

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

3 **In the Matter of:**

4 **Kathryn L. Cooper, Applicant for**
5 **Licensed Associate Counselor,**
6 **In the State of Arizona.**

7 **RESPONDENT**

CASE NO. 2017-0019
CONSENT AGREEMENT
FOR ISSUANCE OF LICENSE

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(F)
11 and 41-1092.07(F)(5), Kathryn L. Cooper ("Respondent") and the Board enter into this Consent
12 Agreement, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final
13 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 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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 an applicant for licensure for the practice of counseling in Arizona.

3 2. In 08/07, Respondent was issued their license as an associate counselor.

4 3. In 03/10, Respondent entered into a Consent Agreement with the Board
5 regarding Complaint No. 2009-0094.

6 4. In 05/11, the Board opened Complaint No. 2011-0152 against Respondent for
7 failure to comply with the existing Consent Agreement and offered Respondent a new Consent
8 Agreement for the voluntary surrender of their license.

9 5. In 07/11, Respondent's associate counselor license expired while under a
10 Consent Agreement.

11 6. Subsequently Complaint No. 2011-0152 was dismissed without prejudice, with
12 the Board reserving the right to revisit the matter if Respondent sought licensure in the future.

13 7. In 05/16, Respondent submitted a new application for associate counselor
14 licensure.

15 8. In review of the application, the Board determined that Respondent failed to
16 provide any evidence that the conduct addressed in the original Consent Agreement had been
17 corrected, monitored or resolved.

18 9. Additionally, Respondent failed to demonstrate compliance with the original
19 terms of probation including completion of:

20 a. Six hours of continuing education in mandatory reporting of child abuse

21 b. A three semester credit hour graduate level course in behavioral health
22 ethics.

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1 CONCLUSIONS OF LAW

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

5 2. The conduct and circumstances described in the Findings of Fact constitute a
6 violation of A.R.S. § 32-3275(6), not have committed any act or engaged in any conduct that
7 would constitute grounds for disciplinary action against a licensee pursuant to this chapter, as it
8 relates to the following:

9 A.R.S. § 32-3251(16)(n), failing to comply with or violating, attempting to violate
10 or assisting in or abetting the violation of any provision of this chapter, any rule
11 adopted pursuant to this chapter, any lawful order of the board, or any formal
12 order, consent agreement, term of probation or stipulated agreement issued
13 under this chapter.

14 3. The conduct and circumstances described in the Findings of Fact constitute a
15 violation of A.R.S. § 32-3275(7), not have had a professional license or certificate refused,
16 revoked, suspended ore restricted by this state or any other regulatory jurisdiction in the United
17 States or any other country for reasons that relate to unprofessional conduct, as it relates to the
18 following:

19 A.R.S. § 32-3251(16)(B), if the Board finds that an applicant is subject to
20 subsection A, paragraphs 5 through 8 of this section, the Board may determine to
21 its satisfaction that the conduct or condition has been corrected, monitored and
22 resolved and may issue a license. If the conduct of condition has not been
23 resolved, the Board may determine to its satisfaction that mitigating
24 circumstances exist that prevent its resolution and may issue a license.

25 ...

1 **ORDER**

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

4 1. Respondent's application to be a licensed associate counselor is approved upon
5 Respondent's completion of the continuing education requirements set forth in paragraphs 2
6 and 3.

7 **Continuing Education**

8 2. In addition to the continuing education requirements of A.R.S. § 32-3273, within
9 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock
10 hours of continuing education addressing mandated reporting. All required continuing education
11 shall be pre-approved by the Board Chair or designee. Upon completion, Respondent shall
12 submit a certificate of completion of the required continuing education.

13 3. In addition to the continuing education requirements of A.R.S. § 32-3273, within
14 12 months of the effective date of this Consent Agreement, Respondent shall take and pass a
15 three semester credit hour graduate level behavioral health ethics course from an accredited
16 college or university, pre-approved by the Board Chair or designee. Upon completion,
17 Respondent shall submit to the Board an official transcript establishing completion of the
18 required course.

19 **GENERAL PROVISIONS**

20 **Provision of Clinical Supervision**

21 4. Respondent shall not provide clinical supervision while subject to this Consent
22 Agreement.

23 **Civil Penalty**

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

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

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

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

19 9. If Respondent currently sees clients in their own private practice, and obtains any
20 other type of behavioral health position, either as an employee or independent contractor, where
21 they provide behavioral health services to clients of another individual or agency, they shall
22 comply with requirements set forth in paragraphs 10 through 11 below.

23 10. Within 10 days of the effective date of this Order, if Respondent is working in a
24 position where Respondent provides any type of behavioral health related services or works in a
25 setting where any type of behavioral health, health care, or social services are provided,

1 Respondent shall provide the Board Chair or designee with a signed statement from
2 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this
3 Consent Agreement. If Respondent does not provide the employer's statement to the Board
4 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a
5 copy of the Consent Agreement.

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

16 12. If, during the period of Respondent's probation, Respondent changes
17 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
18 extended leave of absence for whatever reason that may impact their ability to timely comply
19 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform
20 the Board of their change of employment status. After the change and within 10 days of
21 accepting employment in a position where Respondent provides any type of behavioral health
22 related services or in a setting where any type of behavioral health, health care, or social
23 services are provided, Respondent shall provide the Board Chair or designee a written
24 statement providing the contact information of their new employer(s) and a signed statement
25 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a

1 copy of this Consent Agreement. If Respondent does not provide the employer's statement to
2 the Board within 10 days, as required, Respondent's failure to provide the required statement to
3 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide
4 Respondent's employer(s) with a copy of the Consent Agreement.

5 13. Respondent shall practice behavioral health using the name under which they
6 are licensed. If Respondent changes their name, they shall advise the Board of the name
7 change as prescribed under the Board's regulations and rules.

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

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

21 16. Respondent shall be responsible for ensuring that all documentation required in
22 this Consent Agreement is provided to the Board in a timely manner.

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

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1 18. This Consent Agreement is conclusive evidence of the matters described herein
2 and may be considered by the Board in determining appropriate sanctions in the event a
3 subsequent violation occurs.

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

5
6 
7 Kathryn L. Cooper

8 12/9/16
9 Date

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

11 Dated this 22nd day of December, 2016.

12 By: 

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

15 ORIGINAL of the foregoing filed
16 This 22nd day of December, 2016 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 Interagency Mail
21 This 22nd day of December, 2016, to:

22 Marc Harris
23 Assistant Attorney General
24 1275 West Washington
25 Phoenix, Arizona 85007

COPY of the foregoing mailed via
Certified mail no. 70141200 0000 6633 8939
This 22nd day of December, 2016, to:

Kathryn L. Cooper
Address of Record
Respondent