

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

2 **In the Matter of:**

CASE NO. 2011-0128

3 **Lorena M. Hirsch, LPC-10589**
4 **Licensed Professional Counselor,**
5 **In the State of Arizona.**

RELEASE FROM
CONSENT AGREEMENT AND ORDER

6 **RESPONDENT**

7 The Board received a request from Respondent to release her from the terms and
8 conditions of the Consent Agreement and Order dated November 7, 2014. After consideration,
9 the Board voted to release Respondent from the terms and conditions of the Consent
10 Agreement and Order dated November 7, 2014.

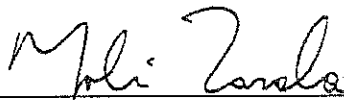
11 **ORDER**

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 November 7, 2014.

15 Dated this 7th day of December, 2015.

16
17 By:


18 Tobi Zavala
19 TOBI ZAVALA, Executive Director
20 Arizona Board of Behavioral Health Examiners

21 **ORIGINAL** of the foregoing filed

22 This 7th day of December, 2015, with:

23 Arizona Board of Behavioral Health Examiners
24 3443 N. Central Ave., Suite 1700
25 Phoenix, AZ 85012

26 **COPY** of the foregoing mailed via

27 Certified mail no. 7014 2870000189071763
28 This 7th day of December, 2015, to:

29 Lorena M. Hirsch
30 Address of Record
31 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 her
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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 and the Healthcare Integrity and Protection Data Bank.

19 8. Respondent further understands that any violation of this Consent Agreement
20 constitutes unprofessional conduct pursuant to A.R.S. § 32-3251(15)(n) and may result in
21 disciplinary action pursuant to A.R.S. § 32-3281.

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

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

FINDINGS OF FACT

- 1
2 1. Respondent is the holder of License No. LPC-10589 for the practice of counseling in
3 Arizona.
- 4 2. From 08/09-03/10, Respondent provided 22 sessions with a minor child ("Child").
- 5 3. In an initial intake session, Child's mother ("Mother") reported that Child had indicated
6 that his father's stepson ("Stepbrother") touched his penis.
- 7 4. Respondent acknowledged that she would not do any investigative work and Child's
8 treatment would focus on understanding sexually respectful behavior, boundaries and
9 communication.
- 10 5. Nothing in Child's clinical record reflected that Child disclosed any sexual abuse.
- 11 6. In 12/09, Mother requested that Respondent submit a letter to the Court which
12 Respondent subsequently composed. The letter indicated the following:
 - 13 a. Child consistently disclosed his sexual abuse experiences and did not appear
14 coached.
 - 15 b. Respondent recommended that Child have no contact with Stepbrother unless he
16 "completes treatment and can go through a therapeutically guided reunification
17 process."
- 18 7. Respondent's letter to the Court was problematic where:
 - 19 a. None of Respondent's progress notes reflected that Child disclosed any sexual
20 abuse by Stepbrother.
 - 21 b. Respondent never interviewed Child's father ("Father") before writing the letter.
- 22 8. Deficiencies were found in Respondent's documentation including:
 - 23 a. In 06/09, Respondent had Mother sign a consent for treatment form indicating that
24 Mother would be receiving behavioral health services.
 - 25 b. The consent for treatment form had no indication that Child would be receiving

1 behavioral health services.

2 c. Respondent did not attempt to gain consent for treatment from Father, or notify him
3 that treatment was occurring, or confirm treatment permission through court orders.

4 d. Treatment plans were missing the client's or client's representative's signature as
5 well as the Respondent's.

6 e. Progress notes were frequently missing required elements such as:

- 7 • The duration of the therapeutic session.
- 8 • Whether the session was group, family, or individual.
- 9 • The Respondent's signature and date.

10 9. Despite receiving one verbal and five written requests from Father, Respondent failed to
11 promptly provide Father with Child's clinical records.

12 10. Nearly nine months after receipt of the first documented request for records from Father,
13 Respondent provided an incomplete set of records.

14 CONCLUSIONS OF LAW

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

18 2. The conduct and circumstances described in the Findings of Fact constitute a
19 violation of A.R.S. § 32-3251(12)(l), any conduct, practice or condition that impairs the ability of
20 the licensee to safely and competently practice the licensee's profession.

21 3. The conduct and circumstances described in the Findings of Fact constitute a
22 violation of A.R.S. § 32-3251(12)(kk), failing to make client records in the licensee's possession
23 promptly available to a client, minor client's parent, client's legal guardian or client's authorized
24 representative on receipt of proper authorization

25 4. The conduct and circumstances described in the Findings of Fact constitute a

1 violation of A.R.S. § 32-3251(12)(p), failure to comply with minimum practice standards as
2 developed by the Board as it relates to the following:

- 3 a. A.A.C. R4-6-1102, Treatment plan.
- 4 b. A.A.C. R4-6-1103, Client Record.

5 **ORDER**

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

8 1. Respondent's license, LPC-10589, will be placed on probation for 12 months,
9 effective from the date of entry as signed below.

10 2. Respondent shall not practice under her license, LPC-10589, unless she is fully
11 compliant with all terms and conditions in this Consent Agreement. If, for any reason,
12 Respondent is unable to comply with the terms and conditions of this Consent Agreement, she
13 shall immediately notify the Board in writing and shall not practice under her license until she
14 submits a written request to the Board to re-commence compliance with this Consent
15 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

16 3. In the event that Respondent is unable to comply with the terms and conditions
17 of this Consent Agreement, all remaining time frames shall be tolled and remain tolled until
18 such time as she is granted approval to re-commence compliance with the Consent
19 Agreement.

20 **Continuing Education**

21 4. In addition to the continuing education requirements of A.R.S. § 32-3273, within
22 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock
23 hours of the NASW Staying Out of Trouble continuing education course. All required continuing
24 education shall be pre-approved by the Board Chair or designee. Upon completion, Respondent
25 shall submit a certificate of completion of the required continuing education.

1 exception of the tolling provision under Paragraph 4, the stay of the civil penalty payment shall
2 be automatically lifted and payment of the civil penalty shall be made by certified check or
3 money order payable to the Board within 30 days after being notified in writing of the lifting of
4 the stay.

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

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

16 13. Respondent currently sees clients in her own private practice. If Respondent
17 obtains any other type of behavioral health position, either as an employee or independent
18 contractor, where she provides behavioral health services to clients of another individual or
19 agency, she shall comply with requirements set forth in Paragraphs 14 through 16 below.

20 14. Within 10 days of the effective date of this Order, if Respondent is working in a
21 position where Respondent provides any type of behavioral health related services or works in a
22 setting where any type of behavioral health, health care, or social services are provided,
23 Respondent shall provide the Board Chair or designee with a signed statement from
24 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this
25 Consent Agreement. If Respondent does not provide the employer's statement to the Board

1 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a
2 copy of the Consent Agreement.

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

13 16. If, during the period of Respondent's probation, Respondent changes
14 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
15 extended leave of absence for whatever reason that may impact her ability to timely comply with
16 the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform the
17 Board of her change of employment status. After the change and within 10 days of accepting
18 employment in a position where Respondent provides any type of behavioral health related
19 services or in a setting where any type of behavioral health, health care, or social services are
20 provided, Respondent shall provide the Board Chair or designee a written statement providing
21 the contact information of her new employer(s) and a signed statement from Respondent's new
22 employer(s) confirming Respondent provided the employer(s) with a copy of this Consent
23 Agreement. If Respondent does not provide the employer's statement to the Board within 10
24 days, as required, Respondent's failure to provide the required statement to the Board shall be
25

1 deemed a violation of A.R.S. § 32-3251(15)(n) and the Board will provide Respondent's
2 employer(s) with a copy of the Consent Agreement.

3 17. Respondent shall practice counseling using the name under which she is
4 licensed. If Respondent changes her name, she shall advise the Board of the name change as
5 prescribed under the Board's regulations and rules.

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

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

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

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

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

25 ...

1 PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

2 *Lorena Hirsch*
3 Lorena Hirsch

10-30-14
Date

4 BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

5 Dated this 7th day of November, 2014.

6 By: *Tobi Zavala*
7 TOBI ZAVALA, Executive Director
8 Arizona Board of Behavioral Health Examiners

9
10 ORIGINAL of the foregoing filed
11 This 7th day of November, 2014 with:

12 Arizona Board of Behavioral Health Examiners
13 3443 N. Central Ave., Suite 1700
14 Phoenix, AZ 85012

15 COPY of the foregoing mailed via Interagency Mail
16 This 7th day of November, 2014, to:

17 Marc Harris
18 Assistant Attorney General
19 1275 West Washington
20 Phoenix, Arizona 85007

21 COPY of the foregoing mailed via
22 Certified mail no. 70141200 000066831336
23 This 7th day of November, 2014, to:

24 Lorena Hirsch
25 Address of Record
Respondent

Donna Dalton, Assistant Director
602-542-1811