

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

2 **In the Matter of:**

3 **Anabel Aguayo, LCSW-17004,**  
4 **Licensed Clinical Social Worker,**  
5 **In the State of Arizona.**

6 **RESPONDENT**

**CASE NO. 2019-0137**

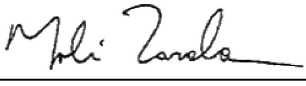
**RELEASE FROM  
CONSENT AGREEMENT AND ORDER**

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 25<sup>th</sup>, 2019. After  
9 consideration, the Board voted to release Respondent from the terms and conditions of the  
10 Consent Agreement and Order dated November 25<sup>th</sup>, 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 November 25<sup>th</sup>, 2019.

15 By:   
16 **TOBI ZAVALA, Executive Director**  
**Arizona Board of Behavioral Health Examiners**

**Feb 15, 2022**

Date

17  
18 **ORIGINAL** of the foregoing filed **Feb 15, 2022**  
19 with:

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

23 **EXECUTED COPY** of the foregoing sent electronically **Feb 15, 2022**  
24 to:

25 Anabel Aguayo  
Address of Record  
Respondent

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

**In the Matter of:**

**Anabel Aguayo, LCSW-17004,  
Licensed Clinical Social Worker,  
In the State of Arizona.**

**RESPONDENT**

**CASE NO. 2019-0137  
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), Anabel Aguayo ("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 their right to such formal hearing concerning these allegations and irrevocably waives their 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 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 between only 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-17004 for the practice of social  
4 work in Arizona.

5 2. From 01/18 – 04/19, Respondent worked for a behavioral health agency  
6 (“Agency”).

7 3. Respondent and a client (“Client”) of Agency, whom Respondent did not  
8 individually treat, have a history of civil discord with each other.

9 4. Both Respondent and Client have in the past filed Injunctions of Harassment  
10 against each other.

11 5. Upon hire, Respondent signed acknowledgement of Agency policies, which  
12 included information on the following:

13 a. Unauthorized access to information or systems is prohibited.

14 b. Refrain from accessing information about individuals unless specifically  
15 authorized and required as part of assigned duties.

16 c. Access sensitive information only when it is necessary to perform job  
17 functions.

18 6. Despite Agency’s policies, Respondent acknowledges inappropriately accessing  
19 Client’s electronic health record.

20 7. According to Respondent’s 04/22/19 Termination Letter from Agency:

21 a. On 03/02/18, Respondent electronically accessed patient health information  
22 in a manner that was not associated with her duties.

23 b. Upon further investigation, it was determined that Respondent electronically  
24 accessed PHI of two other patients on separate occasions in a manner not  
25 associated with her duties.

1           8.     In conclusion:

2               a.   Respondent disregarded several Agency policies regarding the protection  
3                 and unauthorized access of patient health information.

4               b.   Respondent inappropriately accessed the protected health information of a  
5                 patient whom she had a long history of civil discord with.

6               c.   Respondent also accessed that patient's daughter's electronic health record  
7                 as well as two other individuals.

8               d.   By accessing electronic health records, Respondent had access to  
9                 information including diagnoses, reasons for treatment, and other protected  
10                and confidential information, to which those patient's had an expectation of  
11                privacy.

12           9.     As a corrective action, Respondent completed 8 continuing education hours  
13     surrounding ethics and HIPAA privacy rules.

14                               **CONCLUSIONS OF LAW**

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

18           2.     The conduct and circumstances described in the Findings of Fact constitute a  
19     violation of A.R.S. § 32-3251(16)(k), any conduct or practice that is contrary to recognized  
20     standards of ethics in the behavioral health profession, as it relates to the NASW Code of  
21     Ethics:

22                               **1.07, Privacy and Confidentiality:**

23               (a) Social workers should respect clients' right to privacy. Social  
24               workers should not solicit private information from or about clients  
25               except for compelling professional reasons. Once private information

1 is shared, standards of confidentiality apply.

2 (q) Social workers should avoid searching or gathering client  
3 information electronically unless there are compelling professional  
4 reasons, and when appropriate, with the client's informed consent.

5 **ORDER**

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

8 **Stayed Revocation**

9 1. As of the effective date of this Consent Agreement, Respondent's license,  
10 LCSW-17004, shall be REVOKED for 24 months. However, the revocation shall be stayed and  
11 Respondent's license shall be placed on probation.

12 2. During the stayed revocation portion of the Order, if Respondent is noncompliant  
13 with the terms of the Order in any way, the stay of the revocation shall be lifted and  
14 Respondent's license shall be automatically revoked as set forth above.

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

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

23 5. Pending the Board's review, Respondent's license shall be reported as revoked -  
24 under review. Respondent may not work in any capacity as a licensed behavioral health

25 ...

professional pending the Board's review. The Board's decision and Order shall not be subject to further review.

### **Probation**

6. Respondent's license, LCSW-17004, will be placed on probation for 24 months, effective from the date of entry as signed below.

7. Respondent shall not practice under their license, LCSW-17004, 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.

8. 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**

9. 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.

10. 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 take and pass a

...

1 three semester credit hour graduate level behavioral health ethics course from a regionally  
2 accredited college or university, pre-approved by the Board Chair or designee. Upon  
3 completion, Respondent shall submit to the Board an official transcript establishing completion  
4 of the required course.

### 5 **Clinical Supervision**

6 12. While on probation, Respondent shall submit to clinical supervision for 24 months  
7 by a masters or higher level behavioral health professional licensed by the Arizona Board of  
8 Behavioral Health Examiners at the independent level. Within 30 days of the date of this  
9 Consent Agreement, Respondent shall submit the name of a clinical supervisor for pre-approval  
10 by the Board Chair or designee. Also within 30 days of the date of this Consent Agreement, the  
11 clinical supervisor shall submit a letter disclosing their prior relationship to Respondent. In that  
12 letter, the clinical supervisor must address why they should be approved, acknowledge that they  
13 have reviewed the Consent Agreement and include the results of an initial assessment and a  
14 supervision plan regarding the proposed supervision of Respondent. The letter from the  
15 supervisor shall be submitted to the Board.

### 16 **Focus and Frequency of Clinical Supervision**

17 13. The focus of the supervision shall relate to ethics, documentation, responsibility,  
18 and Board rules and statutes. Respondent shall meet individually in person with the supervisor  
19 for a minimum of one hour weekly.

### 20 **Reports**

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

- 25 a. Dates of each clinical supervision session.



1           b. A comprehensive description of issues discussed during supervision  
2           sessions.

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

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

10                           **Change of Clinical Supervisor During Probation**

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

18                           **Therapy**

19           18. During the period of probation, Respondent shall attend therapy for 12 months  
20           with a masters or higher level behavioral health professional licensed at the independent level.  
21           Within 30 days of the date of this Consent Agreement, Respondent shall submit the name of  
22           their therapist and the therapist's curriculum vitae for pre-approval by the Board Chair or  
23           designee. Also within 30 days of the date of this Consent Agreement, the therapist shall submit  
24           a letter addressing why they should be approved, acknowledging that they have reviewed the  
25           ...

1 Consent Agreement and include the results of an initial assessment and a treatment plan  
2 regarding the proposed treatment of Respondent.

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

#### 6 **Focus and Frequency of Therapy**

7 20. The focus of the therapy shall relate to emotion regulation, high conflict  
8 management, self-care, boundaries, and distress. Respondent shall meet in person with the  
9 therapist twice monthly.

#### 10 **Reports**

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

#### 19 **Change of Therapist**

20 22. In the event that, during the period of Respondent's probation, Respondent's  
21 Board-approved therapist discontinues treatment, Respondent shall submit the name of a new  
22 therapist and the therapist's curriculum vitae for pre-approval by the Board Chair or designee  
23 within 30 days of the discontinued treatment. Also within 30 days of the date of the discontinued  
24 treatment, the proposed therapist shall submit a letter addressing why they should be approved,

25 ...

acknowledging that they have reviewed the Consent Agreement, and include the results of an initial assessment and a treatment plan regarding the proposed treatment of Respondent.

### **Civil Penalty**

23. The Board imposes a civil penalty against Respondent. Within 6 months of the effective date of this Order, Respondent shall submit a certified check or money order payable to the Arizona Board of Behavioral Health Examiners in the amount of \$1000.

## **GENERAL PROVISIONS**

### **Provision of Clinical Supervision**

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

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

26. If Respondent currently sees clients in their own private practice, and obtains any other type of behavioral health position, either as an employee or independent contractor, where they provide behavioral health services to clients of another individual or agency, they shall comply with requirements set forth in paragraphs 27 through 29 below.

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

1 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a  
2 copy of the Consent Agreement.

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

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

25 ...

1 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide  
2 Respondent's employer(s) with a copy of the Consent Agreement.

3 30. Respondent shall practice behavioral health using the name under which they  
4 are licensed. If Respondent changes their name, they shall advise the Board of the name  
5 change as prescribed under the Board's regulations and rules.

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

17 32. Respondent shall bear all costs relating to probation terms required in this  
18 Consent Agreement.

19 33. Respondent shall be responsible for ensuring that all documentation required in  
20 this Consent Agreement is provided to the Board in a timely manner.

21 34. This Consent Agreement shall be effective on the date of entry below.

22 35. This Consent Agreement is conclusive evidence of the matters described herein  
23 and may be considered by the Board in determining appropriate sanctions in the event a  
24 subsequent violation occurs.

25 ...

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

2                     
3                   Anabel Aguayo (Nov 24, 2019)

3                   Anabel Aguayo

Nov 24, 2019

Date

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

5                   By:

6                   

7                   TOBI ZAVALA, Executive Director  
8                   Arizona Board of Behavioral Health Examiners

Nov 25, 2019

Date

9                   **ORIGINAL** of the foregoing filed  
10                  with:

Nov 25, 2019

11                  Arizona Board of Behavioral Health Examiners  
12                  1740 West Adams Street, Suite 3600  
13                  Phoenix, AZ 85007

14                  **EXECUTED COPY** of the foregoing sent electronically  
15                  to:

Nov 25, 2019

16                  Marc Harris  
17                  Assistant Attorney General  
18                  2005 North Central Avenue  
19                  Phoenix, AZ 85004

20                  Anabel Aguayo  
21                  Address of Record  
22                  Respondent  
23  
24  
25