

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

2 **In the Matter of:**

3 **Gary D. Miller, LMSW-12279,**  
4 **Licensed Master Social Worker,**  
5 **In the State of Arizona.**

6 **RESPONDENT**

**CASE NO. 2022-0158**


**RELEASE FROM  
NON-DISCIPLINARY CONSENT  
AGREEMENT AND ORDER**

7 The Board received a request from Respondent to release them from the terms and  
8 conditions of the Non-Disciplinary Consent Agreement and Order dated September 9<sup>th</sup>, 2022.  
9 After consideration, the Board voted to release Respondent from the terms and conditions of the  
10 Non-Disciplinary Consent Agreement and Order dated September 9<sup>th</sup>, 2022.

11 **ORDER**

12 **GOOD CAUSE APPEARING, IT IS THEREFORE ORDERED THAT:**

13 Respondent is hereby released from all terms and conditions of the Non-Disciplinary  
14 Consent Agreement and Order dated September 9<sup>th</sup>, 2022.

15 By:  May 8, 2023  
16 **TOBI ZAVALA, Executive Director** **Date**  
17 **Arizona Board of Behavioral Health Examiners**

18 **ORIGINAL** of the foregoing filed May 8, 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 May 8, 2023  
24 to:

25 Gary D. Miller  
Address of Record  
Respondent

Flynn P. Carey  
Mitchell Stein Carey Chapman PC

1 2600 N. Central Ave., Ste. 1000  
2 Phoenix, AZ 85004  
3 Attorney for Respondent

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2   **OF BEHAVIORAL HEALTH EXAMINERS**

3 **In the Matter of:**

4 **Gary D. Miller, LMSW-12279,**  
5 **Licensed Master Social Worker,**  
6 **In the State of Arizona.**

7   **Respondent**

**CASE NO. 2022-0158**  
   **NON-DISCIPLINARY 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(D)(3)  
11 and 41-1092.07(F)(5), Gary D. Miller ("Respondent") and the Board enter into this Non-  
12 Disciplinary Consent Agreement, Findings of Fact, Conclusions of Law and Order ("Consent  
13 Agreement") as a final 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

25 ...

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 shall constitute a public record that may be disseminated as a formal action of the  
5 Board.

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 the 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. LMSW-12279 for the practice of  
15 counseling in the State of Arizona.

16 2. From 06/20 – 05/21, Respondent provided telehealth therapy services to a client  
17 (“Client”) at a behavioral health agency.

18 3. Client’s consent for treatment forms were missing a majority of the Board’s  
19 required elements, and progress notes were missing all telehealth requirements.

20 4. There were communication records between Respondent and Client that were  
21 not documented in the clinical records.

22 5. Prior to the last session, Client’s progress notes do not indicate Client was ready  
23 or planning to terminate services.

24 6. Respondent did not document any attempts to reach out to Client to determine  
25 whether or not she would like to continue services.



1 **Early Release**

2 3. After completion of the required continuing education, Respondent may request  
3 early release from this Consent Agreement.

4 **General Provisions**

5 4. Respondent must submit a written request to the Board for release from the  
6 terms of this Consent Agreement at least 30 days prior to the date they would like to have this  
7 matter presented before the Board. Respondent may appear before the Board, either in person  
8 or telephonically. Respondent must provide evidence that they have successfully satisfied all  
9 terms and conditions in this Consent Agreement. The Board has the sole discretion to  
10 determine whether all terms and conditions of this Consent Agreement have been met and  
11 whether Respondent has adequately demonstrated that they have addressed the issues  
12 contained in this Consent Agreement. In the event that the Board determines that any or all  
13 terms and conditions of this Consent Agreement have not been met, the Board may open up a  
14 complaint which will be subject to the provisions of A.R.S. § 32-3281.

15 5. Respondent shall bear all costs relating to completion of all terms required in this  
16 Consent Agreement.

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

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

20 8. This Consent Agreement is conclusive evidence of the matters described herein  
21 and may be considered by the Board in determining appropriate sanctions in future cases.


22  
23 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

24 Gary Miller  
Gary Miller (Sep 2, 2022 10:59 PDT)  
25 Gary D. Miller

Sep 2, 2022  
Date

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

By: 

Sep 9, 2022

TOBI ZAVALA, Executive Director  
Arizona Board of Behavioral Health Examiners

Date

**ORIGINAL** of the foregoing filed Sep 9, 2022  
with:

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

**EXECUTED COPY** of the foregoing sent electronically Sep 9, 2022  
to:

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

Gary D. Miller  
Address of Record  
Respondent

Flynn P. Carey  
Mitchell Stein Carey Chapman PC  
2600 N. Central Ave., Ste. 1000  
Phoenix, AZ 85004  
Attorney for Respondent