 10. The Board therefore retains jurisdiction over Respondent and may initiate  
10 disciplinary action against Respondent if it determines that they have failed to comply with the  
11 terms of this Consent Agreement or of the practice act.

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

13 **FINDINGS OF FACT**

14 1. Respondent is the holder of License No. LPC-0805 for the practice of Counseling  
15 in Arizona.

16 2. From 03/29/22 – 05/16/22, Respondent provided behavioral services to Son and  
17 Daughter to help cope with Mother and Father’s divorce and Mother and Father were still living  
18 together during this time.

19 3. At the onset of services, Respondent obtained signatures from Father and Mother  
20 to treat Son and Daughter, but the consents failed to include dates after their signatures.

21 4. The informed consent documents failed to include Respondent’s dated signature  
22 and a section for Respondent’s dated signature.

23 5. During an investigative interview with Board staff, Respondent represented she  
24 was not aware she needed to sign and date the informed consent.

25 6. At 12:11 a.m., on 03/29/22, Mother emailed Respondent:

- a. Mother attached a video to the email which she had made surreptitiously.
- b. The video depicted Father preparing Son and Daughter to go to the grocery store and at times Son and Daughter were shown crying.
- c. Mother alleged in the email that a few days after this video was made, Son sustained second degree burns on one of his hands due to Father's neglect.
- d. Mother alleged in the email Son sustained a gash under his big toe which removed a flap of skin two weeks before the video was made while Son was in Father's care.
- e. Mother alleged in the email she took Son to urgent care for the burns to dress his wounds.

7. Respondent met with Mother, Father, Son and Daughter for an intake session on 03/29/22, several hours after Mother had sent the email to Respondent.

8. Although Mother raised a number of issues related to Father during that meeting, she never raised the issues alleged in the email, and Respondent did not ask about them directly.

9. DCS records indicated it received a complaint related to Son on 03/31/22 and conducted an investigation which failed to substantiate any allegation of neglect or abuse.

10. Respondent represented the following during an investigative interview with Board staff:

- a. Neither Father nor Mother brought forward safety concerns during the 03/29/22 session.
- b. Respondent did not address the allegations set forth in Mother's email because such allegations are typical in high conflict cases and neither parent reported any concerns with safety during the intake.

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...

1 c. Respondent acknowledged she did not specifically ask Son if his parents  
2 were hurting him in any way, because, therapeutically, from a forensic  
3 perspective, it would have been contraindicated, but Respondent asked open-  
4 ended questions related to whether Son and Daughter felt safe.

5 d. Respondent did not document why she did not address Mother's email in a  
6 progress note because she did not have a reasonable suspicion that abuse or  
7 neglect occurred.

8 11. Respondent failed to document her follow up regarding these allegations.

9 12. Based on allegations of neglect set forth in Mother's email, the Board believes  
10 Respondent should have reported the alleged burns to DCS or the police as a mandated  
11 reporter.

12 13. The Board believes Respondent failed to fulfill her duty as a mandated reporter.

13 14. On 05/20/22, Mother withdrew her consent for Respondent to treat Son and  
14 Daughter.

15 15. On 05/23/22, Father's lawyer sent Respondent an email in which he stated he  
16 intended to file a motion in the divorce action seeking to "preserve the children's continuity of  
17 treatment with you."

18 16. Respondent responded in an email on 05/23/22 that she would continue treating  
19 the Children if there was a court order.

20 17. Respondent did not take additional steps to provide continuity of care for Son and  
21 Daughter.

22 18. Mother's lawyer filed the Complaint which precipitated the Board's investigation in  
23 connection with this matter on 06/29/22.

24 19. The Complaint alleged Respondent was biased against Mother and had a conflict  
25 of interest in providing services to Son and Daughter.

1 20. The Board found those allegations to be without merit.

2 21. On 07/01/22, the Court gave Father sole authority to make mental health care  
3 treatment decisions for Son and Daughter, at which point Respondent intended to resume  
4 providing care.

5 22. On 07/07/22, the Board mailed the Complaint to Respondent.

6 23. On 07/12/22, Respondent notified the parties that she could not continue seeing  
7 Son and Daughter because the Complaint had been filed.

8 24. Respondent represented the following during an investigative interview:

9 a. Respondent sensed the parents did not want any referrals from her.

10 b. Mother withdrew consent and the issue of her ongoing treatment was  
11 presented to the court.

12 c. Respondent was permitted to continue treating Son and Daughter pursuant to  
13 a court order, but later declined to do so once she learned about the  
14 Complaint.

15 d. Respondent's understanding of ensuring continuity of care applies when  
16 Respondent was the one stopping services, then she would have offered  
17 referrals.

18 **CONCLUSIONS OF LAW**

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

22 2. The conduct and circumstances described in the Findings of Fact constitute a  
23 violation of A.R.S. § 32-3251(16)(ii), violating any federal or state law, rule or regulation  
24 applicable to the practice of behavioral health, as it relates to:

25 A.R.S. § 13-3620. Duty to Report Abuse

1 3. The conduct and circumstances described in the Findings of Fact constitute a  
2 violation of A.R.S. § 32-3251(16)(s), terminating behavioral health services to a client without  
3 making an appropriate referral for continuation of care for the client if continuing behavioral  
4 health services are indicated.

5 4. The conduct and circumstances described in the Findings of Fact constitute a  
6 violation of A.R.S. § 32-3251(16)(p), failing to conform to minimum practice standards as  
7 developed by the board, as it relates to:

8 A.A.C. R4-6-1101. Consent for Treatment

9 **ORDER**

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

12 1. Respondent's license, LPC-0805, will be placed on probation for 12 months,  
13 effective from the date of entry as signed below.

14 2. Respondent shall not practice under their license, LPC-0805, unless they are  
15 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,  
16 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they  
17 shall immediately notify the Board in writing and shall not practice under their license until they  
18 submit a written request to the Board to re-commence compliance with this Consent  
19 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

20 3. In the event that Respondent is unable to comply with the terms and conditions  
21 of this Consent Agreement, all remaining time frames shall be tolled and remain tolled until  
22 such time as they are granted approval to re-commence compliance with the Consent  
23 Agreement.

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1 **Continuing Education**

2 4. In addition to the continuing education requirements of A.R.S. § 32-3273, within  
3 12 months of the effective date of this Consent Agreement, Respondent shall complete 3 clock  
4 hours of continuing education addressing behavioral health ethics. All required continuing  
5 education shall be pre-approved by the Board Chair or designee. Upon completion, Respondent  
6 shall submit a certificate of completion of the required continuing education.

7 5. In addition to the continuing education requirements of A.R.S. § 32-3273, within  
8 12 months of the effective date of this Consent Agreement, Respondent shall complete 3 clock  
9 hours of continuing education in Arizona documentation standards. All required continuing  
10 education shall be pre-approved by the Board Chair or designee. Upon completion, Respondent  
11 shall submit a certificate of completion of the required continuing education.

12 6. In addition to the continuing education requirements of A.R.S. § 32-3273, within  
13 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock  
14 hours of the NASW Staying Out of Trouble continuing education or its pre-approved equivalent.  
15 All required continuing education shall be pre-approved by the Board Chair or designee. Upon  
16 completion, Respondent shall submit a certificate of completion of the required continuing  
17 education.

18 7. Respondent may submit continuing education completed since the complaint  
19 was filed for consideration of approval by the Board Chair or designee.

20 **Early Release**

21 8. After completion of the continuing education requirements set forth in this  
22 Consent Agreement, Respondent may request early release from the Consent Agreement if all  
23 other terms of the Consent Agreement have been met.

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1 **GENERAL PROVISIONS**

2 **Provision of Clinical Supervision**

3 9. Respondent shall not provide clinical supervision while subject to this Consent  
4 Agreement.

5 **Civil Penalty**

6 10. Subject to the provisions set forth in paragraph 11, the Board imposes a civil  
7 penalty against the Respondent in the amount of \$1,000.00.

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

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

22 13. The Board reserves the right to take further disciplinary action against  
23 Respondent for noncompliance with this Consent Agreement after affording Respondent notice  
24 and an opportunity to be heard. If a complaint is filed against Respondent for failure to comply

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1 with this Consent Agreement, the Board shall have continuing jurisdiction until the matter is final  
2 and the period of probation shall be extended until the matter is final.

3 14. If Respondent currently sees clients in their own private practice, and obtains any  
4 other type of behavioral health position, either as an employee or independent contractor, where  
5 they provide behavioral health services to clients of another individual or agency, they shall  
6 comply with requirements set forth in paragraphs 15 through 17 below.

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

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

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

15           18. Respondent shall practice behavioral health using the name under which they  
16 are licensed. If Respondent changes their name, they shall advise the Board of the name  
17 change as prescribed under the Board's regulations and rules.

18           19. Prior to the release of Respondent from probation, Respondent must submit a  
19 written request to the Board for release from the terms of this Consent Agreement at least 30  
20 days prior to the date they would like to have this matter appear before the Board. Respondent  
21 may appear before the Board, either in person or telephonically. Respondent must provide  
22 evidence that they have successfully satisfied all terms and conditions in this Consent  
23 Agreement. The Board has the sole discretion to determine whether all terms and conditions of  
24 this Consent Agreement have been met and whether Respondent has adequately demonstrated

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1 that they have addressed the issues contained in this Consent Agreement. In the event that the  
2 Board determines that any or all terms and conditions of this Consent Agreement have not been  
3 met, the Board may conduct such further proceedings as it determines are appropriate to  
4 address those matters.

5 20. Respondent shall bear all costs relating to probation terms required in this  
6 Consent Agreement.

7 21. Respondent shall be responsible for ensuring that all documentation required in  
8 this Consent Agreement is provided to the Board in a timely manner.

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

10 23. This Consent Agreement is conclusive evidence of the matters described herein  
11 and may be considered by the Board in determining appropriate sanctions in the event a  
12 subsequent violation occurs.

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

14 *Diana Vigil*

Mar 27, 2023

15 Diana G. Vigil

Date

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

17 By:

*Tobi Zavala*

Mar 28, 2023

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

Date

20 **ORIGINAL** of the foregoing filed Mar 28, 2023  
21 with: \_\_\_\_\_

22 Arizona Board of Behavioral Health Examiners  
23 1740 West Adams Street, Suite 3600  
Phoenix, AZ 85007

24 **EXECUTED COPY** of the foregoing sent electronically Mar 28, 2023  
25 to: \_\_\_\_\_

1 Mona Baskin  
Assistant Attorney General  
2 2005 North Central Avenue  
Phoenix, AZ 85004

3  
4 Diana G. Vigil  
Address of Record  
Respondent

5  
6 John Ager  
Sandweg & Ager  
1221 E. Osborn Road Suite 100  
7 Phoenix, AZ 85014  
Attorney for Respondent

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