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

In the Matter of:
Don R. Burchfield, LPC-1969,
Licensed Professional Counselor,
In the State of Arizona,

RESPONDENT.

Case No. 2011-0085
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(F) and 41-1092.07(F)(5), Don R. Burchfield ("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 his right to such formal hearing concerning these allegations and irrevocably waives his 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 4. Respondent acknowledges and agrees that upon signing this Consent Agreement
2 and returning it to the Board's Executive Director, Respondent may not revoke his acceptance of
3 this Consent Agreement or make any modifications to it. Any modification of this original
4 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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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(16)(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 he has failed to comply with the
23 terms of this Consent Agreement or of the practice act.

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

2 **FINDINGS OF FACT**

3 1. Respondent is the holder of License No. LPC-1969 for the practice of counseling
4 in Arizona.

5 2. On 11/10/10, Respondent conducted a family counseling session with minor
6 children ("Children"), their mother ("Mother"), father ("Father"), and Mother's husband
7 ("Stepfather").

8 3. That session was the only occasion Respondent met with Mother, Stepfather and
9 children together.

10 4. At the request of Father, Respondent provided letters to the court that indicated:

11 a. Children appear stressed, fearful, and afraid to speak up.

12 b. Respondent had concerns for Children's safety.

13 c. Father was cooperative and continued with sessions even after Mother
14 discontinued counseling.

15 d. Stepfather was rude and disrespectful.

16 5. In light of the fact that there is no evidence documenting that that court requested
17 the information, Respondent's conduct appeared to be biased and outside the scope of his duties.

18 **CONCLUSIONS OF LAW**

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

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

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ORDER

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

Probation

1. Respondent's license, LPC-1969, will be placed on probation, effective from the date of entry as signed below.

2. Respondent shall not practice under his license, LPC-1969, unless he is fully compliant with all terms and conditions in this Consent Agreement. If, for any reason, Respondent is unable to comply with the terms and conditions of this Consent Agreement, he shall immediately notify the Board in writing and shall not practice under his license until he submits a written request to the Board to re-commence compliance with this Consent Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

Clinical Supervision

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

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Focus and Frequency of Clinical Supervision

5. The focus of the supervision shall relate to ethical practice, documentation and boundaries. Respondent shall meet individually in person with the supervisor twice monthly for the first three months and then, upon the supervisors recommendation, monthly thereafter.

Reports

6. Once approved, the supervisor shall submit quarterly reports for review and approval by the Board Chair or designee. The quarterly reports shall include issues presented in this Consent Agreement that need to be reported and the supervisor shall notify the Board if more frequent supervision is needed. Quarterly reports shall include the following:

- a. Dates of each clinical supervision session.
- b. A comprehensive description of issues discussed during supervision sessions.

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

8. After Respondent's probationary period, the supervisor shall submit a final summary report for review and approval by the Board Chair or designee. The final report shall also contain a recommendation as to whether the Respondent should be released from this Consent Agreement.

Change of Clinical Supervisor During Probation

9. If, during the period of Respondent's probation, the clinical supervisor determines that they cannot continue as the clinical supervisor, they shall notify the Board within 10 days of the end of supervision and provide the Board with an interim final report. Respondent shall

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1 advise the Board Chair or designee within 30 days of cessation of clinical supervision by the
2 approved clinical supervisor and provide the name of a new proposed clinical supervisor. The
3 proposed clinical supervisor shall provide the same documentation to the Board as was required
4 of the initial clinical supervisor.

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6 **Continuing Education**

7 10. In addition to the continuing education requirements of A.R.S. § 32-3273, within
8 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock
9 hours of the NASW Staying Out of Trouble continuing education course or an equivalent course.
10 All required continuing education shall be pre-approved by the Board Chair or designee. Upon
11 completion, Respondent shall submit a certificate of completion of the required continuing
12 education. In satisfaction of this requirement, Respondent may submit continuing education
13 hours obtained after receiving notice of this complaint and which were not used to renew his
14 LPC license. Acceptance of these hours is subject to the aforementioned process.

15 11. In addition to the continuing education requirements of A.R.S. § 32-3273, within
16 12 months of the effective date of this Consent Agreement, Respondent shall take and pass a
17 three semester credit hour graduate level behavioral health ethics course from an accredited
18 college or university, pre-approved by the Board Chair or designee. Upon completion,
19 Respondent shall submit to the Board an official transcript establishing completion of the
20 required course.

21 **Early Release**

22 12. After 12 months and upon the recommendation of the clinical supervisor,
23 Respondent may request early release from the Consent Agreement if all other terms of the
24 Consent Agreement have been met.

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1 **GENERAL PROVISIONS**

2 **Provision of Clinical Supervision**

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

5 **Civil Penalty**

6 14. Subject to the provisions set forth in paragraph 15, the Board imposes a civil
7 penalty against the Respondent in the amount of \$1,000.00.

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

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

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

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1 18. If Respondent currently sees clients in their own private practice, and obtains any
2 other type of behavioral health position, either as an employee or independent contractor, where
3 he provides behavioral health services to clients of another individual or agency, he shall comply
4 with requirements set forth in Paragraphs 18 through 20 below.

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

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

23 21. If, during the period of Respondent's probation, Respondent changes
24 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
25 extended leave of absence for whatever reason that may impact his ability to timely comply with
26 the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform the

1 Board of his change of employment status. After the change and within 10 days of accepting
2 employment in a position where Respondent provides any type of behavioral health related
3 services or in a setting where any type of behavioral health, health care, or social services are
4 provided, Respondent shall provide the Board Chair or designee a written statement providing
5 the contact information of his new employer(s) and a signed statement from Respondent's new
6 employer(s) confirming Respondent provided the employer(s) with a copy of this Consent
7 Agreement. If Respondent does not provide the employer's statement to the Board within 10
8 days, as required, Respondent's failure to provide the required statement to the Board shall be
9 deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
10 employer(s) with a copy of the Consent Agreement.

11 22. Respondent shall practice behavioral health using the name under which he is
12 licensed. If Respondent changes his name, he shall advise the Board of the name change as
13 prescribed under the Board's regulations and rules.

14 23. Prior to the release of Respondent from probation, Respondent must submit a
15 written request to the Board for release from the terms of this Consent Agreement at least 30
16 days prior to the date he would like to have this matter appear before the Board. Respondent
17 may appear before the Board, either in person or telephonically. Respondent must provide
18 evidence that he has successfully satisfied all terms and conditions in this Consent Agreement.
19 The Board has the sole discretion to determine whether all terms and conditions of this Consent
20 Agreement have been met and whether Respondent has adequately demonstrated that he has
21 addressed the issues contained in this Consent Agreement. In the event that the Board
22 determines that any or all terms and conditions of this Consent Agreement have not been met,
23 the Board may conduct such further proceedings as it determines are appropriate to address those
24 matters.

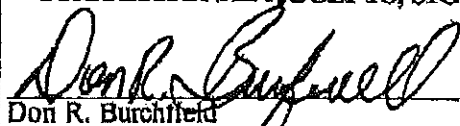
25 24. Respondent shall bear all costs relating to probation terms required in this
26 Consent Agreement.

1 25. Respondent shall be responsible for ensuring that all documentation required in
2 this Consent Agreement is provided to the Board in a timely manner.

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

4 27. This Consent Agreement is conclusive evidence of the matters described herein
5 and may be considered by the Board in determining appropriate sanctions in the event a
6 subsequent violation occurs.


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

8 
9 Don R. Burchfield

Date 1/24/17

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

11 Dated this 7th day of February, 2017.

12 By: 
13 TOBI ZAVALA, Executive Director
14 Arizona Board of Behavioral Health Examiners

15 ORIGINAL of the foregoing filed
16 this 7th day of February, 2017 with:

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

20 COPY of the foregoing mailed via
21 Certified mail, no. 1014720032016339417,
22 this 7th day of February, 2017 to:

23 Don R. Burchfield
24 Address of Record
25 Respondent

26 COPY of the foregoing mailed via Mail
this 7th day of February, 2017 to:

27 Teresa M. Sanzio
28 Law Office of Teresa M. Sanzio, P.C.
29 428 East Thunderbird Road, Suite #238
30 Phoenix, AZ 85022
31 Attorney for Respondent

1 COPY of the foregoing mailed via Interagency Mail
this 7th day of February, 2017 to:

2 Marc Harris
3 Assistant Attorney General
4 1275 West Washington
Phoenix, Arizona 85007

5 By: _____
MHH:yfl - #5568844

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