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

**In the Matter of:**

**Michael Harmon, LCSW-10999,  
Licensed Clinical Social Worker,  
In the State of Arizona.**

**RESPONDENT**

**CASE NO. 2013-0085**

**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), Michael Harmon ("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 his right to such formal hearing concerning these allegations and irrevocably waives his 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 his  
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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,  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 he 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     ...

**FINDINGS OF FACT**

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2           1.       Respondent is the holder of License No. LCSW-10999 for the practice of social  
3 work in Arizona.

4           2.       From 02/13 – 05/13, Respondent treated a male and female client ("Couple") for  
5 10 couples counseling sessions.

6           3.       At the conclusion of the 05/11/13 session, Respondent requested to take a photo  
7 of female client.

8           4.       After male client expressed he felt it was a strange and inappropriate request,  
9 Respondent told Couple:

10           a.       He would not sell the pictures or put them on dirty websites.

11           b.       He would not use the photos for personal masturbation.

12           5.       Following the session, male client texted Respondent indicating that Couple  
13 would not be attending any future sessions due to Respondent's inappropriate request.

14           6.       Respondent indicated to male client that his request was a technique he uses to  
15 see how male client would react.

16           7.       When Respondent was interviewed, he admitted that his statement to male client  
17 about his request being a technique he uses was a misrepresentation and inappropriate.

18           8.       Respondent's client file for Couple lacked required elements including:

19           a.       A consent for treatment for either client.

20           b.       The treatment plan was missing:

21           i.       The date when the client's treatment plan shall be reviewed.

22           ii.      The date and signature of either client.

23           iii.     The date of Respondent's signature.

24           c.       Respondent's progress notes were missing:

25 ...

- i. The duration of time spent providing behavioral health services to the clients.
- ii. An indication whether the counseling was individual, group, or family.
- iii. The date of Respondent's signature.

9. Respondent's billing records:

- a. Did not correspond to the dates of service documented on progress notes.
- b. Were missing for 2 of the 10 sessions.

**CONCLUSIONS OF LAW**

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

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

3. The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-3251(12)(k), any conduct or practice that is contrary to recognized standards of ethics in the behavioral health profession or that constitutes a danger to the health, welfare, or safety of a client, as it relates to:

**NASW Code of Ethics 1.06 Conflicts of Interest:**

(b) Social workers should not take unfair advantage of any professional relationship or exploit others to further their personal, religious, political, or business interests.

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

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

- 3 a. A.A.C. R4-6-1101, Consent for Treatment
- 4 b. A.A.C. R4-6-1102, Treatment Plan
- 5 c. A.A.C. R4-6-1103, Client Record
- 6 d. A.A.C. R4-6-1104, Financial and Billing Records

7 **ORDER**

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

10 1. Respondent's license, LCSW-10999, will be placed on probation, effective from  
11 the date of entry as signed below.

12 2. Respondent shall not practice under his license, LCSW-10999, unless he is fully  
13 compliant with all terms and conditions in this Consent Agreement. If, for any reason,  
14 Respondent is unable to comply with the terms and conditions of this Consent Agreement, he  
15 shall immediately notify the Board in writing and shall not practice under his license until he  
16 submits a written request to the Board to re-commence compliance with this Consent  
17 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

21 **Continuing Education**

22 4. In addition to the continuing education requirements of A.R.S. § 32-3273, within  
23 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock  
24 hours of the NASW Staying Out of Trouble continuing education course or an equivalent course  
25 addressing current behavioral health documentation standards in Arizona. All required

1 continuing education shall be pre-approved by the Board Chair or designee. Upon completion,  
2 Respondent shall submit a certificate of completion of the required continuing education.

3 **Audit**

4 5. While on probation, Respondent shall submit to an audit of all of his private  
5 practice records by a pre-approved auditor. Within 30 days of this consent agreement,  
6 Respondent shall submit the name of an auditor and a plan for conducting the audit for pre-  
7 approval by the Board Chair or designee. The audit shall be completed within 60 days of the  
8 effective date of this consent agreement. Also within 60 days of the effective date of this  
9 consent agreement, the auditor shall provide an audit report and a proposed audit plan  
10 addressing any deficiencies found during the audit to the Board Chair or designee for review  
11 and approval.

12 **Practice Monitor**

13 6. While on probation, Respondent shall establish and maintain a relationship with a  
14 practice monitor who is a masters or higher level behavioral health professional licensed at the  
15 independent level. The practice monitor shall provide training and assistance to Respondent  
16 regarding setting up appropriate forms and formats for Respondent's clinical records,  
17 implementing current behavioral health standards of practice related to behavioral health  
18 assessment and treatment planning, providing treatment consistent with the documented  
19 treatment plan, and documenting the treatment provided in accordance with current behavioral  
20 health standards. Respondent and the practice monitor shall review the clinical documentation  
21 produced for each and every active client Respondent sees at least once per month. The  
22 practice monitor shall ensure that Respondent complies with the audit plan approved by the  
23 Board Chair or designee. Respondent shall meet with the practice monitor a minimum of twice a  
24 month for the first 12 months of probation and monthly for the second 12 months of probation.

25 ...

1           7.     Within 30 days of the effective date of this Consent Agreement, Respondent shall  
2 submit the name of a practice monitor for pre-approval by the Board Chair or designee. Also  
3 within 30 days of the effective date of this Consent Agreement, the proposed practice monitor  
4 shall submit a letter disclosing his/her prior relationship to Respondent. In that letter, the  
5 practice monitor shall address why he/she should be approved, acknowledge that he/she has  
6 reviewed the Consent Agreement and include the results of an initial assessment and a  
7 monitoring plan regarding the proposed practice monitoring of Respondent. The letter from the  
8 proposed Practice Monitor auditor shall be submitted to the Board.

#### **Monitoring Quarterly Reports**

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10           8.     Once approved, the practice monitor 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 practice monitor shall notify the Board  
13 if more frequent monitoring is needed. The practice monitor shall submit a final summary report  
14 for review and approval by the Board Chair or designee. The final summary report submitted by  
15 the practice monitor shall address Respondent's competency to engage in independent practice  
16 in accordance with current standards of practice.

#### **Change of Practice Monitor During Probation**

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18           9.     If, during the period of Respondent's probation, the practice monitor determines  
19 that he/she cannot continue as the practice monitor, he/she shall notify the Board within 10 days  
20 of the end of monitoring and provide the Board with an interim final report. Respondent shall  
21 advise the Board Chair or designee within 30 days of cessation of monitoring by the approved  
22 practice monitor of the name of a new proposed practice monitor. The proposed practice  
23 monitor shall provide the same documentation to the Board as was required of the initial  
24 practice monitor.

25 ...

1 Early Release

2 10. After completion of the stipulations set forth in this consent agreement, and upon  
3 the practice monitor's recommendation, Respondent may request early release from the  
4 consent agreement after 12 months.

5 GENERAL PROVISIONS

6 Provision of Clinical Supervision

7 11. Respondent shall not provide clinical supervision while subject to this Consent  
8 Agreement.

9 Civil Penalty

10 12. Subject to the provisions set forth in paragraph 13, the Board imposes a civil  
11 penalty against the Respondent in the amount of \$1,000.00.

12 13. Respondent's payment of the civil penalty shall be stayed so long as Respondent  
13 remains compliant with the terms of this Consent Agreement. If Board staff determines that  
14 Respondent is noncompliant with the terms of this Consent Agreement in any respect, with the  
15 exception of the tolling provision under Paragraph 3, the stay of the civil penalty payment shall  
16 be automatically lifted and payment of the civil penalty shall be made by certified check or  
17 money order payable to the Board within 30 days after being notified in writing of the lifting of  
18 the stay.

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

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

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

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

18           18. If Respondent is not employed as of the effective date of this Order, within 10  
19 days of accepting employment in a position where Respondent provides any type of behavioral  
20 health related services or in a setting where any type of behavioral health, health care, or social  
21 services are provided, Respondent shall provide the Board Chair or designee with a written  
22 statement providing the contact information of his new employer and a signed statement from  
23 Respondent's new employer confirming Respondent provided the employer with a copy of this  
24 Consent Agreement. If Respondent does not provide the employer's statement to the Board  
25 within 10 days, as required, Respondent's failure to provide the required statement to the Board

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

17 20. Respondent shall practice behavioral health using the name under which he is  
18 licensed. If Respondent changes his name, he shall advise the Board of the name change as  
19 prescribed under the Board's regulations and rules.

20 21. Prior to the release of Respondent from probation, Respondent must submit a  
21 written request to the Board for release from the terms of this Consent Agreement at least 30  
22 days prior to the date he would like to have this matter appear before the Board. Respondent  
23 may appear before the Board, either in person or telephonically. Respondent must provide  
24 evidence that he has successfully satisfied all terms and conditions in this Consent Agreement.  
25 The Board has the sole discretion to determine whether all terms and conditions of this Consent

1 Agreement have been met and whether Respondent has adequately demonstrated that he has  
2 addressed the issues contained in this Consent Agreement. In the event that the Board  
3 determines that any or all terms and conditions of this Consent Agreement have not been met,  
4 the Board may conduct such further proceedings as it determines are appropriate to address  
5 those matters.

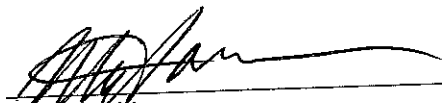
6 22. Respondent shall bear all costs relating to probation terms required in this  
7 Consent Agreement.

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

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

11 25. This Consent Agreement is conclusive evidence of the matters described herein  
12 and may be considered by the Board in determining appropriate sanctions in the event a  
13 subsequent violation occurs.

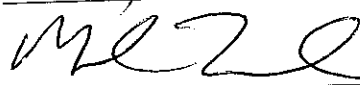
14 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

15   
16 Michael Harmon

7/6/2015  
Date

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

18 Dated this 15th day of July, 2015.

19 By:   
20 TOBI ZAVALA, Executive Director  
21 Arizona Board of Behavioral Health Examiners

22  
23 **ORIGINAL** of the foregoing filed  
This 15 day of July, 2015 with:

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

1 COPY of the foregoing mailed via Interagency Mail  
This 15 day of July, 2015, to:

2  
3 Marc Harris  
4 Assistant Attorney General  
5 1275 West Washington  
6 Phoenix, Arizona 85007

7 COPY of the foregoing mailed via  
8 Certified mail no. 7014 2870 0001 8957 0803  
9 This 15 day of July, 2015, to:

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Michael Harmon  
Address of Record  
Respondent