

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

2 **In the Matter of:**

3 **Kent W. Baker, LPC-10419,**
4 **Licensed Professional Counselor,**
5 **In the State of Arizona.**

CASE NO. 2014-0005

RELEASE FROM
CONSENT AGREEMENT AND ORDER

6 **RESPONDENT**

7 The Board received a request from Respondent to release him from the terms and
8 conditions of the Consent Agreement and Order dated February 4, 2014. After consideration,
9 the Board voted to release Respondent from the terms and conditions of the Consent
10 Agreement and Order dated February 4, 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 February 4, 2014.

15 Dated this 15th day of July, 2015.

16
17 By: 

18 **TOBI ZAVALA, Executive Director**
Arizona Board of Behavioral Health Examiners

19 **ORIGINAL** of the foregoing filed

20 This 15 day of July, 2015, with:

21 Arizona Board of Behavioral Health Examiners
22 3443 N. Central Ave., Suite 1700
Phoenix, AZ 85012

23 **COPY** of the foregoing mailed via

24 Certified mail no. 7014 2870 0001 8957 0810
This 15 day of July, 2015, to:

25 Kent W. Baker
Address of Record
Respondent

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

2
3 Arthur Eaves
4 Sanders & Parks
5 3030 North Third Street, #1300
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Attorney for 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 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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 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(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 he has failed to comply with the
24 terms of this Consent Agreement or of the practice act.

25 ...

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

2 **FINDINGS OF FACT**

3 1. Respondent is the holder of License No. LPC-10419 for the practice of
4 professional counseling in the state of Arizona.

5 2. From 08/17/11 – 08/06/13, Respondent met with a client (“Client”) for 51
6 sessions.

7 3. Respondent did not maintain any type of treatment planning documentation for
8 Client during the 2 years he treated her.

9 4. One of Client’s minor sons (“Son”) participated in session with Respondent on
10 the following dates:

- 11 a. 08/29/11
- 12 b. 09/06/11
- 13 c. 03/08/12

14 5. Respondent did not maintain any type of treatment planning for Son.

15 6. Respondent’s failure to develop any treatment planning documentation for Son
16 appears particularly problematic where:

- 17 a. Respondent did not maintain any type of record setting for the purpose of
18 Son’s treatment.
- 19 b. While Respondent billed Son’s sessions as “family therapy,” there is nothing
20 in Respondent’s records to support the representation that Respondent was
21 seeing Client and Son for any type of family therapy.
- 22 c. Respondent indicated that, even though he had Client sign an informed
23 consent form for Son, Respondent considered Son to be a collateral
24 participant in Client’s treatment.

25 ...

1 d. Respondent did not maintain any written information that would allow a
2 subsequent treatment provider to understand the nature and purpose of
3 Son's treatment.

4 7. During Respondent's 10/13 investigative interview, he indicated the following:

5 a. Respondent is aware that the Board has minimum documentation standards.

6 b. Respondent does not maintain treatment planning documentation in his
7 private practice.

8 8. Respondent acknowledges that his progress notes generally do not contain
9 sufficient information to properly capture the nature and content of his therapy sessions.

10 9. Respondent's progress notes do not consistently include the following required
11 elements:

12 a. The duration of time spent providing the behavioral health service.

13 b. An indication of whether the counseling session was individual, family, or
14 group.

15 c. The signature and date signed by Respondent.

16 10. Respondent acknowledges that his billing records reflect that he provided
17 services to Client on the following dates:

18 a. 04/26/12

19 b. 05/16/12

20 c. 05/31/12

21 11. Respondent acknowledges that he failed to maintain progress notes for the
22 services he provided to Client on these dates, as required.

23 12. Respondent maintained 3 types of progress notes for Client:

24 a. Hand-written notes

25 b. Typed computer notes

1 c. Supplemental clinical notes

2 13. Respondent represents the following regarding the multiple types of progress
3 notes he maintained for Client:

4 a. At the beginning of Client's treatment, Respondent alternated between
5 maintaining hand-written notes and typed notes.

6 b. In 02/12, Respondent's internal and external hard drives crashed and he lost
7 selected information from Client's clinical record.

8 c. In 03/12, Respondent reproduced from memory the progress notes lost from
9 Client's record by creating the supplemental clinical notes.

10 d. "I thought it was my responsibility to have a complete record, so I went back
11 and started plugging in dates of service and information."

12 14. Respondent's conduct was inappropriate where:

13 a. As a licensed behavioral health professional, it was Respondent's
14 responsibility to ensure that his client records were protected at all times from
15 loss, damage, or alteration.

16 b. Given that Respondent chose to maintain electronic records on his computer,
17 it was his responsibility to ensure that he had a secure back-up system in
18 place to allow him to re-create records lost due to a computer malfunction, a
19 completely foreseeable circumstance.

20 c. Respondent failed to provide an explanation excusing the permanent loss of
21 part of Client's electronic records.

22 d. In order to address this loss, Respondent indicated that he re-created
23 progress notes based solely on his memory of sessions that occurred up to 5
24 months before Respondent re-created the notes.

25 e. Respondent's re-creation of progress notes was inappropriate where:

- 1 • Respondent did not include any information on the supplemental clinical
2 notes to reflect when he created them or that he created them from
3 memory long after the sessions occurred.
- 4 • As a result, at this point it is impossible from looking at Client's record to
5 determine which notes were created after the fact based solely on
6 Respondent's memory of sessions that occurred months before the notes
7 were re-created.
- 8 • Despite Respondent's representations, it appears highly unlikely that
9 Respondent was able to accurately recall the contents of sessions that
10 occurred months earlier.

11 15. Respondent's notes reflect that, on 07/02/13, Respondent provided Client with a
12 list of crisis resources due to her husband's ("Husband") threatening behaviors.

13 16. Respondent acknowledges that he did not maintain any record of the crisis
14 resources he identified for Client.

15 17. Respondent's notes reflect that, on 07/22/13, Respondent created a safety plan
16 for Client.

17 18. Respondent acknowledges that he did not maintain any written record of the
18 contents of that safety plan.

19 19. Respondent's failure to maintain a written record of the crisis resources provided
20 to and safety plan created for Client was inappropriate.

21 20. Respondent treated Client from 08/11 – 08/13.

22 21. As a licensed behavioral health professional, Respondent is required to maintain
23 separate billing records that correspond with the client record.

24 22. Despite this requirement, Respondent acknowledges that he failed to maintain
25 billing records for Client from 08/11 – 03/12.

1 23. Respondent indicated the following with regard to his practices for maintaining
2 billing records:

- 3 a. "I do not keep all of them."
- 4 b. He shreds them because he does not "want or need them."
- 5 c. Shredding billing records is Respondent's standard of practice.

6 24. Respondent's deliberate destruction of billing records is inappropriate.

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(12)(p), failing to conform to minimum practice standards as
13 developed by the Board, as it relates to the following:

14 A.A.C. R4-6-1102, Treatment Plan

15 A.A.C. R4-6-1103, Client Record

16 A.A.C. R4-6-1104, Financial and Billing Records

17 **ORDER**

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

20 **Probation**

21 1. Respondent's license, LPC-10419, will be placed on probation for 12 months,
22 effective from the date of entry as signed below.

23 2. Respondent shall not practice under his license, LPC-10419, unless he is fully
24 compliant with all terms and conditions in this Consent Agreement. If, for any reason,
25 Respondent is unable to comply with the terms and conditions of this Consent Agreement, he

1 shall immediately notify the Board in writing and shall not practice under his license until he
2 submits a written request to the Board to re-commence compliance with this Consent
3 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

7 Continuing Education

8 4. 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 take and pass a
10 three semester credit hour graduate level behavioral health ethics course from an accredited
11 college or university, pre-approved by the Board Chair or designee. This course must be taken
12 in person. Upon completion, Respondent shall submit to the Board an official transcript
13 establishing completion of the required course.

14 5. Within 12 months of the effective date of this Consent Agreement, Respondent
15 shall take and pass a three semester credit hour graduate level course in intake, assessment,
16 and treatment planning from an accredited college or university, pre-approved by the Board
17 Chair or designee. This course must be taken in person. Upon completion, Respondent shall
18 submit to the Board an official transcript establishing completion of the required course.

19 Clinical Supervision

20 6. While on probation, Respondent shall submit to clinical supervision for 12 months
21 by a masters or higher level behavioral health professional licensed at the independent level.
22 Within 30 days of the date of this Consent Agreement, Respondent shall submit the name of a
23 clinical supervisor for pre-approval by the Board Chair or designee. Also within 30 days of the
24 date of this Consent Agreement, the clinical supervisor shall submit a letter disclosing his/her
25 prior relationship to Respondent. In that letter, the supervisor must address why he/she should

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

4 Focus and Frequency of Clinical Supervision

5 7. The focus of the supervision shall relate to current behavioral health
6 documentation standards, treatment planning, financial record keeping, electronic record
7 keeping, and ethics. Respondent shall meet individually in person with the supervisor for 6
8 sessions every 2 months.

9 Reports

10 8. 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 sessions

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

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

23 Change of Clinical Supervisor During Probation

24 11. If, during the period of Respondent's probation, the clinical supervisor determines
25 that he/she cannot continue as the clinical supervisor, he/she shall notify the Board within 10

1 days of the end of supervision and provide the Board with an interim final report. Respondent
2 shall advise the Board chair or designee within 30 days of cessation of clinical supervision by
3 the approved clinical supervisor of the name of a new proposed clinical supervisor. The
4 proposed clinical supervisor shall provide the same documentation to the Board as was required
5 of the initial clinical supervisor.

6 GENERAL PROVISIONS

7 Provision of Clinical Supervision

8 12. Respondent shall not provide clinical supervision while subject to this Consent
9 Agreement.

10 Civil Penalty

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

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

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

1 16. 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 17. Respondent currently sees clients in his own private practice. If Respondent
7 obtains any other type of behavioral health position, either as an employee or independent
8 contractor, where he provides behavioral health services to clients of another individual or
9 agency, he shall comply with requirements set forth in Paragraphs 18 through 19 below.

10 18. 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 19. 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(12)(n) and the Board will provide Respondent's
2 employer(s) with a copy of the Consent Agreement.

3 20. 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(12)(n) and the Board will provide Respondent's
16 employer(s) with a copy of the Consent Agreement.

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

20 22. 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

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

8 24. 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 25. This Consent Agreement shall be effective on the date of entry below.

11 26. 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 Kent W. Baker

12-30-13
Date

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

18 Dated this 4th day of February, 2013.

19 By:

20 
21 DEBRA RINAUDO, Executive Director
22 Arizona Board of Behavioral Health Examiners

23 **ORIGINAL** of the foregoing filed
24 This 4th day of February, 2013 with:

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

1 **COPY** of the foregoing mailed via Interagency Mail
This 4th day of February, 2013⁴ to:

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

6 **COPY** of the foregoing mailed via
7 Certified mail no. 7013 0600 0000 5871 0545
8 This 4th day of February, 2013⁴ to:

9 Kent W. Baker
10 Address of Record
11 Respondent

12 **COPY** of the foregoing mailed via Mail
13 This 4th day of February, 2013⁴ to:

14 Arthur Eaves
15 Sanders & Parks
16 3030 North Third Street, #1300
17 Phoenix, AZ 85012
18 Attorney for Respondent

19 

20 Tobi Zavala, Deputy Director
21 602-542-1617

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