

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

2  
3 **In the Matter of:**

4 **DWAYNE A. KRUSE, LMFT-10273,**  
5 **Licensed Marriage and Family Therapist**  
6 **In the State of Arizona**

7 **Respondent**

**CASE NOS. 2011-0091, 2012-0035 and**  
**2012-0060**

**ORDER DENYING RESPONDENT'S**  
**REQUEST FOR REVIEW**

8 On February 11, 2015, the Arizona Board of Behavioral Health Examiners ("Board")  
9 notified Dwayne Kruse ("Respondent"), in writing, that it had lifted the stay of revocation of his  
10 license based on his failure to comply with the terms of his September 13, 2013, Consent  
11 Agreement ("CA").

12 On February 22, 2015, the Board received Respondent's request for review of the lifting  
13 of the stay. This matter came before the Board on May 7, 2015, for review of whether the lifting  
14 of the stay was supported by substantial evidence. Respondent appeared telephonically. After  
15 having considered all the evidence, the Board voted to affirm the lifting of the stay of revocation  
16 of Respondent's license based on Respondent's failure to timely comply with the continuing  
17 education requirements of the CA.

18 **ORDER**

19 Respondent's request for review is DENIED and the automatic lifting of the stay of the  
20 revocation of Respondent's license is AFFIRMED.

21 Done this 19<sup>th</sup> of May, 2015

22  
23 

24 Tobi Zavala, Executive Director  
25 Arizona Board of Behavioral Health Examiners

25 ORIGINAL of the foregoing filed  
the 19<sup>th</sup> day of May, 2015, with:

1 Arizona Board of Behavioral Health Examiners  
3443 North Central Avenue, Suite 1700  
2 Phoenix, AZ 85012

3 COPY of the foregoing mailed this  
4 ~~PM~~ day of May 2015, by  
certified mail no. 1014287000187086 to:

5 Dwayne A. Kruse  
6 Address of Record  
7 Respondent

8 COPY sent via interagency mail  
9 this 19<sup>th</sup> day of May, 2015, to:

10 Marc. H. Harris  
11 Assistant Attorney General  
12 1275 West Washington  
13 Phoenix, AZ 85007

14 By: \_\_\_\_\_  
15 DOC#4469431

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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  
6 Agreement are conclusive evidence of the facts stated herein and may be used for purposes of  
7 determining 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  
11 value, nor shall it be relied upon or introduced in any disciplinary action by any party hereto,  
12 except that Respondent agrees that should the Board reject this Consent Agreement and this  
13 case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by  
14 its 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 and the Healthcare Integrity and Protection Data Bank.

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

22           9.       The Board therefore retains jurisdiction over Respondent and may initiate  
23 disciplinary action against Respondent if it determines that he has failed to comply with the  
24 terms of this Consent Agreement or of the practice act.

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

1 FINDINGS OF FACT

2 1. Respondent is the holder of License No. LMFT-10273 for the practice of  
3 marriage and family therapy in Arizona.

4 **Case 2011-0091**

5 2. In 08/10, a mother ("Mother") and father ("Father") were divorced and in conflict  
6 over custody and parenting time issues with respect to their 9 year old daughter ("Daughter").

7 3. During a 08/16/10 hearing, Temporary Custody Orders were issued that:

8 a. Limited Father to supervised visitation with Daughter.

9 b. Ordered Mother to Engage Daughter "in counseling sessions with a  
10 professional counselor to address issues of whether or not abuse has  
11 occurred and the child's anxiety in regard to seeing her father."

12 c. Ordered Mother to "provide a report to the Court from the counselor as to  
13 the need for continued supervised visitation."

14 4. Mother subsequently contacted Respondent to initiate services for Daughter.

15 5. On 09/04/10, Respondent was scheduled to meet with Father at the home of  
16 father and Father's girlfriend ("Girlfriend").

17 6. Respondent indicated the following with regard to that meeting:

18 a. When Daughter said she did not want to see Father and refused to go to  
19 Father/Girlfriend's home, the intended interview with Father and Daughter  
20 together turned into an "impromptu individual meeting in a parking lot" with  
21 Daughter.

22 b. Mother was engaged to a man ("Fiancé") who sat in his own car in the  
23 parking lot while Respondent interviewed Daughter in Respondent's car.

24 c. At the end of Respondent's interview with Daughter:  
25 ...

- 1 • A deputy sheriff approached Respondent's car and said that a
- 2 concerned citizen had reported "a strange man was sitting with a little
- 3 girl for over an hour in the parking lot."
- 4 • Respondent showed the deputy sheriff his credentials, identification,
- 5 and Daughter's consent for treatment, identified Fiancé' as
- 6 Daughter's custodian, and described the circumstances leading to
- 7 Respondent's session with Daughter in the parking lot.
- 8 • The deputy sheriff then went to speak with Fiancé.

9 7. Respondent's decision to conduct an interview of Daughter in his car in the  
10 parking lot of a grocery store was inappropriate based on the following:

- 11 a. Respondent did not provide any clinical justification for his decision to
- 12 interview Daughter in his car in a public parking lot.
- 13 b. It would seem difficult to justify the provision of any type of behavioral health
- 14 service to a young child within the confines of a car and in a public parking
- 15 lot.
- 16 c. As a result of Respondent's decision to interview Daughter in his car and
- 17 while in a public parking lot:
  - 18 • It appears that someone was concerned enough about the nature of
  - 19 Respondent's interactions with Daughter to report the matter to law
  - 20 enforcement.
  - 21 • A deputy sheriff interrupted the session to inquire about
  - 22 Respondent's conduct with Daughter.
  - 23 • In order to explain the situation, Respondent disclosed confidential
  - 24 information about Daughter to the deputy sheriff.

25 ...

1           8.       Mother alleged that Daughter told her that, during the parking lot session,  
2 Respondent told Daughter that he did not believe Daughter's representation that a bruise on  
3 her leg was the result of Father beating her with a belt buckle.

4           9.       Fiancé indicated that Daughter was mentally distraught and physically sick for  
5 days after Respondent told Daughter that he did not believe her.

6           10.      Respondent acknowledges the following regarding his conduct during his  
7 parking lot session with Daughter:

8                   a. Respondent discussed the difference between the truth and a lie with  
9                   Daughter.

10                  b. Respondent discussed the bruise on Daughter's leg and showed her a  
11                  picture of the bruise.

12                  c. Respondent "[t]aught [Daughter] what a bruise was, a subdural hematoma  
13                  and what that means and why bruises are red and purple at first."

14                  d. Respondent told Daughter that Respondent, "felt the belt mark could not  
15                  have been done by [Father] and that the facts did not add up."

16                  e. Respondent was clear to Daughter that he wanted her to be safe, but he  
17                  "was also clear that science and evidence in this case did not add up."

18                  f. Daughter "became emphatic that her father whipped her with the belt buckle  
19                  and created the bruise."

20                  g. Respondent "asserted he felt a belt buckle did not make that bruise and  
21                  challenged [Daughter] to give a different rendition of her story."

22                  h. Daughter then "withdrew and put her head down."

23                  i. Daughter "started to talk three times but did not. One time she said 'Mom...'  
24                  then did not finish her statement."

25           11.      Respondent's conduct was inappropriate based on the following:

1 a. The Court involved in Father's and Mother's custody dispute requested that  
2 Daughter see a counselor in order to:

- 3 • Engage Daughter "in counseling sessions ...to address issues of  
4 whether or not abuse has occurred and the child's anxiety in regard  
5 to seeing her father."
- 6 • "[P]rovide a report to the Court from the counselor as to the need for  
7 continued supervised visitation."

8 b. In order to provide the evaluation ordered by the Court, it was reasonable for  
9 Respondent to:

- 10 • Review information provided by the parties.
- 11 • Interview the parties.
- 12 • Form a professional opinion with regard to the credibility of those he  
13 interviewed and the accuracy of the information they provided.
- 14 • Report his professional opinions and the bases for those opinions to  
15 the judge.

16 c. Respondent did not restrict his activities to those listed above. Instead, after  
17 forming an opinion that Daughter's representation that Father hit her with a  
18 belt buckle was not credible:

- 19 • Respondent advised Daughter that he did not believe her  
20 representation was consistent with the picture of her bruise.
- 21 • When Daughter continued to insist that she was telling the truth,  
22 Respondent "challenged [Daughter] to give a different rendition of  
23 her story."

24 ...

25 ...

- d. Following this interaction, Respondent acknowledges that Daughter put her head down and withdrew.
- e. As Respondent acknowledges, he could see how his interview of Daughter could "produce a fearful response to counselors".
- f. Under these circumstances, it is difficult to understand how Respondent could have reasonably believed there was an appropriate therapeutic basis for such an interaction with Daughter, particularly within the confines of Respondent's car.

12. Mother provided the following information regarding Father's treatment of Daughter's small dog ("Dog"):

- a. Daughter observed Father's "cruelty and abuse of [Dog] many times."
- b. During Daughter's 04/10 visit with Father at Father's home, Daughter brought Dog, to whom she had a very strong attachment.
- c. During the visitation, Daughter texted Mother that Father was mean to Dog and Daughter feared for Dog's safety.
- d. After the 04/10 visitation, Father returned Daughter to Mother, but did not return Dog.
- e. Daughter was distraught over Father keeping Dog from her.
- f. Father later texted Mother stating that he would return Dog to Mother's home and pick up his belongings at the same time.
- g. Mother refused to permit Father to pick up his belongings at her home as it was against a 09/09 Order of Protection Mother had obtained.
- h. Father refused to meet Mother at a designated location to exchange Dog and Father's belongings.

1           13.     Respondent indicated Daughter provided the following information when he  
2 interviewed her:

- 3           a.     Daughter talked about Dog a lot and “seemed quite connected to [Dog].”
- 4           b.     Daughter said that Father had “grabbed [Dog] by the neck and threw [Dog]  
5                on the wall and [Dog] slid down the wall.”

6           14.     Despite reports by Mother and Daughter that Daughter witnessed Father being  
7 abusive/cruel to Dog and intentionally withheld Dog from Daughter in order to manipulate  
8 Mother, there is no indication that Respondent made any attempt to inquire further with regard  
9 to Father’s alleged mistreatment of Dog.

10          15.     Respondent’s failure to inquire further or follow up in any way regarding Father’s  
11 alleged mistreatment of Dog was inappropriate where:

- 12          a.     Research has established a link between animal cruelty/abuse and family  
13                violence, including threats of harm to pets as a means to exert power and  
14                control over others in domestic violence situations.
- 15          b.     Respondent became involved in this matter to help the Court determine  
16                whether the abuse allegations against Father were credible.

17          16.     During his interview of Daughter in the grocery store parking lot, a deputy sheriff  
18 approached Respondent’s car and spoke with Respondent.

19          17.     Respondent has indicated the following with regard to that encounter:

- 20          a.     The deputy sheriff told him that a concerned citizen had reported “a strange  
21                man was sitting with a little girl for over an hour in the parking lot.”
- 22          b.     Respondent showed the sheriff his credentials, identification, and Daughter’s  
23                consent for treatment, identified Fiancé’ as Daughter’s custodian, and  
24                described the circumstances leading to Respondent’s meeting with  
25                Daughter in the parking lot.

- 1 c. The deputy sheriff then went to speak with Fiancé.
- 2 d. Subsequently, the sheriff's office dispatch told Respondent that:
- 3 • There was no record of a 09/04/10 meeting between the deputy sherrif
- 4 and Respondent in the parking lot
- 5 • That the parking lot was in the Benson police department's jurisdiction.
- 6 e. The Benson police department also did not have a record of the incident.

7 18. Based on that informaion, Respondent included a statement in his Family

8 Evaluation report ("09/10 Report") indicating that he believes that Fiancé, a "former under

9 Sheriff", asked the deputy sheriff "for a favor" to approach Daughter and Respondent during the

10 parking lot meeting.

11 19. Respondent's decision to include a highly inflammatory statement about Fiancé

12 in his 09/10 Report without clear evidence was inappropriate.

13 20. Respondent's 09/10 Report indicates that his evaluation included speaking with

14 Daughter's school counselor ("School Counselor").

15 21. Respondent's records did not include a written authorization for School

16 Counselor.

17 22. Respondent's decision to interview School Counselor about Daughter without

18 first obtaining written authorization to discuss Daughter with School Counselor was

19 inappropriate.

20 23. Respondent's informed consent for treatment form lacked required elements set

21 forth in A.A.C.R4-6-1101(2)(e), A.A.C.R4-6-1101(2)(f), and A.A.C.R4-6-1101(2)(g).

22 24. Respondent had Father sign an Information and Consent form for Daughter, but

23 failed to ensure that Father dated his signature, as required.

24 25. Respondent's progress notes did not include the following required elements:

- 25 a. Respondent's signature and the date signed.

1 b. The date and duration of each session conducted in this matter.

2 26. Respondent's progress notes were also deficient in that:

3 a. They contained information from multiple sources without a clear delineation of  
4 who was interviewed, the date of the interview, and the information provided  
5 during each individual interview.

6 b. As a result, it is impossible to determine from Respondent's progress notes  
7 which interviewees provided the information included in each note.

8 c. Respondent did not identify the date of each individual interview he conducted.

9 **Case 2012-0035**

10 27. The presiding judge for Family Court in Sierra Vista ("Judge") heard matters  
11 pertaining to the custody of a pre-teen boy' ("Son") for several years.

12 28. In 02/07, Judge ordered that an evaluation and treatment be initiated for Son.

13 29. The 05/07 divorce decree of Son's parents ("Parents"):

14 a. Gave Son's father ("Father") sole legal and physical custody of Son.

15 b. Found that Son was "in need of continued therapy to assist him with re-  
16 establishing contact with [his mother] and that therapeutic visitation is needed  
17 prior to any further visitation."

18 c. Prohibited Son's mother ("Mother") from having any contact with Son until:

- 19 • Mother resumed treatment for her diagnosed mental health condition.
- 20 • Mother participated in therapeutic visitation with Son.
- 21 • Mother's and Son's treatment providers were consulted.

22 30. During Father's military deployments, Son stayed with Father's parents  
23 ("Grandparents").

24 31. Court documents indicate that Mother took steps to comply with the Court's  
25 requirements.

1 32.. In 02/08, Mother was granted limited supervised visitation with Son. In 06/10,  
2 Mother was granted limited unsupervised visitation with Son.

3 33. In 08/01/11, Father committed suicide and Son was left without a legal guardian.

4 34. On 08/10/11, Father's mother ("Grandmother") took Son to see Respondent at  
5 Respondent's private practice.

6 35. Respondent met with Son and Grandmother to complete an assessment of Son.

7 36. Following his assessment session, Respondent completed a report that same  
8 day indicating the following:

9 a. Respondent was asked to interview Son "to assess his current mental emotional  
10 state due to his father's recent death, an apparent suicide."

11 b. Respondent was "also asked to evaluate what the child wants in regards to  
12 where he wishes to live and who he wishes to have as his guardian."

13 c. Respondent "was informed the purpose was that [Grandparents] will be seeking  
14 an emergency ex parte order for the custody of [Son]."

15 d. Son disclosed prior sexual and other abuse by Mother.

16 e. Respondent was "made aware that there has been a long custody battle for  
17 [Son] including at present [Mother] having supervised visitation...."

18 f. Son stated he does not want to live with Mother and, until recently, only saw her  
19 approximately 2 times a year.

20 g. The only current legal matter is that of Grandparents "seeking emergency orders  
21 for custody due to father's death."

22 h. It appears that Grandparents have effectively parented Son over the 6 years  
23 that they cared for Son during Father's deployments.

24 i. "It is unfortunate yet apparent that mom has not been well involved over the past  
25 several years".

1 j. "It is also apparent that there has been a significant trauma between mother and  
2 child as evidenced not only by the child's account of sexual abuse but by his  
3 reactivity to such abuse."

4 k. "I should still meet with mother to round out this assessment. It is clear though  
5 that in this time of instability that [Son] is even more reactive and fearful that he  
6 may live with his mother instead of his grandparents."

7 l. "As of the completion of this assessment and its write-up, [Respondent is] aware  
8 that mother has retained a lawyer and has an exparte [sic] granted for custody  
9 of Son. [Respondent has] been requested to furnish a copy of this assessment  
10 to mother as well."

11 37. Pursuant to A.A.C. R4-6-1101(3), licensees are required to obtain written  
12 informed consent from a minor client's legal representative before providing any type of  
13 treatment to the minor client.

14 38. In accordance with this rule, before providing any type of services to Son,  
15 Respondent needed to take appropriate measures to ensure that Grandmother had legal  
16 authority to consent to Respondent's services.

17 39. Mother's Board complaint alleged that Respondent acted inappropriately by  
18 meeting with Son given that Grandmother lacked legal authority to authorize any type of  
19 behavioral health services for Son.

20 40. Mother's complaint appears valid based on the following:

21 a. Pursuant to Parents' 05/07 divorce decree, Father had sole legal and physical  
22 custody of Son.

23 b. When Father committed suicide on 08/01/11, Son was left without a legal  
24 guardian.

25 c. On 08/08/11, Mother obtained a Court Order:

- Granting immediate physical and legal custody of Son to Mother.
- Ordering Grandparents to immediately turn Son over to Mother.

d. At the time Respondent completed his 08/10/11 assessment, Grandmother lacked legal authority to authorize this service for Son.

41. Respondent indicated the following regarding his decision to assess Son:

- a. Grandparents provided documentation to Respondent indicating that they had "Power of Attorney" for Son.
- b. Respondent felt he "had done due diligence in determining who was legally allowed to sign off for [Son's] medical care."
- c. Respondent "conducted the assessment in good faith" that Grandparents had authority to sign for Son's care in the event of Father's absence or death.

42. Respondent's justification for accepting Son as a client appears inadequate based on the following:

- a. Respondent's statement that he received documentation indicating that Grandparents had Power of Attorney for Son is erroneous.
- b. Instead, Respondent's records reflect that, at 11:15 am, Grandparents' attorney faxed Respondent a copy of Father's 09/07 will that, upon Father's death, appointed Grandmother to be Son's guardian.
- c. Father's desire, as expressed in his will, that Grandmother become Son's guardian upon Father's death had no legal authority.
- d. The determination of who would be Son's legal guardian following Father's death was a matter to be determined by the courts.
- e. Respondent's erroneous description in his complaint response of the documentation Grandparents provided as "Power of Attorney" for Son strongly

1 suggests that Respondent did not/does not understand the legal significance of  
2 the documents he received and upon which he based his decision to see Son.

3 f. Based upon Respondent's representations, it appears he accepted Father's will  
4 as evidence of Grandparents' right to seek behavioral health services for Son  
5 without any effort to independently confirm whether this document, in fact,  
6 provided such authority to Grandparents.

7 g. Given Respondent's apparent lack of knowledge in this area, his decision to  
8 proceed with his assessment of Son without any effort to independently confirm  
9 Grandparents' legal authority to obtain such an assessment was inappropriate.

10 43. Following his assessment session with Son, Respondent completed a report  
11 that contained a number of statements:

12 a. Strongly suggesting that it would not be appropriate for Mother to be given  
13 custody of Son.

14 b. Strongly suggesting that it was in Son's best interest for Grandparents to be  
15 given immediate custody of Son.

16 44. Respondent indicated the following in his report with regard to his decision to  
17 proceed with Grandparents' request that he assess Son and provide a written assessment  
18 report:

19 a. Respondent was aware that Son had been the subject of a long custody battle.

20 b. Respondent received a copy of Father's will appointing Grandmother as Son's  
21 guardian.

22 c. Based on this information, Respondent was "confident that [Grandmother],  
23 absent any other legal guardian has the authority to sign an informed consent  
24 for... [Son]."

25 ...

1           45.    Respondent's decision to complete the report Grandparents requested was  
2 particularly inappropriate where:

3           a.    On 08/08/11, Mother obtained a Court Order indicating the following:

- 4               •    Mother had legal and physical custody of Son.
- 5               •    Grandparents were required to immediately turn Son over to Mother.

6           b.    At 2:00 pm on 08/10/11, Mother's attorney faxed Respondent a copy of Mother's  
7 Ex Parte Order.

8           c.    It appears Respondent was aware of Mother's Ex Parte Order when he  
9 completed his report given that he specifically indicated the following in that  
10 report:

- 11               •    "As of the completion of this assessment and its write-up, [Respondent  
12 is] aware that mother has retained a lawyer and has an exparte [sic]  
13 granted for custody of Son."

14           d.    It also appears that Respondent was aware when he completed his report that  
15 Grandparents did not have custody of Son given that he specifically indicated  
16 the following in his report:

- 17               •    Respondent was "asked to evaluate what [Son] wants in regards to  
18 where he wishes to live and who he wishes to have as his guardian."
- 19               •    Respondent "was informed the purpose was that [Grandparents'  
20 attorney] and [Grandparents] will be seeking an emergency ex parte  
21 order for the custody of [Son]."
- 22               •    The only current legal matter is that of Grandparents "seeking  
23 emergency orders for custody due to father's death."

24           e.    Based on the above, it is clear that, at the time Respondent wrote his report, he  
25 was aware of the following:

- Following Father's death, Mother had obtained legal custody of Son.
- Grandparents were seeking a court order awarding them custody of Son.
- Grandparents intended to submit Respondent's report to support their effort to obtain custody of Son.

f. Under these circumstances, Respondent's decision to provide a written report regarding Son's assessment to Grandparents despite being fully aware that Grandparents had no legal authority to authorize such services was inappropriate.

46. During Respondent's 08/10/11 assessment session, Son disclosed the following:

- a. Son woke up one night when he was younger and "saw mom touching his penis".
- b. Mother tried to kill him once, but he "had no details nor did he have a general date."

47. Respondent's records do not reflect that he inquired further or made any type of report regarding Son's abuse allegations.

48. Respondent did not document any information indicating:

- a. That he was aware of his responsibility as a mandated reporter to report abuse allegations.
- b. The basis for his determination not to file a report.

49. Under these circumstances:

- a. It appears Respondent's failure to file a report regarding Son's abuse allegations was based on Respondent's failure to recognize his responsibility to file such a report.

...

...

1 b. Respondent's failure to inquire further with regard to Son's allegations or to take  
2 any other action to determine whether an abuse report was necessary was  
3 inappropriate.

4 50. Respondent's informed consent for treatment form lacked required elements set  
5 forth in A.A.C.R4-6-1101(2)(e), A.A.C.R4-6-1101(2)(f), and A.A.C.R4-6-1101(2)(g).

6 51. Respondent did not maintain any type of progress note documenting his  
7 08/10/11 session with Son, as required.

8 **Case 2012-0060**

9 52. A young child ("Son") was 7 years old at the time of the events referenced in a  
10 Board complaint filed by Son's mother ("Mother").

11 53. Son has cerebral palsy, is wheelchair bound, and requires substantial  
12 assistance with activities of daily living.

13 54. In 05/10, Mother and Son's father ("Father") divorced.

14 55. Father was in a relationship with a woman, ("Girlfriend") and left Son in  
15 Girlfriend's care if he was required to work during Son's visitation time.

16 56. In 03/11:

17 a. Mother had legal and physical custody of Son.

18 b. Father had visitation with Son every other weekend.

19 57. On or about 03/29/11, Son alleged that, while in the care of Girlfriend a few days  
20 earlier:

21 a. Son got into verbal argument with Girlfriend.

22 b. Girlfriend purposefully burned Son on the inner thigh with a cigarette lighter and  
23 left him isolated in another room for a long period of time.

24 58. Son had a mark on his inner thigh where he alleged Girlfriend had burned him.

25 ...

- 1 59. Following this alleged incident, Mother obtained:
- 2 a. An injunction against harassment to prohibit Girlfriend from having contact with
- 3 Son.
- 4 b. A Temporary Order suspending Father's parenting time based on the alleged
- 5 abuse and other allegations.
- 6 60. During an investigation of the alleged incident by law enforcement:
- 7 a. Son and Mother made additional allegations regarding Girlfriend's prior behavior
- 8 toward Son, including the following:
- 9 • Girlfriend had previously "punched [Son in] the chest & threw him in his
- 10 room".
- 11 • Girlfriend had been verbally abusive to Son on several occasions and
- 12 had pointed a rifle and a pistol at him in the past.
- 13 • Girlfriend had shown Son nude pictures in a magazine called "Let's Get
- 14 Naked" and had touched his "pee bone" on one occasion.
- 15 b. Girlfriend denied all abuse allegations against her.
- 16 c. Son's primary care provider reported the following regarding Son's injury:
- 17 • It was consistent with a superficial burn.
- 18 • It could not have been caused by a device on Son's wheelchair.
- 19 61. On 05/26/11, Mother initiated Son's counseling with Respondent.
- 20 62. The only consent for treatment Respondent maintained authorized him to
- 21 provide treatment to Son.
- 22 63. A Biopsychosocial form completed by Mother indicated the following:
- 23 a. Son had experienced physical, emotional, sexual abuse and neglect by
- 24 Girlfriend.
- 25 ...

1 b. The abuse/neglect was reported to authorities on 03/29/11 and the case was  
2 going to the Grand Jury on 06/02/11.

3 c. Son's problems included:

- 4 • Mood swings, anxiety, and obsessive thoughts "at times since burning  
5 issue"
- 6 • Lying in the past "after divorce"
- 7 • Fears "of [Girlfriend]"
- 8 • Abuse/neglect by Father and Girlfriend
- 9 • Feeling inadequate/low self-worth
- 10 • "[S]aid to mom he has no dignity"

11 d. Son "needs to learn to deal with what [Girlfriend] did"

12 e. "Goals for Counseling" were as follows:

- 13 • Son "needs help dealing with what happened to him"
- 14 • "How to move forward"
- 15 • "What to expect"

16 64. Respondent's progress note for the 05/26/11 intake session indicated the  
17 following with regard to a joint session with Mother and Son:

- 18 a. Mother wanted Son to learn how to manage his reactivity to Girlfriend and the  
19 burn.
- 20 b. Son indicated he felt safe with Father.
- 21 c. Mother refuted Son's statement based on Father leaving Son with an abuser.
- 22 d. It was apparent that Mother and Father did not get along.
- 23 e. Son seemed to have a good relationship with Mother and spoke highly of  
24 Father.

25 ...

- 1 f. Son seemed ambivalent about Girlfriend in that he made, "intense accusations",  
2 yet spoke well of her and the things they did that were positive."  
3 g. Son wanted to work out his fears regarding Girlfriend.  
4 h. Mother was not as enthusiastic about working things out.  
5 i. Son seemed to be having adjustment problems due to not seeing Father.  
6 j. Mother stated that she intended to get remarried and move out of the area.  
7 k. "She is sure by then she will have custody of [Son] and they will be free form  
8 [sic] father".

9 65. Respondent's progress notes reflect the following occurred during his treatment  
10 of Son:

11 a. 06/02/11 and 06/09/11:

- 12 • Mother participated in at least a portion of both sessions with Son.
- 13 • Son indicated that, prior to the burn incident, he had fun playing games  
14 and going places with Father and Girlfriend.
- 15 • Mother became defensive when Respondent discussed Son's fondness  
16 and affection regarding Father and Girlfriend.
- 17 • "Mother indicated it was important to [Son] that [Respondent] believe him  
18 that he was burned."
- 19 • When Respondent briefly spoke with Son alone, Son talked about  
20 wanting a relationship with Girlfriend and about forgiveness.
- 21 • "Mother was quite convinced she did not wish [Son] to have a  
22 relationship with [Girlfriend] and likely not his father if he was going to  
23 continue dating [Girlfriend]."

24 ...

25 ...

- 1 • Mother “became furious and ended the meeting” when Respondent
- 2 stated that it appeared Son wished to continue a relationship with
- 3 Girlfriend “under safe circumstances with controls put into place.”
- 4 • Son “is ambivalent about how he feels about [Girlfriend]. It is almost as if
- 5 he feels he has to please mother to be upset about the burn.”
- 6 • Son does not seem reactive to talking about Girlfriend or about his burn
- 7 except when in front of Mother.
- 8 • Mother is highly reactive to the burn and to Girlfriend.
- 9 • It appears that “the transference from [Mother] to [Son] is strong.”
- 10 • Respondent’s documentation for these sessions:
- 11 ○ Did not address the therapeutic basis for Mother’s participation,
- 12 i.e. whether she was considered a client or a collateral participant
- 13 in Son’s therapy.
- 14 ○ Did not include any information indicating that Mother was given
- 15 any information with regard to her role during these sessions.
- 16 ○ Did not include any information indicating that Respondent
- 17 advised Mother of a plan to meet with Father and Girlfriend.

18 b. 06/16/11:

- 19 • Father and Girlfriend participated in a joint session without Son.
- 20 • Respondent’s documentation for this session:
- 21 ○ Did not address the therapeutic basis for this session.
- 22 ○ Did not address the nature of Father’s and Girlfriend’s
- 23 participation, i.e. whether they were considered clients or
- 24 collateral participants in Son’s therapy.
- 25

1                   o Did not include any information indicating that Father and  
2                   Girlfriend were given any information with regard to their roles  
3                   during their sessions with Respondent.

4                   • Respondent did not document any information indicating that he advised  
5                   Mother of this session.

6           c. 06/24/11:

7                   • Mother again participated in at least a portion of Respondent's session  
8                   with Son without any documentation clarifying the nature of the basis for  
9                   her participation.

10                  • Mother indicated she was not happy with Respondent's plan to meet with  
11                  Son and Father together with Respondent the following week.

12           d. 07/01/11:

13                  • Despite the fact that this session was scheduled as a joint session with  
14                  Father and Son, Respondent's documentation reflects the following:

15                          o Mother participated in some portion of the session.

16                          o Respondent discussed Son's progress with Mother and Father.

17                          o Mother challenged Respondent's statement that it appeared Son  
18                          wanted a relationship with Mother, Father, and Girlfriend.

19                          o Father and Mother argued to the point that Respondent had to  
20                          separate them.

21                          o Due to the "tension between the parents especially mother", Son  
22                          may never be able to overcome this issue and have a  
23                          relationship with Father and/or Girlfriend.

24                  • Respondent did not document any information clarifying the therapeutic  
25                  basis for his decision to meet with Mother and Father together.

1 e. 07/05/11:

- 2 • Mother again participated in at least a portion of Respondent's session  
3 with Son:
- 4 • Respondent's documentation reflects that:
- 5 ○ Mother said Son had regressed, with enuresis and encopresis.  
6 ○ Mother was angry and blamed Respondent for allowing Father to  
7 participate in a session with Son.  
8 ○ Mother indicated that she had been stewing for the past 4 days.

9 f. 07/11/11

- 10 • Respondent had an individual session with Father.  
11 • Respondent did not document any information clarifying the therapeutic  
12 basis for his decision to meet with Father individually.  
13 • Respondent did not document any information indicating that Mother  
14 was advised of Respondent's decision to meet with Father individually.

15 g. 07/20/11

- 16 • Mother and Grandmother participated in at least a portion of  
17 Respondent's session with Son.  
18 • Grandmother lodged new allegations against Father.  
19 • Respondent's documentation for this session:
- 20 ○ Did not address the nature of Mother's or Grandmother's  
21 participation, i.e. whether they were considered clients or  
22 collateral participants in Son's therapy.  
23 ○ Did not include any information indicating that Mother or  
24 Grandmother was given any information with regard to their roles  
25 during their session with Respondent.

1                   o Reflected that:

- 2                   ▪ Mother gains in intensity and aggravation with each
- 3                   session.
- 4                   ▪ Mother does not like being told that she is hindering
- 5                   progress, yet Son seems to be "spiraling due to the
- 6                   increase in the family rift."
- 7                   ▪ Respondent talked with Son and Mother about how Son's
- 8                   need to please the caregiver he is with is a destructive
- 9                   cycle "regardless of whether he was burned or not."
- 10                  ▪ "This aggravated mother. She began cursing and was
- 11                  vehement that [Son] was burned."

12                  h. 08/08/11:

- 13                  • Respondent had another individual session with Father.
- 14                  • Respondent did not document any information indicating he advised
- 15                  Mother of his decision to meet with Father individually.

16                  i. 09/16/11:

- 17                  • Respondent scheduled a session with Son and Girlfriend.
- 18                  • For several days prior to this session, Mother repeatedly communicated
- 19                  to Respondent that Son was upset and did not want to go forward with
- 20                  the scheduled session.
- 21                  • Respondent documented the following regarding this session:
  - 22                   o Son clearly indicated he wanted to leave and was fearful of
  - 23                   Girlfriend.
  - 24                   o When Girlfriend was brought into the session, Son screamed and
  - 25                   cried and had to be taken out of the room.

- 1                   ○ Father was in a parked car across from Respondent's office and
- 2                   came into Respondent's office after Girlfriend left.
- 3                   ○ There was a scene outside Respondent's office when Father
- 4                   appeared.
- 5                   ○ "This planned interaction between [Girlfriend] and [Son] was a
- 6                   failed interaction from the start."
- 7                   ○ "Admittedly, [Respondent] should have seen this, months ago..."
- 8                   ○ Mother's actions in the front of Respondent's office "were
- 9                   traumatic to the family in general and [Son] heard much of the
- 10                  drama."
- 11                  ○ "It is quite apparent that [Mother] had significant impact and
- 12                  influence on [Son] and his fear of [Girlfriend], on his wanting dad
- 13                  to never see [Girlfriend] again and on the outcome of this
- 14                  meeting."
- 15                  ○ "This has been a significant detriment to the [Son/Girlfriend]
- 16                  relationship as well as [Son's] relationship to his father".

17                  66.     Respondent "was confident [he] could create relationship and healing. It seems  
18 [Respondent's] efforts have been misinterpreted, cut off, thwarted every step of the way only to  
19 be used as evidence for a court hearing process as well as to unwittingly serve to be  
20 detrimental to [Son's] emotional and mental health."

21                  67.     By the end of the 05/26/11 intake session, it appears that Respondent should  
22 have been aware of a number of challenging treatment issues in addition to those specifically  
23 identified by Mother and Son. Namely:

- 24                  a.     It was not clear that Mother and Son shared the same goal with regard to Father  
25                  and Girlfriend's continued role in Son's life where:

- 1 • Despite his abuse allegations, Son appeared amenable to resuming a
- 2 relationship with Father and Girlfriend.
- 3 • Mother had an acrimonious relationship with both Father and Girlfriend.
- 4 • Mother had recent taken legal action to prohibit any contact with Son by
- 5 Father and Girlfriend based upon the abuse allegations.
- 6 • Mother noted her goal of getting married and moving, preventing Father
- 7 from having access to Son.
- 8 b. The order prohibiting Father's contact with Son was temporary.
- 9 c. No charges had been filed by 05/26/11 despite the fact that the abuse
- 10 allegations were reported to law enforcement in 03/11.
- 11 d. Father was actively seeking reunification with Son.

12 68. Given the complexity of the issues, it was imperative that Respondent work  
13 jointly with Mother to:

- 14 a. Clearly define mutually agreeable goals of Son's treatment.
- 15 b. Clearly explain the treatment methods/interventions Respondent intended to
- 16 employ for the purpose of meeting each treatment plan goal, particularly those
- 17 involving the participation of Father and/or Girlfriend.
- 18 c. Gain Mother's agreement to the use of those methods/interventions.
- 19 d. Clearly articulate the agreed upon treatment goals and methods/interventions
- 20 within a written treatment plan where Mother's understanding and agreement
- 21 was documented via her signature.

22 69. Respondent did not develop any written treatment planning documentation in  
23 this case and there is no indication that he verbally reviewed any unwritten treatment goals and  
24 objectives with Mother.

25 ...

1           70.    The extent of Respondent's plan was written in the "Plan" section of his  
2 05/26/11 progress note, which stated: "See [Son] weekly to determine relationship guidelines  
3 and how best to proceed with managing his reactivity to his burn."

4           71.    Respondent's failure to work with Mother on developing a treatment plan clearly  
5 specifying treatment goals and identifying the methods/interventions that Respondent intended  
6 to use to meet these goals precluded Respondent from proactively identifying the following:

7           a.    Whether there were any treatment goals that Respondent believed were in  
8 Son's best interest, but with which Mother did not agree, such as repairing Son's  
9 relationship with Girlfriend.

10          b.    Whether there were any individuals Mother did not want to participate in Son's  
11 counseling.

12          c.    Whether any differences between Mother's and Respondent's perspectives on  
13 what should occur in treatment were so significant that either:

14               •   Respondent's initial work with Son needed to be limited to the treatment  
15 goals Mother agreed to, utilizing methods/interventions with which she  
16 also agreed, while Respondent worked with Mother until she was willing  
17 to consider more controversial treatment goals, such as repairing  
18 Girlfriend's/Son's relationship, or

19               •   Mother's expectations of what should occur in treatment were disparate  
20 enough from Respondent's that referral to another treatment provider  
21 was warranted.

22           72.    The need for Respondent to ensure that his treatment was aligned with Mother's  
23 goals and objectives was particularly critical in this case where Son's desire to repair his  
24 relationship with Girlfriend was highly unlikely to occur without Mother's support given that:

25 ...

- 1 a. Mother's animosity towards Girlfriend was deeply rooted and was present well  
2 prior to Son's abuse allegations.
- 3 b. Early on, Respondent noted that Mother was prone to making inappropriate  
4 comments regarding Girlfriend and related adult issues in front of Son.
- 5 c. Son was only 7 years old and had a disability that made him almost completely  
6 dependent on Mother.
- 7 d. Son lived with Mother full-time and was clearly very emotionally attached to her.
- 8 e. Given Son's age and vulnerability, it appears doubtful that Son would have had  
9 the ability to resist Mother's influence, particularly if he felt doing so might  
10 negatively impact his relationship with her.

11 73. Respondent's failure to ensure clear communication and agreement between he  
12 and Mother regarding the goals and objectives of and interventions to be used during Son's  
13 treatment appears to have resulted in Respondent providing treatment that was largely  
14 unacceptable to Mother.

15 74. Under these circumstances, Respondent's failure to obtain Mother's agreement  
16 to a written treatment plan, as required, appears to have directly contributed to what appear to  
17 be significant missteps in Son's treatment.

18 75. Father, Mother, Grandmother, and Girlfriend participated in sessions with  
19 Respondent in this case.

20 76. Out of a total of 11 sessions:

- 21 a. 6 sessions were with Son, with Mother attending at least a portion of the  
22 session.
- 23 b. Grandmother accompanied Mother and Son to at least 4 of those sessions and  
24 participated in at least 1 of the sessions.
- 25 c. 1 session was with Girlfriend and Father together.

1 d. 2 sessions were with Father alone.

2 e. 1 session was initially with Father and Son and then was expanded to include  
3 Mother.

4 f. The final session began with Son and Girlfriend together, but ended with Son  
5 and Father together.

6 77. Respondent's complaint response indicated that he counseled both Mother and  
7 Father regarding their own behaviors.

8 78. During a Board interview, Respondent indicated that he attempted to work with  
9 each parent individually on their own issues.

10 79. These statements appear consistent with Respondent's progress notes.

11 80. Despite the fact that Respondent expanded his role to include regular meetings  
12 with Mother, Father, Girlfriend, and Grandmother, Respondent did not document any  
13 information:

14 a. Addressing the therapeutic basis for meeting with anyone other than Son.

15 b. Indicating any discussion with these individuals regarding the nature and  
16 purpose of their participation, i.e. whether they were participating as clients or  
17 collateral participants in Son's therapy.

18 81. Clarification of the nature of the roles of the adult participants in this matter was  
19 critical where:

20 a. Clients are entitled to a clearly defined set of rights, including the right to have  
21 any information they provide kept confidential unless they expressly waive that  
22 right.

23 b. Collateral participants do not have the same rights as clients, so information  
24 they provide as collateral to therapy provided to a client becomes part of the  
25 client's record and may be disclosed with the client's permission.

1 c. If, as it appears, Respondent was meeting with Father and Mother to provide  
2 therapy to address their individual needs, Respondent needed to formalize this  
3 relationship by having them sign individual consents for treatment.

4 d. Those consents would have clearly advised Mother and Father that they were  
5 participating as clients and were entitled to the panoply of rights accorded to  
6 clients.

7 e. If, as it appears, Respondent met with Grandmother and Girlfriend as collateral  
8 to Son's therapy, the nature of that relationship should have been clearly  
9 explained to prevent any misunderstanding by them or anyone else.

10 82. Given the highly acrimonious nature of the relationships in this matter,  
11 Respondent's decision to meet with multiple family members without clearly addressing the  
12 nature of their participation was inappropriate.

13 83. Respondent's progress notes indicate that Mother participated in at least a  
14 portion of Respondent's 05/26/11, 06/02/11, 06/09/11, 06/24/11, 07/01/11, 07/05/11, and  
15 07/20/11 sessions with Son.

16 84. Early on, Respondent noted the following:

- 17 a. Mother's participation was problematic and even disruptive.  
18 b. Mother was highly reactive regarding Son's burn and Girlfriend.  
19 c. The transference from Mother to Son was strong.  
20 d. Even though Respondent admonished Mother not to talk about incidents in front  
21 of Son, Mother continued to do so "adding to [Son's] trauma or at least  
22 maintaining his reactivity rather than working to make it go away."

23 85. During the 07/20/11 session, Respondent noted the following:

24 ...

25 ...

1 a. Respondent talked with Son and Mother about how Son's need to please the  
2 caregiver he is with is a destructive cycle "regardless of whether he was burned  
3 or not."

4 b. "This aggravated mother. She began cursing and was vehement that [Son] was  
5 burned."

6 86. Despite Mother's repeated failure to follow Respondent's direction not to talk  
7 about inappropriate subjects in front of Son, Respondent continued to permit Mother to  
8 participate in Son's sessions on an ongoing basis.

9 87. Respondent also permitted Grandmother to participate in Son's 07/20/11  
10 session without any apparent or documented therapeutic basis for her participation.

11 88. Respondent's records also reflect the following:

12 a. Mother demonstrated nearly uncontrollable anxiety by cursing and crying on the  
13 phone immediately prior to Respondent's 09/16/11 meeting between Son and  
14 Girlfriend.

15 b. Mother initially indicated that she would have a third party bring Son to this  
16 session.

17 c. When Mother and other family members brought Son to the session,  
18 Respondent allowed them to remain in his outer office during the session.

19 d. A previous Court Order indicated that Father could not attend or be around  
20 Respondent's office during the 09/16/11 session with Son and Girlfriend unless  
21 specifically authorized by Respondent.

22 e. Although there is no indication that Respondent authorized Father to attend the  
23 session:

- 24 • Father parked across the street at the beginning of the session.

25 ...

- 1 • Father's presence caused considerable chaos and resulted in
- 2 Grandmother calling the police.
- 3 • As Girlfriend was leaving, Respondent heard Mother curse and scream
- 4 at Girlfriend.

5 f. Because of the conflict between family members in his outer office:

- 6 • Respondent brought Son back into his office.
- 7 • Respondent attempted to distract Son so he would not be further
- 8 traumatized by the drama.

9 g. Despite this uninvited disruption, Respondent then allowed Father to meet with

10 Son even though:

- 11 • Son had been taken out of the session with Girlfriend after he screamed
- 12 and cried.
- 13 • Father told Son that it might be a long time before they saw each other
- 14 again and that Girlfriend would be there if Son were to see Father.
- 15 • Neither Father nor Son heeded Respondent's intervention to direct the
- 16 conversation back to visitation.

17 89. Respondent's assessment of the 09/16/11 session indicated the following:

- 18 a. "This planned interaction between [Girlfriend] and [Son] was a failed interaction
- 19 from the start."
- 20 b. "Admittedly, [Respondent] should have seen this, months ago, when [he] wrote
- 21 the initial letter indicating the child may be influenced by one party or the
- 22 other..."
- 23 c. Mother's actions in the front of Respondent's office "were traumatic to the family
- 24 in general and [Son] heard much of the drama."

1           90.     Respondent indicated during a Board interview that he feared for his and Son's  
2 safety due to the dynamics that occurred outside his office between Mother's and Father's  
3 factions.

4           91.     Under these circumstances, it appears that Respondent allowed the adults in  
5 this matter to become involved at a level that:

6           a.     Did not appear to be beneficial to Son.

7           b.     Was likely detrimental to Son.

8           92.     Respondent's failure to set appropriate boundaries with Mother, Father, and  
9 Grandmother as necessary to provide an appropriate therapeutic environment for Son was  
10 inappropriate.

11          93.     Respondent's informed consent for treatment form for Son lacked required  
12 elements set forth in A.A.C.R4-6-1101(2)(e), A.A.C.R4-6-1101(2)(f), and A.A.C.R4-6-  
13 1101(2)(g).

14          94.     Respondent did not prepare a written treatment plan for Son, as required.

15          95.     Respondent's progress notes lack the following required elements:

16           a.     The duration of time spent providing the behavioral health service.

17           b.     Whether the counseling was individual counseling, family counseling, or group  
18 counseling.

19           c.     Respondent's signature and the date signed.

20          96.     In his complaint response, Respondent indicated he had numerous phone  
21 discussions with Mother during the week prior to the 09/16/11 session.

22          97.     Respondent failed to document these communications, as required.

23          98.     During his investigative interview, Respondent indicated that he received calls  
24 from Father prior to the scheduled session on 09/16/11.

25          99.     Respondent failed to document these communications, as required.



1 e. Methods for a client to obtain information about the client's  
2 records;

3 f. The client's right to participate in treatment decisions and in the  
4 development and periodic review and revision of the client's  
5 treatment plan;

6 g. A client's right to refuse any recommended treatment or to  
7 withdraw informed consent to treatment and to be advised of the  
8 consequences of such refusal or withdrawal.

9 c. A.A.C. R4-6-1101(3), a licensee shall obtain a dated and signed informed  
10 consent for treatment from a client or a client's legal representative before  
11 providing treatment to a client.

12 d. A.A.C. R4-6-1102(1), a licensee shall work jointly with each client served or a  
13 client's legal representative to prepare an integrated, individualized, written  
14 treatment plan, based on the licensee's diagnosis and assessment of behavior  
15 and the treatment needs, abilities, resources, and circumstances of the client,  
16 that includes:

17 a. One or more treatment goals;

18 b. One or more treatment methods;

19 c. The date when the client's treatment plan shall be reviewed;

20 d. If a discharge date has been determined, the aftercare needed  
21 after discharge;

22 e. The signature and date signed by the client or the client's legal  
23 representative; and

24 f. The signature and date signed by the licensee  
25 ...

1 e. A.A.C. R4-6-1103(A)(5), a licensee shall ensure that a client record is  
2 maintained for each client and is current and accurate.

3 f. A.A.C. R4-6-1103(B)(8), a licensee shall ensure that a client record contains  
4 progress notes.

5 g. A.A.C. R4-6-1103(B)(9), a licensee shall ensure that a client record contains  
6 documentation of telephone, written, or face-to-face contact with the client or  
7 another individual that relates to the client's health, safety, welfare, or treatment.

8 h. A.A.C. R4-6-1103(H), a licensee shall ensure that a progress note includes the  
9 following:

- 10 1. The date a behavioral health service was provided.
- 11 2. The duration of time spent providing the behavioral health service.
- 12 3. If counseling services were provided, whether the counseling was  
13 individual counseling, family counseling or group counseling.
- 14 4. The signature and date signed by the licensee who provided the  
15 behavioral health services.

16 i. A.A.C. R4-6-1105, a licensee shall only release or disclose any information  
17 regarding a client with written authorization from the client or the client's legal  
18 representative.

19 5. The conduct and circumstances described in the Findings of Fact constitute a  
20 violation of A.R.S. § 32-3251(12)(ii), violating any federal or state law, rule or regulation  
21 applicable to the practice of behavioral health, as it relates to A.R.S. § 13-3620, any person  
22 who reasonably believes that a minor is or has been the victim of physical injury, abuse, child  
23 abuse, a reportable offense or neglect ...shall immediately report ... this information to a peace  
24 officer or to child protective services...

25 ...

1 **ORDER**

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

4 **Stayed Revocation**

5 1. As of the effective date of this Consent Agreement, Respondent's license,  
6 LMFT-10273, shall be **REVOKED**. However, the revocation shall be stayed and Respondent's  
7 license shall be placed on probation.

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

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

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

19 5. Pending the Board's review, Respondent's license shall be reported as revoked  
20 - under review. Respondent may not work in any capacity as a licensed behavioral health  
21 professional pending the Board's review. The Board's decision and Order shall not be subject  
22 to further review.

23 6. Respondent shall not practice under his license, LMFT-10273, unless he is fully  
24 compliant with all terms and conditions in this Consent Agreement. If, for any reason,  
25 Respondent is unable to comply with the terms and conditions of this Consent Agreement, he

1 shall immediately notify the Board in writing and shall not practice under his license until he  
2 submits a written request to the Board to re-commence compliance with this Consent  
3 Agreement. All such requests shall be pre-approved by the Marriage and Family Therapy  
4 Credentialing Committee Chair or designee.

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

#### 8 Continuing Education

9 8. In addition to the continuing education requirements of A.R.S. § 32-3273, within  
10 12 months of the effective date of this Consent Agreement, Respondent shall take and pass a  
11 three semester credit hour graduate level family therapy ethics course from an accredited  
12 college or university, pre-approved by the Marriage and Family Therapy Credentialing  
13 Committee Chair or designee. Upon completion, Respondent shall submit to the Board an  
14 official transcript establishing completion of the required course.

#### 15 Clinical Supervision

16 9. While on probation, Respondent shall submit to clinical supervision for 24  
17 months by a masters or higher level behavioral health professional licensed at the independent  
18 level. Within 30 days of the date of this Consent Agreement, Respondent shall submit the  
19 name of a clinical supervisor for pre-approval by the Marriage and Family Therapy  
20 Credentialing Committee Chair or designee. Also within 30 days of the date of this Consent  
21 Agreement, the clinical supervisor shall submit a letter disclosing his/her prior relationship to  
22 Respondent. In that letter, the supervisor must address why he/she should be approved,  
23 acknowledge that he/she has reviewed the Consent Agreement and include the results of an  
24 initial assessment and a supervision plan regarding the proposed supervision of Respondent.  
25 The letter from the supervisor shall be submitted to the Board.

1 **Focus and Frequency of Clinical Supervision**

2 10. The focus of the supervision shall relate to current behavioral health  
3 documentation standards in Arizona; boundary issues; and mandatory reporting. During each  
4 supervision session, the supervisor shall review a minimum of 3 client records chosen at  
5 random by the supervisor to ensure Respondent's compliance with current behavioral health  
6 documentation standards. Respondent shall meet individually in person with the supervisor for  
7 a minimum of one hour at least weekly if working fulltime or twice monthly if working less than  
8 20 hours per week.

9 **Reports**

10 11. Once approved, the supervisor shall submit quarterly reports for review and  
11 approval by the Marriage and Family Therapy Credentialing Committee Chair or designee. The  
12 quarterly reports shall include issues presented in this consent agreement that need to be  
13 reported and the supervisor shall notify the Board if more frequent supervision is needed.  
14 Quarterly reports shall include the following:

- 15 a. Dates of each clinical supervision session
- 16 b. A comprehensive description of issues discussed during supervision sessions
- 17 c. The results of each clinical documentation review by the supervisor.

18 12. All quarterly supervision reports shall include a copy of clinical supervision  
19 documentation maintained for that quarter. All clinical supervision documentation maintained  
20 by the supervisor shall comply with requirements set forth in A.A.C. R4-6-212(F)(4).

21 13. After 24 months, the supervisor shall submit a final summary report for review  
22 and approval by the Marriage and Family Therapy Credentialing Committee Chair or designee.  
23 The final report shall also contain a recommendation as to whether the Respondent should be  
24 released from this Consent Agreement.

25 ...



1 receives the written request within 10 days or less of the next regularly scheduled Board  
2 meeting, the request will not be heard at that meeting, but will be heard at the next regularly  
3 scheduled Board meeting. The Board's decision on this matter shall not be subject to further  
4 review.

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

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

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

1 required, Respondent's failure to provide the required statement to the Board shall be deemed  
2 a violation of A.R.S. § 32-3251(12)(n) and the Board will provide Respondent's employer(s)  
3 with a copy of the Consent Agreement.

4         22. If, during the period of Respondent's probation, Respondent changes  
5 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on  
6 extended leave of absence for whatever reason that may impact his ability to timely comply  
7 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts,  
8 inform the Board of his change of employment status. After the change and within 10 days of  
9 accepting employment in a position where Respondent provides any type of behavioral health  
10 related services or in a setting where any type of behavioral health, health care, or social  
11 services are provided, Respondent shall provide the Marriage and Family Therapy  
12 Credentialing Committee Chair or designee a written statement providing the contact  
13 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(12)(n) and the Board will provide Respondent's  
18 employer(s) with a copy of the Consent Agreement.

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

22         24. 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  
3 Consent Agreement have been met and whether Respondent has adequately demonstrated  
4 that he has addressed the issues contained in this Consent Agreement. In the event that the  
5 Board determines that any or all terms and conditions of this Consent Agreement have not  
6 been met, the Board may conduct such further proceedings as it determines are appropriate to  
7 address those matters.

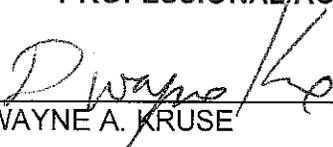
8 25. Respondent shall bear all costs relating to probation terms required in this  
9 Consent Agreement.

10 26. 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 27. This Consent Agreement shall be effective on the date of entry below.

13 28. 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

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

18   
19 DWAYNE A. KRUSE

8-21-2013  
Date

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

22 Dated this 13th day of September, 2013.

23 By:   
24 DEBRA RINAUDO, Executive Director  
25 Arizona Board of Behavioral Health Examiners

1 ORIGINAL of the foregoing filed  
This 15th day of September, 2013 with:

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

5 COPY of the foregoing mailed via Interagency Mail  
This 15th day of September, 2013, to:

6 Marc H. Harris  
7 Assistant Attorney General  
1275 West Washington  
8 Phoenix, Arizona 85007

9 COPY of the foregoing mailed via  
Certified mail no. 70122920000187310445  
10 This 15th day of September, 2013, to:

11 Dwayne A. Kruse  
12 Address of Record  
Respondent

13 

14 Tobi Zavala, Assistant Director  
15 602-542-1617  
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