

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

2 **In the Matter of:**

CASE NO. 2015-0007

3 **Deborah Kirk Elder, LCSW-0558,**
4 **Licensed Clinical Social Worker,**
5 **In the State of Arizona.**

**RELEASE FROM CONSENT AGREEMENT
AND ORDER**


6 **RESPONDENT**

7 The Board received a request from Respondent to release them from the terms and
8 conditions of the Consent Agreement and Order dated October 23rd 2019. After consideration,
9 the Board voted to release Respondent from the terms and conditions of the Consent
10 Agreement and Order dated October 23rd 2019.

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 October 23rd 2019.

15 By: 

Feb 19, 2020

16 TOBI ZAVALA, Executive Director
17 Arizona Board of Behavioral Health Examiners

Date

18 **ORIGINAL** of the foregoing filed Feb 19, 2020
19 with:

20 Arizona Board of Behavioral Health Examiners
21 1740 West Adams Street, Suite 3600
Phoenix, AZ 85007

22 **EXECUTED COPY** of the foregoing sent electronically Feb 19, 2020
to:

23 Deborah Kirk Elder
24 Address of Record
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 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 only between Respondent and the Board for
7 the final disposition of this matter and may be used for purposes of determining sanctions in any
8 future disciplinary matter.

9 6. This Consent Agreement is subject to the Board's approval, and will be effective
10 only when the Board accepts it. In the event the Board in its discretion does not approve this
11 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,
12 nor shall it be relied upon or introduced in any disciplinary action by any party hereto, except
13 that Respondent agrees that should the Board reject this Consent Agreement and this case
14 proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its
15 review and discussion of this document or of any records relating thereto.

16 7. Respondent understands that once the Board approves and signs this Consent
17 Agreement, it is a public record that may be publicly disseminated as a formal action of the
18 Board, and that it shall be reported as required by law to the National Practitioner 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(16)(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 they have 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. LCSW-0558 for the practice of social
4 work in Arizona.

5 2. From 04/11 – 09/11, Respondent provided behavioral health services to an adult
6 male client ("Client"). During this time, Client and his wife were in court because they disagreed
7 on where their child should reside.

8 3. During the course of the Board's investigation, Board staff obtained and reviewed
9 Client's records. The following deficiencies were noted: 1) Client's Consent for Treatment form
10 lacked various required elements; 2) despite providing behavioral health services to Client's
11 daughter on at least 3 occasions, Respondent failed to obtain a signed Consent for Treatment
12 form; 3) during the course of Client's 5 months of treatment, Respondent did not create a valid
13 treatment plan; 4) Client's progress notes lack various required elements; and 5) there were no
14 Release of Information forms (which would have allowed Respondent to discuss Client's
15 treatment with Client's attorney and Wife's new attorney).

16 4. Respondent now represents that she has updated her clinical forms and has
17 incorporated them into her practice.

18 **CONCLUSIONS OF LAW**

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

22 2. The conduct and circumstances described in the Findings of Fact constitute a
23 violation of A.R.S. § 32-3251(15)(p), failing to conform to minimum practice standards as
24 developed by the Board as it relates to the following:

25 a. A.A.C. R4-6-1101, Consent for Treatment

- b. A.A.C. R4-6-1102, Treatment Plan
- c. A.A.C. R4-6-1103, Client Record
- d. A.A.C. R4-6-1105, Confidentiality

ORDER

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

1. Respondent's license, LCSW-0058, will be placed on probation for 12 months, effective from the date of entry as signed below.

2. Respondent shall not practice under their license, LCSW-0558, unless they are fully compliant with all terms and conditions in this Consent Agreement. If, for any reason, Respondent is unable to comply with the terms and conditions of this Consent Agreement, they shall immediately notify the Board in writing and shall not practice under their license until they submit a written request to the Board to re-commence compliance with this Consent Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

Continuing Education

4. In addition to the continuing education requirements of A.R.S. § 32-3273, within 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock hours of the NASW Staying Out of Trouble continuing education course or an equivalent course addressing current behavioral health documentation standards in Arizona. All required continuing education shall be pre-approved by the Board Chair or designee. Upon completion, Respondent shall submit a certificate of completion of the required continuing education.

1 compliance with the audit plan. The letter from the proposed practice monitor shall be
2 submitted to the Board.

3 Monitoring Quarterly Reports

4 8. Once approved, the practice monitor shall submit quarterly reports for review and
5 approval by the Board Chair or designee. The quarterly reports shall include issues and updates
6 with respect to the audit plan and the practice monitor shall notify the Board if more frequent
7 monitoring is needed. The practice monitor shall submit a final summary report for review and
8 approval by the Board Chair or designee. The final summary report submitted by the practice
9 monitor shall address Respondent's compliance and successful implementation of the audit
10 plan and her competency to engage in independent practice in accordance with current
11 standards of practice.

12 Change of Practice Monitor During Probation

13 9. If, during the period of Respondent's probation, the practice monitor determines
14 that they cannot continue as the practice monitor, they shall notify the Board within 10 days of
15 the end of monitoring and provide the Board with an interim final report. Respondent shall
16 advise the Board Chair or designee within 30 days of cessation of monitoring by the approved
17 practice monitor of the name of a new proposed practice monitor. The proposed practice
18 monitor shall provide the same documentation to the Board as was required of the initial
19 practice monitor.

20 Early Release

21 10. After completion of the stipulations set forth in this Consent Agreement
22 Respondent may request early release from the Consent Agreement.

23 GENERAL PROVISIONS

24 Provision of Clinical Supervision

1 16. If Respondent currently sees clients in their own private practice, and obtains any
2 other type of behavioral health position, either as an employee or independent contractor, where
3 they provide behavioral health services to clients of another individual or agency, they shall
4 comply with requirements set forth in paragraphs 18 through 20 below.

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

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

23 19. If, during the period of Respondent's probation, Respondent changes
24 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
25 extended leave of absence for whatever reason that may impact their ability to timely comply

1 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform
2 the Board of their change of employment status. After the change and within 10 days of
3 accepting employment in a position where Respondent provides any type of behavioral health
4 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 a written
6 statement providing the contact information of their new employer(s) and a signed statement
7 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a
8 copy of this Consent Agreement. If Respondent does not provide the employer's statement to
9 the Board within 10 days, as required, Respondent's failure to provide the required statement to
10 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide
11 Respondent's employer(s) with a copy of the Consent Agreement.

12 20. Respondent shall practice behavioral health using the name under which they
13 are licensed. If Respondent changes their name, they shall advise the Board of the name
14 change as prescribed under the Board's regulations and rules.

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

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

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

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

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

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

10 Deborah Kirk Elder 10/18/19
11 Deborah Kirk Elder Date

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

13 Dated this 23rd day of October, 2019.

14
15 By: [Signature]
16 TOBI ZAVALA, Executive Director
17 Arizona Board of Behavioral Health Examiners

18 **ORIGINAL** of the foregoing filed
This 23rd day of October, 2019 with:

19 Arizona Board of Behavioral Health Examiners
1740 West Adams Street, Suite 3600
20 Phoenix, AZ 85007

21 **COPY** of the foregoing mailed via
Certified mail no. 9481 0090 0027 6099 3092 78
22 This 23rd day of October, 2019, to:

23 Deborah Kirk Elder
Address of Record
24 Respondent
25

1 COPY of the foregoing mailed via Mail
This 23rd day of October, 2019 to:

2
3 Michael J. Ryan
4 Holden & Armer, P.C.
5 4505 East Chandler Boulevard, Suite #210
6 Phoenix, Arizona 85048
7 Attorney for Respondent

8 COPY of the foregoing mailed via Interagency Mail
9 This 23rd day of October, 2019, to:

10 Marc Harris
11 Assistant Attorney General
12 2005 North Central Avenue
13 Phoenix, AZ 85004

14 DOC#8200191
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