

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

3 **In the Matter of:**

4 **Kimberly D. Markins, LMSW-16451,**
5 **Licensed Master Social Worker**
6 **In the State of Arizona.**

7 **RESPONDENT**

CASE NO. 2025-0009
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), Kimberly D. Markins (“Respondent”) and the Board enter into this
12 Consent Agreement, Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as
13 a final 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 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11 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 acknowledges and agrees that the acceptance of this Consent
17 Agreement is solely to settle this Board matter and does not preclude the Board from instituting
18 other proceedings as may be appropriate now or in the future. Furthermore, and
19 notwithstanding any language in this Consent Agreement, this Consent Agreement does not
20 preclude in any way any other state agency or officer or political subdivision of this state from
21 instituting proceedings, investigating claims, or taking legal action as may be appropriate now or
22 in the future relating to this matter or other matters concerning Respondent, including but not
23 limited to violations of Arizona's Consumer Fraud Act. Respondent acknowledges that, other
24 than with respect to the Board, this Consent Agreement makes no representations, implied or

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1 otherwise, about the views or intended actions of any other state agency or officer or political
2 subdivision of the state relating to this matter or other matters concerning Respondent.

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

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

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

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

13 **FINDINGS OF FACT**

14 1. Respondent is the holder of License No. LMSW-16451 for the practice of social
15 work in the State of Arizona.

16 2. On 07/21/24, the Board received a complaint against Respondent alleging
17 boundary issues with multiple Agency clients, including meeting with two separate clients
18 outside of the therapy setting.

19 3. From 09/23 – 07/24, Respondent provided behavioral health services to Client
20 MH.

21 4. From 7/23 – 07/24, Respondent provided behavioral health services to Client
22 SO.

23 5. A main focus of Client MH's services related to Client MH opening her own tattoo
24 shop and the stress involved with it.

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1 6. In several progress notes completed by Respondent, she documents the
2 conversations around Client MH opening her tattoo shop, the stress related to it, and the
3 success of the opening of the shop.

4 7. Part of Complainant's allegations were that Respondent went to Client MH's
5 tattoo shop and received a tattoo from Client MH, and that Client MH during a session showed
6 Respondent her breast.

7 8. Upon review of the clinical records, Respondent failed to document these two
8 incidents anywhere within the clinical records.

9 9. Respondent represented the following regarding the allegations pertaining to
10 Client MH:

- 11 a. Client MH had been talking about the opening of her tattoo shop during
12 sessions.
- 13 b. Client MH mentioned she wanted Respondent to come to the opening of her
14 shop and Respondent decided to go last minute to support Client MH.
- 15 c. Respondent invited Colleague who was aware Client MH was Respondent's
16 client, so Respondent felt it was okay to do so.
- 17 d. Respondent did not realize she should document going to Client MH's tattoo
18 shop and admits she was ignorant to whether she should document it.
- 19 e. At that time, Respondent did not view it as a boundary crossing because she
20 had run into clients in public places before.
- 21 f. Respondent did not perceive any risks with attending the opening of the shop
22 at that time.
- 23 g. Respondent spent roughly 5 minutes getting a tattoo from Client MH that
24 Respondent paid for and Respondent never disclosed to anyone at the shop
25 how she knew Client MH.

- 1 h. Respondent now realizes this was inappropriate and should not have
2 happened.
- 3 i. During one session, Client MH said she got a new tattoo and Respondent
4 asked what she got, and Client MH lifted her shirt up to show Respondent.
- 5 j. Respondent then asked Client MH to pull her shirt back down and explained
6 to Client MH that it was not appropriate.
- 7 k. Respondent further admitted her ignorance with documentation is why she
8 did not document this incident, and typically documents therapeutic aspects
9 of a session, but has learned she needs to document more.
- 10 10. Complainant alleged that Respondent attended church with Client SO at some
11 point.
- 12 11. Despite Client SO's treatment goals focusing on decreasing anxiety, a 05/29/24
13 progress note completed by Respondent indicated Respondent suggested Client SO attend a
14 church without her parents.
- 15 12. Respondent represented the following regarding attending church with Client SO:
- 16 a. Respondent and Client SO had many conversations around church because
17 Client SO was struggling with her faith and parenting.
- 18 b. Respondent was encouraging Client SO to go to a different church with her
19 baby.
- 20 c. Respondent happened to mention the church she attends as well as other
21 churches Respondent thought could fit Client SO.
- 22 d. Respondent did not invite Client So to attend Respondent's church.
- 23 e. Client SO ended up coming to Respondent's church and Client SO
24 approached Respondent.
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- 1 f. Client SO felt uncomfortable, so Respondent allowed Client SO to sit with
2 Respondent during the service.
- 3 g. Respondent did tell Client SO that if she was going to come to Respondent's
4 church, she needed to attend a different service because they could not
5 engage with each other outside of therapy.
- 6 h. Client SO attending Respondent's church was a one-time occurrence.
- 7 i. Respondent admits sharing the church she attends was an accidental
8 overshare.
- 9 j. Respondent acknowledged failing to document both that Client SO attended
10 her church and the conversation with Client SO about Client SO not attending
11 Respondent's church anymore.

12 13. Despite Respondent taking accountability for her action and admitting her
13 mistakes, Respondent extended her professional boundaries with multiple clients and failed to
14 document these boundary extensions anywhere within the clinical records.

15 14. Respondent failed to consult with a supervisor prior to extending her professional
16 boundaries with these clients.

17 15. Respondent in fact engaged in a non-therapeutic relationship with both Client MH
18 and Client SO by meeting with them outside of the therapy setting.

19 16. Respondent attributes her conduct to lack of experience and professional
20 guidance, yet has been licensed with the Board since 2016.

21 17. Respondent represents she now conducts a thorough review of ethical guidelines
22 with all clients and has sought feedback from peers and supervisors to make necessary
23 improvements.

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1 **CONCLUSIONS OF LAW**

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

5 2. The conduct and circumstances described in the Findings of Fact constitute a
6 violation of A.R.S. § 32-3251(16)(k), engaging in any conduct or practice that is contrary to
7 recognized standards of ethics in the behavioral health profession or that constitutes a danger
8 to the health, welfare or safety of a client, as it relates to the ACA Code of Ethics:

9 **1.06(c) Conflicts of Interest**

10 Social workers should not engage in dual or multiple relationships with
11 clients or former clients in which there is a risk of exploitation or
12 potential harm to the client. In instances when dual or multiple
13 relationships are unavoidable, social workers should take steps to
14 protect clients and are responsible for setting clear, appropriate, and
15 culturally sensitive boundaries (Dual or multiple relationships occur
16 when social workers relate to clients in more than one relationship,
17 whether professional, social, or business. Dual or multiple
18 relationships can occur simultaneously or consecutively).

19 **ORDER**

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

22 1. Respondent’s license, LMSW-16451 will be placed on probation for 24 months,
23 effective from the date of entry as signed below.

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1 2. Respondent shall not practice under their license, LMSW-16451 unless they are
2 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,
3 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they
4 shall immediately notify the Board in writing and shall not practice under their license until they
5 submit a written request to the Board to re-commence compliance with this Consent
6 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

11 **Practice Restriction**

12 4. While on probation, if Respondent engages in the practice of behavioral health, a
13 practice restriction shall be in place for no participation in supervised private practice.

14 **Continuing Education**

15 5. In addition to the continuing education requirements of A.R.S. § 32-3273, within
16 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock
17 hours of continuing education addressing Arizona documentation in-person. All required
18 continuing education shall be pre-approved by the Board Chair or designee. Upon completion,
19 Respondent shall submit a certificate of completion of the required continuing education.

20 6. In addition to the continuing education requirements of A.R.S. § 32-3273, within
21 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock
22 hours of continuing education addressing behavioral health ethics to include scope of practice
23 in-person. All required continuing education shall be pre-approved by the Board Chair or
24 designee. Upon completion, Respondent shall submit a certificate of completion of the required
25 continuing education.

1 **Clinical Supervision**

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

12 **Focus and Frequency of Clinical Supervision**

13 8. The focus of the supervision shall relate to Arizona statutes and rules, clinical
14 documentation, Arizona documentation, scope of practice, professional boundaries, decision
15 making, self-care, and the benefits of clinical supervision and consultation. During each
16 supervision session, the supervisor shall review a minimum of 3 client records chosen at
17 random by the supervisor to ensure Respondent's compliance with current behavioral health
18 documentation standards in Arizona. For the first 12 months, Respondent shall meet individually
19 with the supervisor for a minimum of one hour weekly if working fulltime. After the first 12
20 months, supervision shall be at the recommendation of the clinical supervisor, but no less than
21 biweekly.

22 **Reports**

23 9. Once approved, the supervisor shall submit quarterly reports for review and
24 approval by the Board Chair or designee. The quarterly reports shall include issues presented in

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1 this Consent Agreement that need to be reported and the supervisor shall notify the Board if
2 more frequent supervision is needed. Quarterly reports shall include the following:

- 3 a. Dates of each clinical supervision session.
- 4 b. A comprehensive description of issues discussed during supervision
5 sessions.
- 6 c. The results of each clinical documentation review by the supervisor.

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

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

14 **Change of Clinical Supervisor During Probation**

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

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1 **GENERAL PROVISIONS**

2 **Provision of Clinical Supervision**

3 13. Respondent shall not provide clinical supervision to associate level licensees
4 accruing and submitting hours towards independent licensure while subject to this Consent
5 Agreement.

6 **Civil Penalty**

7 14. Subject to the provisions set forth in paragraph 15, the Board imposes a civil
8 penalty against the Respondent in the amount of \$1,000.00.

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

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

23 17. The Board reserves the right to take further disciplinary action against
24 Respondent for noncompliance with this Consent Agreement after affording Respondent notice

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1 and an opportunity to be heard. If a complaint is filed against Respondent for failure to comply
2 with this Consent Agreement, the Board shall have continuing jurisdiction until the matter is final
3 and the period of probation shall be extended until the matter is final.

4 18. If Respondent currently sees clients in their own private practice, and obtains any
5 other type of behavioral health position, either as an employee or independent contractor, where
6 they provide behavioral health services to clients of another individual or agency, they shall
7 comply with requirements set forth in paragraphs 19 through 21 below.

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

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

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

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

18 23. Prior to the release of Respondent from probation, Respondent must submit a
19 written request to the Board for release from the terms of this Consent Agreement at least 30
20 days prior to the date they would like to have this matter appear before the Board. Respondent
21 may appear before the Board, either in person or telephonically. Respondent must provide
22 evidence that they have successfully satisfied all terms and conditions in this Consent
23 Agreement. The Board has the sole discretion to determine whether all terms and conditions of
24 this Consent Agreement have been met and whether Respondent has adequately demonstrated

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1 that they have addressed the issues contained in this Consent Agreement. In the event that the
2 Board determines that any or all terms and conditions of this Consent Agreement have not been
3 met, the Board may conduct such further proceedings as it determines are appropriate to
4 address those matters.

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

7 25. Respondent shall be responsible for ensuring that all documentation required in
8 this Consent Agreement is provided to the Board in a timely manner.

9 26. This Consent Agreement shall be effective on the date of entry below.

10 27. This Consent Agreement is conclusive evidence of the matters described herein
11 and may be considered by the Board in determining appropriate sanctions in the event a
12 subsequent violation occurs.

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

14 Kimberly Markins, LMSW Nov 18, 2024
Kimberly Markins, LMSW (Nov 18, 2024 11:28 MST)
15 Kimberly D. Markins Date

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

17 By: Tobi Zavala Nov 18, 2024
Tobi Zavala (Nov 18, 2024 12:19 MST)
18 TOBI ZAVALA, Executive Director Date
19 Arizona Board of Behavioral Health Examiners

20 **ORIGINAL** of the foregoing filed Nov 18, 2024
21 with:

22 Arizona Board of Behavioral Health Examiners
23 1740 West Adams Street, Suite 3600
Phoenix, AZ 85007

24 **EXECUTED COPY** of the foregoing sent electronically Nov 18, 2024
25 to:

1 Mona Baskin
2 Assistant Attorney General
3 2005 North Central Avenue
4 Phoenix, AZ 85004

5 Kimberly D. Markins
6 Address of Record
7 Respondent

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