



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

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

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11 not approve this Consent Agreement, this Consent Agreement is withdrawn and shall  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

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

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

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

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-10562 for the practice of  
4 professional counseling in Arizona. License No. LPC-10562 is presently suspended.<sup>1</sup>

5 2. During the relevant time period, Respondent was the clinical director at an  
6 agency (Agency).

7 3. Respondent provided clinical supervision to a supervisee (Supervisee) at  
8 Agency where Supervisee is a program director.

9 4. Respondent agreed to provide Supervisee with clinical supervision to  
10 qualify Supervisee for licensure as a Licensed Professional Counselor (LPC).

11 5. In February 2011, the mother of an Agency client filed a complaint (2011  
12 Complaint) against Respondent and Supervisee.

13 6. The Board dismissed the 2011 Complaint with respect to Respondent.

14 7. In his response to the 2011 Complaint, Respondent included Supervisee's  
15 November 2010 and December 2010 monthly clinical supervision forms (Nov-Dec/2010  
16 supervision forms).

17 8. On those forms, Respondent dated his signature as November 30, 2010  
18 and December 28, 2010 respectively.

19 9. Those forms contained a number of supervision dates that were  
20 erroneously written as 2011 dates instead of 2010 dates.

21 10. Respondent indicated the following regarding these erroneous dates:

- 22 a. He does not know why the dates Supervisee wrote for her  
23 November 2010 and December 2010 supervision sessions  
24 were erroneously written as having occurred on November  
25 12, 2011, November 15, 2011 November 18, 2011  
December 8, 2011 and December 14, 2011.

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<sup>1</sup> When Respondent chose not to renew his license, pursuant to A.R.S. § 32-3202, his license was deemed suspended rather than expired. His license remains suspended pending the outcome of this matter.

- 1           b.    He signed the Nov-Dec/2010 supervision forms on  
2           November 30, 2010 and December 28, 2010, respectively.
- 3           c.    When he reviewed those documents prior to signing them,  
4           he did not check the supervision dates included on those  
5           forms.
- 6           d.    The Nov-Dec/2010 supervision forms were not created for  
7           the purpose of responding to the 2011 Complaint.

8           11.   Although Supervisee was the one who documented the clinical  
9           supervision sessions she participated in to obtain her LPC, as her clinical supervisor,  
10          Respondent remains responsible for ensuring the accuracy and veracity of any clinical  
11          supervision documentation submitted to the Board for the purpose of verifying  
12          Supervisee's clinical supervision hours.

13          12.   In June 2012, in response to a request by the Counseling Credentialing  
14          Committee for Supervisee's clinical supervision documentation, the Human Resources  
15          Department at Agency (HR) provided Supervisee's 6/9/08-02/23/12 clinical supervision  
16          records.

17          13.   Although the 4/09 monthly clinical supervision form was labeled "Apr  
18          2009" and included a 05/01/09 signature date by both Respondent and Supervisee, it  
19          identified clinical supervision dates of "08/16/09" and "08/24/09".

20          14.   Respondent denies that he backdated his signature on the 04/09 monthly  
21          clinical supervision form.

22          15.   In Respondent's September 2012 complaint response, he indicated the  
23          following:

- 24           a.    It was his practice to review the content of Supervisee's  
25           notes "to ensure that they accurately reflected what had  
            been discussed at the weekly supervisions."
- b.    He did not check dates to make sure they were accurate and  
            "was not aware that there was a need to do so."
- c.    Since the forms were not used to track patient progress,  
            treatment, or billing, he "reviewed the forms with an eye  
            toward substance and not form."

1 d. Respondent signed the forms using the correct dates.

2 16. Based on the above, there is a preponderance of evidence that, by failing  
3 to ensure that the weekly supervision forms contained accurate dates, Respondent  
4 failed to maintain accurate records regarding client care.

5 17. LPC applicants must receive a minimum of 10 hours of clinical supervision  
6 obtained either during direct observation or a review of audiotapes or videotapes by the  
7 clinical supervisor of the applicant while the applicant is providing treatment and  
8 evaluation services to a client.

9 18. On February 16, 2012, Respondent signed a Clinical Supervision  
10 Verification Form in support of Supervisee's LPC application.

11 19. On that form, Respondent:

12 a. Attested that, between June 1, 2008 and February 16, 2012,  
he provided Supervisee with 12 direct observation hours.

13 b. Signed an affidavit stating, in part:

14 i. "I certify under penalty of perjury that all information  
15 contained in this verification, including all supporting  
16 documents, is true and correct to the best of my  
17 knowledge and belief with full knowledge that any  
false statements or misrepresentations made in this  
verification may be grounds for disciplinary action  
against any license I hold."

18 20. Respondent's February 16, 2012 attestation that he had already  
19 completed 12 direct observation hours for Supervisee is inconsistent with the following:

20 a. In June 2012, HR provided supervision records for  
Respondent to the Board.

21 b. Those records reflect that, at that time, Supervisee had only  
22 completed 4 direct observation hours, all of which were  
provided on March 12, 2011.

23 c. A February 23, 2012 electronic clinical supervision form  
24 (02/23/12 clinical supervision form) indicated that Supervisee  
intended to complete 10 direct observation hours with  
25 Respondent "next week".

1           21. During Respondent's July 13, 2012 investigative interview, the Board  
2 identified discrepancies in Supervisee's clinical supervision documentation and asked  
3 Respondent to explain the discrepancies. Respondent stated:

- 4           a. With regard to the 12 direct observation hours that he  
5           attested on February 16, 2012 had already been completed:
- 6           i. All 12 hours were completed by Respondent directly  
7           observing Supervisee providing services.
  - 8           ii. In order to calculate these hours, he "counted up all  
9           the different hours" from the existing clinical  
10           supervision documentation.
  - 11           iii. He could not explain why only 4 direct observation  
12           hours were documented in the documentation HR  
13           provided to the Board in June 2012.
- 14           b. With regard to the February 23, 2012 clinical supervision  
15           form indicating that Supervisee intended to complete 10  
16           hours of direct supervision with Respondent the following  
17           week:
- 18           i. It is possible to erroneously enter supervision dates  
19           into Agency's electronic records system.
  - 20           ii. Respondent believes that the date on the February  
21           23, 2012 clinical supervision form was erroneous.

22           22. On July 13, 2012, after Respondent's interview, the Board received  
23 Supervisee's entire personnel record from Agency.

24           23. Those records contained a March 10, 2012 clinical supervision form that  
25 indicated that Supervisee completed 8 additional direct observation hours on that date.

26           24. On July 16, 2012, Board staff received an email from Respondent  
27 indicating the following:

- 28           a. After Respondent's July 13, 2012 investigative interview, he  
29           conducted an investigation to determine what had happened  
30           with the reporting of Supervisee's clinical supervision hours  
31           and why discrepancies existed in the records.
- 32           b. Respondent reviewed Agency's computer system and  
33           determined that Supervisee had forgotten to document 8  
34           hours of direct observation completed on February 10, 2012.

- 1 c. Because those supervision hours needed to be documented,  
2 on July 13, 2012, HR instructed Supervisee to create the  
3 missing supervision documentation.  
4  
5 d. Supervisee inadvertently entered a March 10, 2012 date for  
6 the 8 direct observation hours that actually occurred on  
7 February 10, 2012.  
8  
9 e. During Respondent's investigation into the reporting of  
10 Supervisee's clinical supervision hours, Respondent recalled  
11 that he did not actually count Supervisee's direct observation  
12 hours because he had completed the license application  
13 only 6 days after Supervisee completed the February 10,  
14 2012 direct observation hours so Respondent already knew  
15 how many hours to add to the 4 direct observation hours  
16 already documented.

17  
18  
19  
20 25. In Respondent's September 12 complaint response, he indicated the  
21 following:

- 22  
23 a. He did not notice the date error on the February 23, 2012  
24 clinical supervision form because he was reviewing the note  
25 for substance when he signed it.  
26  
27 b. When he completed the February 16, 2012 Clinical  
28 Supervision Verification Form, he failed to notice that  
29 documentation of direct observation hours completed on  
30 February 10, 2012 was missing.  
31  
32 c. Because the February 10, 2012 direct observation hours  
33 were fresh in his mind when he signed the February 16,  
34 2012 verification form, there was no need for him to actually  
35 review Supervisee's supervision records prior to completing  
36 the February 16, 2012 Clinical Supervision Verification Form.  
37  
38 d. He did not notice the date error in the March 10, 2012  
39 clinical supervision form because he was in a hurry to submit  
40 the document to the Board.

41  
42 26. In support of his complaint response, Respondent submitted clinical  
43 documentation regarding several assessments Supervisee completed on February 10,  
44 2012.

45  
46 27. Respondent contends that this documentation supports his representation  
47 that Supervisee completed a total of 12 direct observation hours, with 8 of those hours  
48 occurring on February 10, 2012.



1 placed Respondent's license on Probation subject to the following terms and  
2 conditions:

- 3 • In addition to the continuing education requirements of A.R.S.  
4 § 32-3273, Respondent would have been given 12 months to  
5 take and pass a three semester credit hour graduate level  
6 course addressing clinical practice issues, including clinical  
7 supervision issues, from an accredited college or university.  
8 During this same time period, Respondent would have also  
9 been required to complete six clock hours of continuing  
10 education addressing behavioral health ethics. The  
11 aforementioned educational requirements would have been  
12 subject to pre-approval by the Counseling Credentialing  
13 Committee Chair or designee and upon completion,  
14 Respondent would have been required to submit an official  
15 transcript establishing completion of the required course and a  
16 certificate of completion of the required continuing education.

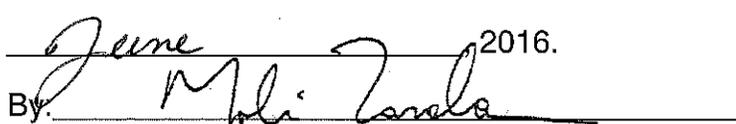
10 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

11   
12 HEATH M. KILGORE

5/11/16  
Date

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

14 Dated this 7<sup>th</sup> day of June, 2016.

15 By   
16 Tobi Zavala, Executive Director  
17 Arizona Board of Behavioral Health Examiners

18 **ORIGINAL** of the foregoing filed  
19 this 7<sup>th</sup> day of June, 2016 with:

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

23 **COPY** of the foregoing mailed via Interagency Mail  
24 this 7<sup>th</sup> day of June, 2016 to:

25 Marc H. Harris  
Assistant Attorney General  
1275 West Washington  
Phoenix, AZ 85007

1 **COPY** of the foregoing mailed via  
2 Certified mail no. 704281000189576782,  
3 this 7<sup>th</sup> day of June, 2016 to:

3 Heath M. Kilgore  
4 Address of Record  
5 Respondent

5 **COPY** of the foregoing mailed via Mail  
6 this 7<sup>th</sup> day of June, 2016 to:

6 Sandra Creta  
7 12725 W. Indian School Road, Suite E-101  
8 Avondale, AZ 85392  
9 Attorney for Respondent

9 By: \_\_\_\_\_  
10 DOC#5034915

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