

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

2 **In the Matter of:**

3 **Sharli N. Berry, LAC-14436,**
4 **Licensed Associate Counselor,**
5 **In the State of Arizona.**

CASE NO. 2016-0044

RELEASE FROM
CONSENT AGREEMENT AND ORDER

6 **RESPONDENT**

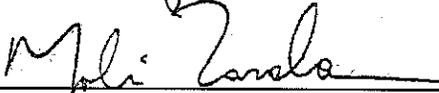
7 The Board received a request from Respondent to release them from the terms and
8 conditions of the Consent Agreement and Order dated June 20, 2016. After consideration, the
9 Board voted to release Respondent from the terms and conditions of the Consent Agreement
10 and Order dated June 20, 2016.

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 20, 2016.

15 Dated this 9th day of August, 2016.

16
17 By: 

18 **TOBI ZAVALA, Executive Director**
Arizona Board of Behavioral Health Examiners

19 **ORIGINAL** of the foregoing filed
20 This 9th day of August, 2016, 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
Certified mail no. 70142170000189576300
24 This 9th day of August, 2016, to:

25 Sharli Berry
Address of Record
Respondent

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 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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 they have 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 ...

FINDINGS OF FACT

- 1
2 1. Respondent is the holder of License No. LAC-14436 for the practice of
3 associate counseling in Arizona.
- 4 2. From 01/14 – 08/15, Respondent worked at a behavioral health agency
5 (“Agency”).
- 6 3. Approximately 1 month following Respondent’s resignation, Agency became
7 aware that Respondent:
 - 8 a. Shared her personal email address and Facebook account with her clients.
 - 9 b. Showed her counseling group a video of her family members on vacation.
- 10 4. Respondent represents the following:
 - 11 a. As a new counselor, Respondent was overzealous and wanted to help
12 everyone so she told her clients to reach out to her if they needed assistance.
 - 13 b. Upon release, many of her clients contacted Respondent in reference to job
14 interviews, goal setting, and maintaining sobriety.
 - 15 c. After reading the ACA Code of Ethics, Respondent sent her clients a
16 message indicating she could not be friends with them and deleted them as
17 friends on Facebook.
- 18 5. Respondent’s conduct appears concerning where:
 - 19 a. Respondent did not consult with her supervisor as to whether or not her
20 actions would be appropriate.
 - 21 b. Respondent failed to recognize the inappropriateness of continuing a
22 relationship with her former clients and corresponding with them on
23 therapeutic issues.
 - 24 c. Although Respondent represents that she informed her clients she could no
25 longer be Facebook friends and deleted them from her account, Respondent

1 has no way to assess the potential effect that her clients may have endured
2 from her actions.

3 **CONCLUSIONS OF LAW**

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

7 2. The conduct and circumstances described in the Findings of Fact constitute a
8 violation of A.R.S. § 32-3251(16)(l), any conduct, practice or condition that impairs the ability of
9 the licensee to safely and competently practice the licensee's profession.

10 **ORDER**

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

13 1. Respondent's license, LAC-14436, will be placed on probation, effective from the
14 date of entry as signed below.

15 2. Respondent shall not practice under their license, LAC-14436, unless they are
16 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,
17 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they
18 shall immediately notify the Board in writing and shall not practice under their license until they
19 submit a written request to the Board to re-commence compliance with this Consent
20 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

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4. In addition to the continuing education requirements of A.R.S. § 32-3273, within 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock hours of continuing education addressing ethics and social media. All required continuing education shall be pre-approved by the Board Chair or designee. Upon completion, Respondent shall submit a certificate of completion of the required continuing education.

Early Release

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

GENERAL PROVISIONS

Provision of Clinical Supervision

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6. Respondent shall not provide clinical supervision while subject to this Consent Agreement.

Civil Penalty

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

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

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

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

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

17 12. Within 10 days of the effective date of this Order, if Respondent is working in a
18 position where Respondent provides any type of behavioral health related services or works in a
19 setting where any type of behavioral health, health care, or social services are provided,
20 Respondent shall provide the Board Chair or designee with a signed statement from
21 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this
22 Consent Agreement. If Respondent does not provide the employer's statement to the Board
23 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a
24 copy of the Consent Agreement.
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1 13. If Respondent is not employed as of the effective date of this Order, within 10
2 days of accepting employment in a position where Respondent provides any type of behavioral
3 health related services or in a setting where any type of behavioral health, health care, or social
4 services are provided, Respondent shall provide the Board Chair or designee with a written
5 statement providing the contact information of their new employer and a signed statement from
6 Respondent's new employer confirming Respondent provided the employer with a copy of this
7 Consent Agreement. If Respondent does not provide the employer's statement to the Board
8 within 10 days, as required, Respondent's failure to provide the required statement to the Board
9 shall be 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 14. If, during the period of Respondent's probation, Respondent changes
12 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
13 extended leave of absence for whatever reason that may impact their ability to timely comply
14 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform
15 the Board of their change of employment status. After the change and within 10 days of
16 accepting employment in a position where Respondent provides any type of behavioral health
17 related services or in a setting where any type of behavioral health, health care, or social
18 services are provided, Respondent shall provide the Board Chair or designee a written
19 statement providing the contact information of their new employer(s) and a signed statement
20 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a
21 copy of this Consent Agreement. If Respondent does not provide the employer's statement to
22 the Board within 10 days, as required, Respondent's failure to provide the required statement to
23 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide
24 Respondent's employer(s) with a copy of the Consent Agreement.
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1 15. Respondent shall practice behavioral health using the name under which they
2 are licensed. If Respondent changes their name, they shall advise the Board of the name
3 change as prescribed under the Board's regulations and rules.

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

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

17 18. 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 19. This Consent Agreement shall be effective on the date of entry below.

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

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PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

SBerry
Sharli M. Berry

6-14-16
Date

BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

Dated this 20th day of June, 2016.

By: MZ
TOBI ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

ORIGINAL of the foregoing filed

This 20th day of June, 2016 with:

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

COPY of the foregoing mailed via Interagency Mail

This 20th day of June, 2016, to:

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

COPY of the foregoing mailed via

Certified mail no. 7015 0640 0005 0661 0270
This 20th day of June, 2016, to:

Sharli N. Berry
Address of Record
Respondent