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

In the Matter of:

**Janeen L. Wells, LPC-13389,
Licensed Professional Counselor,
In the State of Arizona.**

RESPONDENT

**CASE NO. 2012-0097
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(H) and 41-1092.07(F)(5), Janeen L. Wells ("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 her right to such formal hearing concerning these allegations and irrevocably waives her 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 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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 8. Respondent further understands that any violation of this Consent Agreement
19 constitutes unprofessional conduct pursuant to A.R.S. § 32-3251(15)(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 she has 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 the holder of License No. LPC-13389 for the practice of
3 counseling in Arizona.

4 2. From 03/11 to 11/11, Respondent treated minor client ("Grandson") in her private
5 practice.

6 3. Grandson was brought to treatment by his grandfather ("Grandfather") after the
7 death of his grandmother.

8 4. Respondent indicated Grandfather's insurance company initially contacted her
9 about providing treatment to Grandson and explained that Grandfather had temporary
10 guardianship of Grandson.

11 5. Respondent failed to document the phone conversation with insurance company
12 or to verify guardianship through court documents.

13 6. Initial treatment documents were signed by Grandfather, and the treatment goal
14 centered on transitioning custody back to Grandson's mother ("Mother").

15 7. Grandfather set up a trust fund of \$5,500 to be used for Grandson's treatment.

16 8. Once custody was transferred to Mother, Respondent failed to obtain:

17 a. A consent for treatment form signed by Mother.

18 b. A treatment plan signed by Mother.

19 c. Releases of information ("ROI") allowing her to share information with
20 Grandfather or other family members.

21 9. Sessions with Grandson were held at his godmother's ("Godmother") home, and
22 Mother did not participate.

23 10. Despite not having an ROI for Godmother or Grandfather, on several occasions,
24 Respondent documented communications with them regarding Grandson's
25 treatment.

1 11. Respondent's client file for Grandson lacked required elements.

2 12. Respondent's billing records for Grandson were inconsistent with the progress
3 notes and documented financial arrangements established at the onset of
4 treatment.

5 **CONCLUSIONS OF LAW**

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

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

12 3. The conduct and circumstances described in the Findings of Fact constitute a
13 violation of A.R.S. § 32-3251(12)(p), failing to conform to minimum practice standards as
14 developed by the Board as it relates to:

- 15 a. A.A.C. R4-6-1101, Consent for Treatment.
16 b. A.A.C. R4-6-1102, Treatment plan.
17 c. A.A.C. R4-6-1103, Client Record.
18 d. A.A.C. R4-6-1104, Financial and Billing Records.

19 4. The conduct and circumstances described in the Findings of Fact constitute a
20 violation of A.R.S. § 32-3251(12)(t), disclosing a professional confidence or privileged
21 communication except as may otherwise be required by law or permitted by a valid written
22 release.

23 **ORDER**

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

1 1. Respondent's license, LPC-13389, will be placed on probation for 24 months,
2 effective from the date of entry as signed below.

3 2. Respondent shall not practice under her license, LPC-13389, unless she is fully
4 compliant with all terms and conditions in this Consent Agreement. If, for any reason,
5 Respondent is unable to comply with the terms and conditions of this Consent Agreement, she
6 shall immediately notify the Board in writing and shall not practice under her license until she
7 submits a written request to the Board to re-commence compliance with this Consent
8 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

13 **Continuing Education**

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

20 **Clinical Supervision**

21 5. While on probation, Respondent shall submit to clinical supervision by a masters
22 or higher level behavioral health professional licensed at the independent level. Within 30 days
23 of the date of this Consent Agreement, Respondent shall submit the name of a clinical
24 supervisor for pre-approval by the Board Chair or designee. Also within 30 days of the date of
25 this Consent Agreement, the clinical supervisor shall submit a letter disclosing his/her prior

1 relationship to Respondent. In that letter, the clinical supervisor must address why he/she
2 should be approved, acknowledge that he/she has reviewed the Consent Agreement and
3 include the results of an initial assessment and a supervision plan regarding the proposed
4 supervision of Respondent. The letter from the supervisor shall be submitted to the Board.

5 **Focus and Frequency of Clinical Supervision**

6 6. The focus of the supervision shall relate to current behavioral health
7 documentation standards in Arizona, billing, boundaries, and ethics. Respondent shall meet
8 individually in person with the supervisor at least monthly.

9 **Reports**

10 7. Once approved, the supervisor shall submit quarterly reports for review and
11 approval by the Board Chair or designee. The quarterly reports shall include issues presented in
12 this Consent Agreement that need to be reported and the supervisor shall notify the Board if
13 more frequent supervision is needed. Quarterly reports shall include the following:

- 14 a. Dates of each clinical supervision session.
- 15 b. A comprehensive description of issues discussed during supervision
16 sessions.

17 8. All quarterly supervision reports shall include a copy of clinical supervision
18 documentation maintained for that quarter. All clinical supervision documentation maintained by
19 the supervisor shall comply with requirements set forth in A.A.C. R4-6-212(F)(4).

20 9. After Respondent's probationary period, the supervisor shall submit a final
21 summary report for review and approval by the Board Chair or designee. The final report shall
22 also contain a recommendation as to whether the Respondent should be released from this
23 Consent Agreement.

24 **Change of Clinical Supervisor During Probation**

25 10. If, during the period of Respondent's probation, the clinical supervisor determines

1 that he/she cannot continue as the clinical supervisor, he/she shall notify the Board within 10
2 days of the end of supervision and provide the Board with an interim final report. Respondent
3 shall advise the Board Chair or designee within 30 days of cessation of clinical supervision by
4 the approved clinical supervisor and provide the name of a new proposed clinical supervisor.
5 The proposed clinical supervisor shall provide the same documentation to the Board as was
6 required of the initial clinical supervisor.

7 Restitution

8 11. Within 60 days from the effective date of this consent agreement, Respondent
9 shall pay restitution in the amount of \$3,160.00 to Grandfather. Respondent shall provide the
10 Board with proof of the restitution payment within 30 days after payment has been made.

11 Early Release

12 12. After completion of the stipulations set forth in this Consent Agreement, and upon
13 the supervisor's recommendation, Respondent may request early release from the Consent
14 Agreement after 12 months.

15 GENERAL PROVISIONS

16 Provision of Clinical Supervision

17 13. Respondent shall not provide clinical supervision while subject to this Consent
18 Agreement.

19 Civil Penalty

20 14. Subject to the provisions set forth in paragraph 15, the Board imposes a civil
21 penalty against the Respondent in the amount of \$1,000.00.

22 15. Respondent's payment of the civil penalty shall be stayed so long as Respondent
23 remains compliant with the terms of this Consent Agreement. If Board staff determines that
24 Respondent is noncompliant with the terms of this Consent Agreement in any respect, with the
25 exception of the tolling provision under Paragraph 3, the stay of the civil penalty payment shall

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

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

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

15 18. If Respondent currently sees clients in their own private practice, and obtains any
16 other type of behavioral health position, either as an employee or independent contractor, where
17 she provides behavioral health services to clients of another individual or agency, she shall
18 comply with requirements set forth in Paragraphs 19 through 21 below.

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

1 copy of the Consent Agreement.

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

12 21. If, during the period of Respondent's probation, Respondent changes
13 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
14 extended leave of absence for whatever reason that may impact her ability to timely comply with
15 the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform the
16 Board of her change of employment status. After the change and within 10 days of accepting
17 employment in a position where Respondent provides any type of behavioral health related
18 services or in a setting where any type of behavioral health, health care, or social services are
19 provided, Respondent shall provide the Board Chair or designee a written statement providing
20 the contact information of his new employer(s) and a signed statement from Respondent's new
21 employer(s) confirming Respondent provided the employer(s) with a copy of this Consent
22 Agreement. If Respondent does not provide the employer's statement to the Board within 10
23 days, as required, Respondent's failure to provide the required statement to the Board shall be
24 deemed a violation of A.R.S. § 32-3251(15)(n) and the Board will provide Respondent's
25 employer(s) with a copy of the Consent Agreement.

1 22. Respondent shall practice behavioral health using the name under which she is
2 licensed. If Respondent changes her name, she shall advise the Board of the name change as
3 prescribed under the Board's regulations and rules.

4 23. 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 she 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 she has successfully satisfied all terms and conditions in this Consent Agreement.
9 The Board has the sole discretion to determine whether all terms and conditions of this Consent
10 Agreement have been met and whether Respondent has adequately demonstrated that she has
11 addressed the issues contained in this Consent Agreement. In the event that the Board
12 determines that any or all terms and conditions of this Consent Agreement have not been met,
13 the Board may conduct such further proceedings as it determines are appropriate to address
14 those matters.

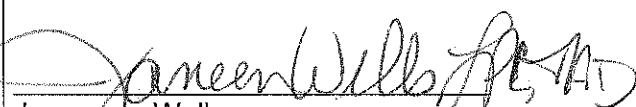
15 24. Respondent shall bear all costs relating to probation terms required in this
16 Consent Agreement.

17 25. 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 26. This Consent Agreement shall be effective on the date of entry below.

20 27. 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.

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

24 
25 Janeen L. Wells

8/20/2015
Date

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

3 Dated this 25th day of August, 2015.

4 By: Tobi Zavala
5 TOBI ZAVALA, Executive Director
6 Arizona Board of Behavioral Health Examiners

7
8 **ORIGINAL** of the foregoing filed
9 This 25th day of August, 2015 with:

10 Arizona Board of Behavioral Health Examiners
11 3443 N. Central Ave., Suite 1700
12 Phoenix, AZ 85012

13 **COPY** of the foregoing mailed via Interagency Mail
14 This 25th day of August, 2015, to:

15 Marc Harris
16 Assistant Attorney General
17 1275 West Washington
18 Phoenix, Arizona 85007

19 **COPY** of the foregoing mailed via
20 Certified mail no. 70142870000189573224
21 This 25th day of August, 2015, to:

22 Janeen L. Wells
23 Address of Record
24 Respondent
25