

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

2 **In the Matter of:**

3 **David B. Jensen, LMSW-16918,**
4 **Licensed Master Social Worker,**
5 **In the State of Arizona.**

6 **RESPONDENT**

CASE NO. 2018-0028

**RELEASE FROM
CONSENT AGREEMENT AND ORDER**

7 The Board received a request from Respondent to release them from the terms and
8 conditions of the Consent Agreement and Order dated November 7, 2017. After consideration,
9 the Board voted to release Respondent from the terms and conditions of the Consent
10 Agreement and Order dated November 7, 2017.

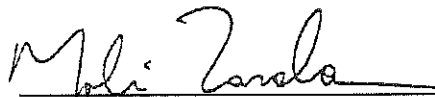
11 **ORDER**

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, 2017.

15 Dated this 15th day of January, 2019.

16
17 By:



18 TOBÍ ZAVALA, Executive Director
19 Arizona Board of Behavioral Health Examiners

20 **ORIGINAL** of the foregoing filed

This 15th day of January, 2019, with:

21 Arizona Board of Behavioral Health Examiners
22 1740 W. Adams St., Suite 3600
Phoenix, AZ 85007

23 **COPY** of the foregoing mailed via

Certified mail no. 94890090002710044089335

24 This 15th day of January, 2019, to:

25 David B. Jensen
Address of Record
Respondent

1 **COPY** of the foregoing mailed via Mail
2 This 15th day of January, 2019 to:

3 Larry J. Cohen
4 PO Box 10056
5 Phoenix, AZ 85012
6 Attorney for Respondent

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

3 **In the Matter of:**

4 **David B. Jensen, LMSW Applicant,**
5 **Licensed Master Social Worker,**
6 **In the State of Arizona.**

CASE NO. 2018-0028
CONSENT AGREEMENT
FOR ISSUANCE OF LICENSE

7 **RESPONDENT**

8 In the interest of a prompt and speedy settlement of the above captioned matter,
9 consistent with the public interest, statutory requirements and responsibilities of the Arizona
10 State Board of Behavioral Health Examiners ("Board"), and pursuant to A.R.S. §§ 32-3281(F)
11 and 41-1092.07(F)(5), David B. Jensen ("Respondent") and the Board enter into this Consent
12 Agreement, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final
13 disposition of this matter.

14 **RECITALS**

15 Respondent understands and agrees that:

16 1. Any record prepared in this matter, all investigative materials prepared or
17 received by the Board concerning the allegations, and all related materials and exhibits may be
18 retained in the Board's file pertaining to this matter.

19 2. Respondent has the right to a formal administrative hearing at which Respondent
20 can present evidence and cross examine the State's witnesses. Respondent hereby irrevocably
21 waives their right to such formal hearing concerning these allegations and irrevocably waives
22 their right to any rehearing or judicial review relating to the allegations contained in this Consent
23 Agreement.

24 3. Respondent has the right to consult with an attorney prior to entering into this
25 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 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 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(16)(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 they have 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 an applicant for licensure for the practice of social work in
3 Arizona.

4 2. From 2009 – 2014, Respondent was employed by a behavioral health agency.

5 3. Around 02/14, Respondent's employer became aware that he relapsed on
6 alcohol and therefore implemented a probationary agreement, which included requiring
7 Respondent to complete an IOP, submit to drug testing, and self-report his relapse to the Board.

8 4. In 05/14, Respondent was involuntarily terminated when he violated his
9 probationary agreement by being arrested for Extreme DUI.

10 5. Respondent's 05/21/14 Extreme DUI police arrest report indicated the following:

11 a. Officers responded to Circle K for male inside a parked vehicle who appeared
12 to be intoxicated.

13 b. Respondent was unable to communicate as he was slurring and was
14 disoriented.

15 c. The officer was unable to conduct field sobriety tests due to Respondent's
16 condition and inability to comprehend/communicate and stand on his own
17 without using the vehicle.

18 d. Empty alcohol containers were found in the car.

19 6. Respondent subsequently pled guilty to Extreme DUI.

20 7. Soon after his 05/14 Extreme DUI arrest, Respondent began receiving services
21 at a behavioral health treatment center for alcohol abuse and other behavioral health issues.

22 8. Respondent's 08/14 discharge summary from that treatment center indicated:

23 a. Respondent completed 60 days of inpatient treatment, 8 hours per week of
24 group therapy, individual therapy once per week, and AA meetings.

25 b. He will continue his care related to alcohol.

1 c. Respondent was resistant during treatment.

2 d. He declined clinical recommendations.

3 e. It is recommended that Respondent receive personality testing after his
4 discharge.

5 9. From approximately 08/14 – 03/15, Respondent received further behavioral
6 health services at another behavioral health treatment center.

7 10. Respondent's 03/15 discharge summary from that treatment center indicated:

8 a. Respondent completed treatment.

9 b. He will continue with transitional living.

10 c. He has made significant progress.

11 11. Presently, Respondent continues to receive medication management on an as-
12 needed basis.

13 12. Respondent's current relapse prevention plan includes the following:

14 a. Attending weekly AA meetings.

15 b. Having a sponsor.

16 c. Exercising.

17 d. Taking medication as directed.

18 e. Focusing his energy on work.

19 **CONCLUSIONS OF LAW**

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

23 2. The conduct and circumstances described in the Findings of Fact constitute a
24 violation of A.R.S. § 32-3251(16)(l), any conduct, practice or condition that impairs the ability of
25 the licensee to safely and competently practice the licensee's profession.

1 ORDER

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

4 Stayed Suspension

5 1. As of the effective date of this Consent Agreement, Respondent's license shall
6 be **SUSPENDED** for 24 months. However, the suspension shall be stayed and Respondent's
7 license shall be placed on probation.

8 2. During the stayed suspension portion of the Order, if Respondent is
9 noncompliant with the terms of the Order in any way, the stay of the suspension shall be lifted
10 and Respondent's license shall be automatically suspended as set forth above.

11 3. If Respondent contests the lifting of the stay as it relates to this paragraph,
12 Respondent shall request in writing, within 10 days of being notified of the automatic
13 suspension of licensure, that the matter be placed on the Board agenda for the Board to review
14 and determine if the automatic suspension of Respondent's license was supported by clear and
15 convincing evidence.

16 4. If the written request is received within 10 days of a regularly scheduled Board
17 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
18 scheduled Board meeting.

19 5. Pending the Board's review, Respondent's license shall be reported as
20 suspended - under review. Respondent may not work in any capacity as a licensed behavioral
21 health professional pending the Board's review. The Board's decision and Order shall not be
22 subject to further review.

23 ...

24 ...

25 ...

1 Probation

2 6. Respondent's application to be a licensed master social worker is approved.

3 7. The license issued to Respondent pursuant to paragraph 6 will be immediately
4 placed on probation for 24 months.

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

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

15 Therapy

16 10. During the period of probation, Respondent shall attend therapy with a masters
17 or higher level behavioral health professional licensed at the independent level. Within 30 days
18 of the date of this Consent Agreement, Respondent shall submit the name of their therapist and
19 the therapist's curriculum vitae for pre-approval by the Board Chair or designee. Also within 30
20 days of the date of this Consent Agreement, the therapist shall submit a letter addressing why
21 they should be approved, acknowledging that they have reviewed the Consent Agreement and
22 include the results of an initial assessment and a treatment plan regarding the proposed
23 treatment of Respondent.

24 ...

25 ...

1 11. Upon approval, the Board will provide the therapist with copies of any required
2 evaluations completed at the request of the Board prior to this Consent Agreement and the
3 Board's investigative report.

4 **Focus and Frequency of Therapy**

5 12. The focus of the therapy shall relate to the issues identified in the Board's
6 investigative report. For the first 6 months of therapy, Respondent shall meet with the therapist
7 twice monthly. After the first 6 months, the frequency shall be at the recommendation of the
8 therapist.

9 **Reports**

10 13. Once approved, the therapist shall submit quarterly reports and a final summary
11 report to the Board for review and approval. The quarterly reports shall include issues presented
12 in this Consent Agreement that need to be reported and the therapist shall notify the Board if
13 more frequent therapy is needed. The reports shall address Respondent's current mental health
14 status, medications prescribed, if any, treatment recommendation, and shall report if, in their
15 professional opinion, Respondent becomes unable to practice psychotherapy safely and
16 competently. The final report shall also contain a recommendation as to whether the
17 Respondent should be released from this Consent Agreement.

18 **Change of Therapist**

19 14. In the event that, during the period of Respondent's probation, Respondent's
20 Board-approved therapist discontinues treatment, Respondent shall submit the name of a new
21 therapist and the therapist's curriculum vitae for pre-approval by the Board Chair or designee
22 within 30 days of the discontinued treatment. Also within 30 days of the date of the discontinued
23 treatment, the proposed therapist shall submit a letter addressing why they should be approved,
24 acknowledging that they have reviewed the Consent Agreement, and include the results of an
25 initial assessment and a treatment plan regarding the proposed treatment of Respondent.

1 Recovery Program

2 15. While on probation, Respondent shall attend recovery support meetings at a
3 minimum of twice per week. Respondent shall obtain a sponsor, mentor, or group leader and
4 that individual shall provide quarterly reports to the Board Chair or designee attesting to
5 Respondent's attendance and participation.

6 Biological Fluid Testing

7 16. Within 10 days of the effective date of this Order, Respondent shall enroll in a
8 program that meets Board criteria for observed random biological fluid testing. The chemicals
9 tested shall be determined by the Board Chair or designee. Random testing shall be done at a
10 minimum of twice monthly and may be required more frequently as requested by the Board or
11 its designee. Respondent shall direct the Board-approved testing laboratory to provide a copy of
12 each test result to the Board. Respondent shall direct the Board-approved testing laboratory to
13 advise the Board or its designee within 7 days regarding any issue of noncompliance by
14 Respondent. Respondent shall notify the biological fluid testing laboratory and the Board, in
15 writing, of unavailability to test prior to an anticipated absence or if unable to provide a sample
16 due to illness. Respondent must submit in writing within 7 days of the missed specimen,
17 documentation from a treating physician who has personally evaluated Respondent on the day
18 of the requested screen that Respondent was not physically able to report to the laboratory for
19 biological fluid testing.

20 ***Failure to show for a random biological fluid test or failure to provide a random***
21 ***biological fluid sample on a day when a sample is requested by the Board, its designee***
22 ***or the laboratory will be considered an admission of a positive urine screening.*** The
23 following situations will also constitute ***an admission of a positive urine screen***: submission of
24 a specimen where the integrity has been compromised as indicated by the presence of
25 adulterants, with determination made by laboratory personnel; submission of a sample that is

1 below acceptable volume or temperature to be tested; failure to provide written advance notice
2 of anticipated absence; and failure to provide written verification of illness from a physician
3 within 7 days of the missed specimen.

4 ***Failure to show for the random biological fluid test, failure to provide a random***
5 ***biological fluid sample*** or a positive drug screen showing evidence of any drug other than an
6 authorized medication ***will constitute a violation of this Order. A violation of this Order for***
7 ***those reasons will be deemed to be a threat to the public's health, safety and welfare.***
8 ***The Board may then summarily suspend Respondent's license and may impose***
9 ***disciplinary action including but not limited to suspension or revocation of Respondent's***
10 ***license, after notice and opportunity for a hearing. The issue at such hearing will be***
11 ***limited to whether Respondent violated this Order by failing to show for a random***
12 ***biological fluid test, failing to provide a random biological fluid sample or for having***
13 ***tested positive for any drug other than an authorized medication.***

14 17. Respondent shall abstain completely from the personal use of the following
15 substances: opiates, foodstuffs containing poppy seeds, foodstuffs containing hemp products,
16 and herbal or health preparations containing derivatives of controlled substances. Respondent
17 is fully responsible for any and all ingested materials and their contents.

18 18. Respondent shall abstain completely from the personal use of alcohol or
19 controlled substances or possession of controlled substances, as defined in the State Controlled
20 Substances Act and Dangerous Drugs and Narcotics as defined by law or any drugs requiring a
21 prescription. Respondent shall abstain from the use of alcohol and all over-the-counter
22 medications except plain aspirin, acetaminophen, or ibuprofen.

23 19. Orders prohibiting Respondent from personal use or possession of controlled
24 substances, dangerous drugs, narcotics, or medications do not apply to medications lawfully
25 prescribed to Respondent for a bona fide illness or condition by a medical care provider. During

1 the duration of this Consent Agreement, Respondent shall select one (1) medical care provider
2 to coordinate their health care needs and to be aware of all prescriptions utilized by
3 Respondent. Respondent shall immediately submit to that provider a copy of this Consent
4 Agreement and shall execute all release of information forms as required by the Board or its
5 designee. The medical care provider shall, within 14 days of the effective date of this Consent
6 Agreement, inform the Board, in writing, of knowledge of Respondent's Consent Agreement and
7 provide a list of medications prescribed for Respondent. During the duration of this Consent
8 Agreement, Respondent shall cause all providers to notify the Board of any additional
9 medications ordered by the provider. The notification shall be made in writing within 7 days of
10 the provider's issuance of the prescription.

11 20. If Respondent has a lawful prescription for a narcotic or mood-altering drug,
12 Respondent shall cause their prescribing provider to submit monthly reports to the Board by the
13 30th day of each month regarding the continued need for the prescribed narcotic or mood-
14 altering medications. The Board or its designee may, at any time, request the provider to
15 document the continued need for prescribed medications. Respondent shall keep a written
16 record of medications taken, including over the counter drugs, and produce such record upon
17 request by the Board or its designee.

18 Early Release

19 21. After 12 months and upon the therapist's recommendation, Respondent may
20 request early release from the Consent Agreement if all other terms of the Consent Agreement
21 have been met.

22 GENERAL PROVISIONS

23 Provision of Clinical Supervision

24 22. Respondent shall not provide clinical supervision while subject to this Consent
25 Agreement.

1 Civil Penalty

2 23. Subject to the provisions set forth in paragraph 24, the Board imposes a civil
3 penalty against the Respondent in the amount of \$1,000.00.

4 24. Respondent's payment of the civil penalty shall be stayed so long as Respondent
5 remains compliant with the terms of this Consent Agreement. If Board staff determines that
6 Respondent is noncompliant with the terms of this Consent Agreement in any respect, with the
7 exception of the tolling provision under paragraph 9, the stay of the civil penalty payment shall
8 be automatically lifted and payment of the civil penalty shall be made by certified check or
9 money order payable to the Board within 30 days after being notified in writing of the lifting of
10 the stay.

11 25. Within 10 days of being notified of the lifting of the stay, Respondent may request
12 that the matter be reviewed by the Board for the limited purpose of determining whether the
13 automatic lifting of the stay was supported by clear and convincing evidence. If the Board
14 receives the written request within 10 days or less of the next regularly scheduled Board
15 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
16 scheduled Board meeting. The Board's decision on this matter shall not be subject to further
17 review.

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

23 27. If Respondent currently sees clients in their own private practice, and obtains any
24 other type of behavioral health position, either as an employee or independent contractor, where

25 ...

1 they provide behavioral health services to clients of another individual or agency, they shall
2 comply with requirements set forth in paragraphs 28 through 30 below.

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

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

21 30. If, during the period of Respondent's probation, Respondent changes
22 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
23 extended leave of absence for whatever reason that may impact their ability to timely comply
24 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform
25 the Board of their change of employment status. After the change and within 10 days of

1 accepting employment in a position where Respondent provides any type of behavioral health
2 related services or in a setting where any type of behavioral health, health care, or social
3 services are provided, Respondent shall provide the Board Chair or designee a written
4 statement providing the contact information of their new employer(s) and a signed statement
5 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a
6 copy of this Consent Agreement. If Respondent does not provide the employer's statement to
7 the Board within 10 days, as required, Respondent's failure to provide the required statement to
8 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide
9 Respondent's employer(s) with a copy of the Consent Agreement.

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

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

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

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

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

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

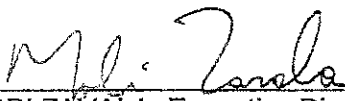
7 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

8 
9 David B. Jensen

10 10/10/17
Date

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

12 Dated this 7th day of November, 2017.

13 By: 
14 TOBI ZAVALA, Executive Director
15 Arizona Board of Behavioral Health Examiners

16
17 ORIGINAL of the foregoing filed
18 This 7th day of November, 2017 with:

19 Arizona Board of Behavioral Health Examiners
20 3443 North Central Avenue, Suite 1700
Phoenix, AZ 85012

21 COPY of the foregoing mailed via Interagency Mail
22 This 7th day of November, 2017, to:

23 Marc Harris
24 Assistant Attorney General
1275 West Washington
Phoenix, Arizona 85007

25 ...

1 **COPY** of the foregoing mailed via
Certified mail no. 707 145000008689 0189

2 This 7th day of November, 2017, to:

3 David B. Jensen
4 Address of Record
5 Respondent

6 **COPY** of the foregoing mailed via Mail
7 This 7th day of November, 2017 to:

8 Larry J. Cohen
9 The Cohen Law Firm
10 Post Office Box 10056
11 Phoenix, Arizona 85012
12 Attorney for Respondent

13
14
15
16
17
18
19
20
21
22
23
24
25