

1 BEFORE THE ARIZONA STATE BOARD OF BEHAVIORAL HEALTH EXAMINERS

2 In the Matter of:

3 Nicoline B. Mayger, LPC-12212,
4 Licensed Professional Counselor,
In the State of Arizona.

CASE NO. 2012-0132

RELEASE FROM
CONSENT AGREEMENT AND ORDER

5 RESPONDENT

6
7 The Board received a request from Respondent to release him from the terms and
8 conditions of the Consent Agreement and Order dated June 9, 2015. After consideration, the
9 Board voted to release Respondent from the terms and conditions of the Consent Agreement
10 and Order dated June 9, 2015.

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 June 9, 2015.

15 Dated this 9th day of November, 2015.

16
17 By: M. Zavalta
18 TOBI ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

19 ORIGINAL of the foregoing filed
20 This 9th day of November, 2015, with:

21 Arizona Board of Behavioral Health Examiners
22 3443 N. Central Ave., Suite 1700
Phoenix, AZ 85012

23 COPY of the foregoing mailed via
24 Certified mail no. 70142870000182573958
This 9th day of November, 2015, to:

25 Nicoline B. Mayger
Address of Record
Respondent

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

In the Matter of:

**Nicoline B. Mayger, LPC-12212,
Licensed Professional Counselor,
In the State of Arizona.**

RESPONDENT

CASE NO. 2012-0132

CONSENT AGREEMENT

In the interest of a prompt and speedy settlement of the above captioned matter, consistent with the public interest, statutory requirements and responsibilities of the Arizona State Board of Behavioral Health Examiners ("Board"), and pursuant to A.R.S. §§ 32-3281(H) and 41-1092.07(F)(5), Nicoline B. Mayger ("Respondent") and the Board enter into this Consent Agreement, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final disposition of this matter.

RECITALS

Respondent understands and agrees that:

1. Any record prepared in this matter, all investigative materials prepared or received by the Board concerning the allegations, and all related materials and exhibits may be retained in the Board's file pertaining to this matter.
2. Respondent has the right to a formal administrative hearing at which Respondent can present evidence and cross examine the State's witnesses. Respondent hereby irrevocably waives her right to such formal hearing concerning these allegations and irrevocably waives her right to any rehearing or judicial review relating to the allegations contained in this Consent Agreement.
3. Respondent has the right to consult with an attorney prior to entering into this Consent Agreement.

1 FINDINGS OF FACT

2 1. Respondent is the holder of License No. LPC-12212 for the practice of
3 counseling in Arizona.

4 2. From 11/11 – 5/12, Respondent provided family and individual therapy to a family
5 including: minor client ("Child"), Child's mother ("Mother"), Child's father ("Father"), and Child's
6 half-sister ("Sister").

7 3. Child disclosed "sexual play" between her and Sister while at Father's home.

8 4. Respondent filed a report with the Department of Child Safety.

9 5. Mother requested that Respondent write a letter regarding Child's disclosures.

10 6. Respondent provided Mother with a letter, but did not provide a copy to Father.

11 7. At Mother's request, Respondent voluntarily appeared at Mother and Father's
12 custody hearing and answered questions regarding Child's disclosures.

13 8. There is no evidence to suggest that Respondent was requested by the court to
14 provide any type of evaluation.

15 CONCLUSIONS OF LAW

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

19 2. The conduct and circumstances described in the Findings of Fact constitute a
20 violation of A.R.S. § 32-3251(12)(k), any conduct or practice that is contrary to recognized
21 standards of ethics in the behavioral health profession, as it relates to the following section of
22 2005 ACA Code of Ethics:

23 **A.5.e Role Changes in the Professional Relationship:** When a counselor
24 changes a role from the original or most recent contracted relationship, he or she
25 obtains informed consent from the client and explains the right of the client to

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 her
3 acceptance of this Consent Agreement or make any modifications to it. Any modification of this
4 original document is ineffective and void unless mutually approved by the parties in writing.

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

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

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

18 8. Respondent further understands that any violation of this Consent Agreement
19 constitutes unprofessional conduct pursuant to A.R.S. § 32-3251(15)(n) and may result in
20 disciplinary action pursuant to A.R.S. § 32-3281.

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

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

25 ...

1 refuse services related to the change. Clients must be fully informed of any
2 anticipated consequences (e.g., financial, legal, personal, or therapeutic) of
3 counselor role changes.

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

7 ORDER

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

10 1. Respondent's license, LPC-12212, will be placed on probation, effective from the
11 date of entry as signed below.

12 2. Respondent shall not practice under her license, LPC-12212, unless she is fully
13 compliant with all terms and conditions in this Consent Agreement. If, for any reason,
14 Respondent is unable to comply with the terms and conditions of this Consent Agreement, she
15 shall immediately notify the Board in writing and shall not practice under her license until she
16 submits a written request to the Board to re-commence compliance with this Consent
17 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

22 Continuing Education

23 4. In addition to the continuing education requirements of A.R.S. § 32-3273, within
24 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock
25 hours of the NASW Staying Out of Trouble continuing education course or an equivalent course

1 addressing current behavioral health documentation standards in Arizona. All required
2 continuing education shall be pre-approved by the Board Chair or designee. Upon completion,
3 Respondent shall submit a certificate of completion of the required continuing education.

4 5. In addition to the continuing education requirements of A.R.S. § 32-3273, within
5 12 months of the effective date of this Consent Agreement, Respondent shall take and pass a
6 three semester credit hour graduate level behavioral health ethics course from an accredited
7 college or university, pre-approved by the Board Chair or designee. Upon completion,
8 Respondent shall submit to the Board an official transcript establishing completion of the
9 required course.

10 Early Release

11 6. After completion of the continuing education requirements set forth in this
12 Consent Agreement, Respondent may request early release from the Consent Agreement if all
13 other terms of the Consent Agreement have been met.

14 GENERAL PROVISIONS

15 Civil Penalty

16 7. Subject to the provisions set forth in paragraph 8, the Board imposes a civil
17 penalty against the Respondent in the amount of \$1,000.00.

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

25 9. Within 10 days of being notified of the lifting of the stay, Respondent may request

1 that the matter be reviewed by the Board for the limited purpose of determining whether the
2 automatic lifting of the stay was supported by substantial evidence. If the Board receives the
3 written request within 10 days or less of the next regularly scheduled Board meeting, the
4 request will not be heard at that meeting, but will be heard at the next regularly scheduled Board
5 meeting. The Board's decision on this matter shall not be subject to further review.

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

11 11. If Respondent currently sees clients in their own private practice, and obtains any
12 other type of behavioral health position, either as an employee or independent contractor, where
13 she provides behavioral health services to clients of another individual or agency, she shall
14 comply with requirements set forth in Paragraphs 12 through 14 below.

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

23 13. If Respondent is not employed as of the effective date of this Order, within 10
24 days of accepting employment in a position where Respondent provides any type of behavioral
25 health related services or in a setting where any type of behavioral health, health care, or social

1 services are provided, Respondent shall provide the Board Chair or designee with a written
2 statement providing the contact information of her new employer and a signed statement from
3 Respondent's new employer confirming Respondent provided the employer with a copy of this
4 Consent Agreement. If Respondent does not provide the employer's statement to the Board
5 within 10 days, as required, Respondent's failure to provide the required statement to the Board
6 shall be deemed a violation of A.R.S. § 32-3251(15)(n) and the Board will provide Respondent's
7 employer(s) with a copy of the Consent Agreement.

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

22 15. Respondent shall practice behavioral health using the name under which she is
23 licensed. If Respondent changes her name, she shall advise the Board of the name change as
24 prescribed under the Board's regulations and rules.

25 16. Prior to the release of Respondent from probation, Respondent must submit a

1 written request to the Board for release from the terms of this Consent Agreement at least 30
2 days prior to the date she would like to have this matter appear before the Board. Respondent
3 may appear before the Board, either in person or telephonically. Respondent must provide
4 evidence that she has successfully satisfied all terms and conditions in this Consent Agreement.
5 The Board has the sole discretion to determine whether all terms and conditions of this Consent
6 Agreement have been met and whether Respondent has adequately demonstrated that she has
7 addressed the issues contained in this Consent Agreement. In the event that the Board
8 determines that any or all terms and conditions of this Consent Agreement have not been met,
9 the Board may conduct such further proceedings as it determines are appropriate to address
10 those matters.

11 17. Respondent shall bear all costs relating to probation terms required in this
12 Consent Agreement.

13 18. Respondent shall be responsible for ensuring that all documentation required in
14 this Consent Agreement is provided to the Board in a timely manner.

15 19. This Consent Agreement shall be effective on the date of entry below.

16 20. This Consent Agreement is conclusive evidence of the matters described herein
17 and may be considered by the Board in determining appropriate sanctions in the event a
18 subsequent violation occurs.

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

20
21 
22 Nicoline B. Mayger

20 6/4/2015
21 Date

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

24 Dated this 9th day of June, 2015.
25 ...

M. Zavalala

By:

TOBI ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

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3 ORIGINAL of the foregoing filed
4 This 9th day of June, 2015 with:

5 Arizona Board of Behavioral Health Examiners
6 3443 N. Central Ave., Suite 1700
7 Phoenix, AZ 85012

8 COPY of the foregoing mailed via Interagency Mail
9 This 9th day of June, 2015, to:

10 Marc Harris
11 Assistant Attorney General
12 1275 West Washington
13 Phoenix, Arizona 85007

14 COPY of the foregoing mailed via
15 Certified mail no. 7014 2870 0001 89570476
16 This 9th day of June, 2015, to:

17 Nicoline B. Mayger
18 Address of Record
19 Respondent

20 COPY of the foregoing mailed via Mail
21 This 9th day of June, 2015 to:

22 Joy Elkins
23 200 West Magee Road, Suite #160
24 Tucson, AZ 85704
25 Attorney for Respondent