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BEFORE THE ARIZONA BOARD
OF BEHAVIORAL HEALTH EXAMINERS

In the Matter of:

Phyllis A. Grossman, LPC-1814,
Licensed Professional Counselor
In the State of Arizona.

RESPONDENT

CASE NO. 2016-0132
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(F) and 41-1092.07(F)(5), Phyllis A. Grossman ("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 their right to such formal hearing concerning these allegations and irrevocably waives their 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
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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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. Although Respondent does not agree that all the Findings of Fact set forth in this
22 Consent Agreement are supported by the evidence, Respondent acknowledges that it is the
23 Board's position that, if this matter proceeded to formal hearing, the Board could establish
24 sufficient evidence to support a conclusion that certain of Respondent's conduct constituted
25 unprofessional conduct. Therefore, Respondent has agreed to enter into this Consent

1 Agreement as an economical and practical means of resolving the issues associated with the
2 complaint filed against Respondent. Further, Respondent acknowledges that the Board may use
3 the evidence in its possession relating to this Consent Agreement for purposes of determining
4 sanctions in any further disciplinary matter.

5 10. The Board therefore retains jurisdiction over Respondent and may initiate
6 disciplinary action against Respondent if it determines that they have failed to comply with the
7 terms of the Consent Agreement or of the practice act.

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

9 **FINDINGS OF FACT**

10 1. Respondent is the holder of License No. LPC-1814 for the practice of counseling
11 in Arizona.

12 2. Respondent and her husband are the owners of a behavioral health agency
13 ("Agency").

14 3. In addition to being an owner, Respondent is the administrative director, whose
15 responsibilities include maintaining contracts, developing policies and procedures, supervising
16 staff, and implementing billing services.

17 4. Respondent's daughter is employed by Respondent as an administrative
18 assistant ("Administrator").

19 5. Respondent's sister is employed by Respondent as a billing specialist ("Billing
20 Specialist").

21 6. In 05/16, the Board received a complaint alleging that Respondent and
22 Administrator instructed an Agency employee ("Employee") to assist in changing dates of
23 services to allow Agency to bill for a client's ("Client 1") services who had recently lost insurance
24 coverage.

25 7. In a 12/08/15 email from Administrator to Employee, Administrator wrote

1 "[Employee]- can you tell me which dates you would like to use in November to move them back
2 to so we can bill them and would you please change your case notes to match?-[Administrator]."

3 8. In addition to Administrator's email, Respondent also sent Employee a 12/08/15
4 email as follows: "I need all December dates, service, and hours for [Client 1] and we will need
5 to move these back to November to try and recoup. let me know dates in November that would
6 work and I will review and revise case note dates only. Please send me tonight as I am billing
7 him tomorrow. thanks., [Respondent]"

8 9. During her investigative interview with Board staff, Respondent indicated that
9 after she instructed Employee to alter the dates of service on her notes, she soon after informed
10 her billing administrators that she was just upset and that they should forget about her
11 instructions about altering case notes.

12 10. Despite Respondent's purported instructions to her administrators, a second and
13 similar instance occurred again with another one of Employee's clients ("Client 2").

14 11. On 02/02/16, the following email exchange took place between Billing Specialist
15 and Employee:

16 a. Billing Specialist to Employee:

- 17 • Client 2 dropped off Cenpatico and her last day of eligibility was 01/14/16.
18 • Billing Specialist had to change Employee's case notes for 01/19/16 and
19 01/29/16 to eligible dates in order to be able to bill the time.
20 • She will need to be discharged because Agency is not contracted with
21 Mercy Maricopa Integrated Care and will not accept any more single case
22 agreements.

23 b. Employee to Billing specialist:

- 24 • "I do have one question regarding the case notes. Are we able to change
25 dates on case notes for billing purposes?"

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c. Billing Specialist to Employee:

- "or lose the time"

12. When questioned about this matter by Board staff, Respondent indicated that Billing Specialist took it upon herself to email Employee and ask for dates to alter case notes.

13. Although Respondent maintains that ultimately, no case notes were altered, her representation appears contracted by the following:

a. During an investigative interview with Board staff, Respondent's husband, who is Agency's clinical director and co-owner, indicated:

- When asked if he was aware that case notes were being altered, he indicated, "Um, yes. I was aware of it from our administrators but didn't deal with that issue."
- The only thing he was aware of was that there had been some documentation altering.

b. During an investigative interview with Board staff, Employee indicated:

- Employee became concerned and began going back over her prior case notes.
- Employee noticed that in many cases, dates and locations referenced in her notes had been altered from their original forms.

c. Also, as seen in a 02/02/16 email from Billing Specialist to Employee, Billing Specialist wrote that she had to change Employee's case notes for 01/19/16 and 01/29/16 to eligible dates in order to be able to bill the time.

14. In another instance of unethical billing practices, around 04/16, an Agency administrator sent a memo to all staff indicating, "As a note, you CANNOT bill case management to probation clients. If you spent time with a probation officer or on another case management type services you need to wrap that time into the next case note that is done."

1 the licensee to safely and competently practice the licensee's profession.

2 3. The conduct and circumstances described in the Findings of Fact constitute a
3 violation of A.R.S. § 32-3251(16)(q), failing or refusing to maintain adequate records of
4 behavioral health services provided to a client.

5 **ORDER**

6 Based upon the foregoing Findings of Fact and Conclusion of Law, the parties agree to
7 the provision and penalties imposed as follows:

8 1. As of the effective date of the Consent Agreement, Respondent shall not practice
9 under their license.

10 2. Respondent's license, LPC-1814 shall by rule, expire on 08/31/17.

11 3. Respondent agrees not to renew their license.

12 4. Respondent agrees not to submit any type of new license application to the
13 Board for a minimum of five (5) years.

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


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

18
19 
20 Phyllis A. Grossman

9-20-2017
Date

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

22 Dated this 14th day of October, 2017.

23
24 By: 
25 TOBIN ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

1 ORIGINAL of the foregoing filed
This 11th day of October, 2017 with:

2 Arizona Board of Behavioral Health Examiners
3 3443 N. Central Ave., Suite 1700
4 Phoenix, AZ 85012

5 COPY of the foregoing mailed via Interagency Mail
This 11th day of October, 2017, to:

6 Marc Harris
7 Assistant Attorney General
8 1275 West Washington
9 Phoenix, Arizona 85007

10 COPY of the foregoing mailed via
11 Certified mail no. 70714500000810888032
12 This 11th day of October, 2017, to:

13 Phyllis A. Grossman
14 Address of Record
15 Respondent

16 COPY of the foregoing mailed via Mail
This 11th day of October, 2017, to:

17 Rick K. Carter
18 Wong & Carter, P.C.
19 3003 N. Central Ave, # 1000
20 Phoenix, AZ 85012
21 Attorney for Respondent
22
23
24
25