

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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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

1 **FINDINGS OF FACT**

- 2 1. Respondent is an applicant for licensure for the practice of counseling in Arizona.
3 2. On 02/14/15, Respondent was arrested for driving under the influence.
4 3. Respondent's blood alcohol content was measured at .196 % approximately forty
5 minutes after he was arrested.
6 4. Respondent acknowledges consuming alcohol prior to driving.

7 **CONCLUSIONS OF LAW**

- 8 1. The Board has jurisdiction over Respondent pursuant to A.R.S. § 32-3251 *et seq.*
9 and the rules promulgated by the Board relating to Respondent's professional practice as a
10 licensed behavioral health professional.
11 2. The conduct and circumstances described in the Findings of Fact constitute a
12 violation of A.R.S. § 32-3251(15)(l), any conduct, practice or condition that impairs the ability of
13 the licensee to safely and competently practice the licensee's profession.

14 **ORDER**

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

- 17 1. Respondent's application to be a licensed associate counselor is approved.
18 2. The license issued to Respondent pursuant to paragraph 1 will be immediately
19 placed on probation for 12 months.
20 3. Respondent shall not practice under their license, unless they are fully compliant
21 with all terms and conditions in this Consent Agreement. If, for any reason, Respondent is
22 unable to comply with the terms and conditions of this Consent Agreement, they shall
23 immediately notify the Board in writing and shall not practice under their license until they submit
24 a written request to the Board to re-commence compliance with this Consent Agreement. All
25 such requests shall be pre-approved by the Board Chair or designee.

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

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

19 16. If, during the period of Respondent's probation, Respondent changes
20 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
21 extended leave of absence for whatever reason that may impact their ability to timely comply
22 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform
23 the Board of their change of employment status. After the change and within 10 days of
24 accepting employment in a position where Respondent provides any type of behavioral health
25 related services or in a setting where any type of behavioral health, health care, or social

1 services are provided, Respondent shall provide the Board Chair or designee a written
2 statement providing the contact information of their new employer(s) and a signed statement
3 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a
4 copy of this Consent Agreement. If Respondent does not provide the employer's statement to
5 the Board within 10 days, as required, Respondent's failure to provide the required statement to
6 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide
7 Respondent's employer(s) with a copy of the Consent Agreement.

8 17. Respondent shall practice behavioral health using the name under which they
9 are licensed. If Respondent changes their name, they shall advise the Board of the name
10 change as prescribed under the Board's regulations and rules.

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


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

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

1 21. This Consent Agreement shall be effective on the date of entry below.

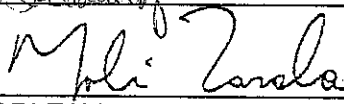
2 22. This Consent Agreement is conclusive evidence of the matters described herein
3 and may be considered by the Board in determining appropriate sanctions in the event a
4 subsequent violation occurs.

5
6 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

7 
8 Brian M. Theer 11/15/16
9 Date

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

11 Dated this 7th day of February, 2016.

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

15 **ORIGINAL** of the foregoing filed

This 7th day of February, 2016 with:

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

19 **COPY** of the foregoing mailed via Interagency Mail

This 7th day of February, 2016, to:

20 Marc Harris
21 Assistant Attorney General
22 1275 West Washington
23 Phoenix, Arizona 85007

24 **COPY** of the foregoing mailed via

25 Certified mail no. 70147200006339424
This 7th day of February, 2016, to:

Brian M. Theer
Address of Record
Respondent