

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

3 **In the Matter of:**

4 **Elias Burboa, LAC-16118,**
5 **Licensed Associate Counselor,**
6 **In the State of Arizona.**

7 **RESPONDENT**

CASE NO. 2021-0073

CONSENT AGREEMENT

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), Elias Burboa ("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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 acknowledges and agrees that the acceptance of this Consent
16 Agreement is solely to settle this Board matter and does not preclude the Board from instituting
17 other proceedings as may be appropriate now or in the future. Furthermore, and
18 notwithstanding any language in this Consent Agreement, this Consent Agreement does not
19 preclude in any way any other state agency or officer or political subdivision of this state from
20 instituting proceedings, investigating claims, or taking legal action as may be appropriate now or
21 in the future relating to this matter or other matters concerning Respondent, including but not
22 limited to violations of Arizona's Consumer Fraud Act. Respondent acknowledges that, other
23 than with respect to the Board, this Consent Agreement makes no representations, implied or
24 otherwise, about the views or intended actions of any other state agency or officer or political
25 subdivision of the state relating to this matter or other matters concerning Respondent.

1 8. Respondent understands that once the Board approves and signs this Consent
2 Agreement, it is a public record that may be publicly disseminated as a formal action of the
3 Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

4 9. Respondent further understands that any violation of this Consent Agreement
5 constitutes unprofessional conduct pursuant to A.R.S. § 32-3251(16)(n) and may result in
6 disciplinary action pursuant to A.R.S. § 32-3281.

7 10. The Board therefore retains jurisdiction over Respondent and may initiate
8 disciplinary action against Respondent if it determines that they have failed to comply with the
9 terms of this Consent Agreement or of the practice act.

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

11 **FINDINGS OF FACT**

- 12 1. Respondent is the holder of License No. LAC-16118 for the practice of
13 counseling in the state of Arizona.
- 14 2. On 01/06/20, Respondent was arrested for driving under the influence.
- 15 3. Respondent's blood alcohol content was measured at .226%.
- 16 4. Respondent was involved in a single vehicle accident.

17 **CONCLUSIONS OF LAW**

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

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

24 ...
25 ...

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 1. Respondent's license, LAC-16118, will be placed on probation for 12 months,
5 effective from the date of entry as signed below.

6 2. Respondent shall not practice under their license, LAC-16118, unless they are
7 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,
8 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they
9 shall immediately notify the Board in writing and shall not practice under their license until they
10 submit a written request to the Board to re-commence compliance with this Consent Agreement.
11 All such requests shall be pre-approved by the Board Chair or designee.

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

16 **Continuing Education**

17 4. In addition to the continuing education requirements of A.R.S. § 32-3273, within
18 12 months of the effective date of this Consent Agreement, Respondent shall take and pass a
19 three semester credit hour graduate level course in substance use disorders from a regionally
20 accredited college or university, pre-approved by the Board Chair or designee. Upon
21 completion, Respondent shall submit to the Board an official transcript establishing completion
22 of the required course.

23 **Recovery Program**

24 5. While on probation, Respondent shall attend a minimum of 3 Mothers Against
25 Drunk Driving ("M.A.D.D.") meetings in person or an equivalent program. Respondent shall

1 provide a report to the Board Chair or designee substantiating his/her attendance at M.A.D.D.
2 meetings or equivalent program.

3 **Early Release**

4 6. After completion of the continuing education requirements set forth in this
5 Consent Agreement, Respondent may request early release from the Consent Agreement if all
6 other terms of the Consent Agreement have been met.

7 **GENERAL PROVISIONS**

8 **Provision of Clinical Supervision**

9 7. Respondent shall not provide clinical supervision while subject to this Consent
10 Agreement.

11 **Civil Penalty**

12 8. Subject to the provisions set forth in paragraph 9, the Board imposes a civil
13 penalty against the Respondent in the amount of \$1,000.00.

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

21 10. Within 10 days of being notified of the lifting of the stay, Respondent may request
22 that the matter be reviewed by the Board for the limited purpose of determining whether the
23 automatic lifting of the stay was supported by substantial evidence. If the Board receives the
24 written request within 10 days or less of the next regularly scheduled Board meeting, the

25 ...

1 request will not be heard at that meeting, but will be heard at the next regularly scheduled Board
2 meeting. The Board's decision on this matter shall not be subject to further review.

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

8 12. If Respondent currently sees clients in their own private practice, and obtains any
9 other type of behavioral health position, either as an employee or independent contractor, where
10 they provide behavioral health services to clients of another individual or agency, they shall
11 comply with requirements set forth in paragraphs 13 through 15 below.

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

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

1 Consent Agreement. If Respondent does not provide the employer's statement to the Board
2 within 10 days, as required, Respondent's failure to provide the required statement to the Board
3 shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
4 employer(s) with a copy of the Consent Agreement.

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

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

22 17. Prior to the release of Respondent from probation, Respondent must submit a
23 written request to the Board for release from the terms of this Consent Agreement at least 30
24 days prior to the date they would like to have this matter appear before the Board. Respondent
25 may appear before the Board, either in person or telephonically. Respondent must provide

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


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

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

12 20. This Consent Agreement shall be effective on the date of entry below.

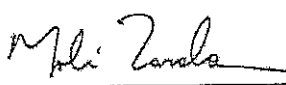
13 21. This Consent Agreement is conclusive evidence of the matters described herein
14 and may be considered by the Board in determining appropriate sanctions in the event a
15 subsequent violation occurs.

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

18 
Elias Burboa (Oct 21, 2020 11:29 PDT)
Elias Burboa

Oct 21, 2020
Date

20
21 **BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

22
23 By: 
TOBI ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

Nov 16, 2020
Date

24 ...
25 ...

Nov 16, 2020

1 ORIGINAL of the foregoing filed
with:

2 Arizona Board of Behavioral Health Examiners
3 1740 West Adams Street, Suite 3600
Phoenix, AZ 85007

Nov 16, 2020

4 EXECUTED COPY of the foregoing sent electronically
5 To:

6 Mona Baskin
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Phoenix, Arizona 85004-1592

8 Elias Burboa
9 Address of Record
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