

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

2 **In the Matter of:**

3 **Melissa D. Kinworthy, LASAC-13241,**
4 **Licensed Associate Substance Abuse**
5 **Counselor,**
6 **In the State of Arizona.**

7 **RESPONDENT**

CASE NO. 2016-0129

RELEASE FROM
CONSENT AGREEMENT AND ORDER

8 The Board received a request from Respondent to release them from the terms and
9 conditions of the Consent Agreement and Order dated January 3rd, 2017. After consideration,
10 the Board voted to release Respondent from the terms and conditions of the Consent
11 Agreement and Order dated January 3rd, 2017.

12 **ORDER**

13 **GOOD CAUSE APPEARING, IT IS THEREFORE ORDERED THAT:**

14 Respondent is hereby released from all terms and conditions of the Consent Agreement
15 and Order dated January 3rd, 2017.

16 Dated this 7th day of February, 2018.

17 By:

M. Zavala
18 **TOBI ZAVALA, Executive Director**
Arizona Board of Behavioral Health Examiners

19 **ORIGINAL** of the foregoing filed

20 This 7th day of February, 2018, with:

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

24 **COPY** of the foregoing mailed via

25 Certified mail no. 9489009000276050070181
This 7th day of February, 2018, to:

Melissa D. Kinworthy
Address of Record
Respondent

1 3. Respondent has the right to consult with an attorney prior to entering into this
2 Consent Agreement.

3 4. Respondent acknowledges and agrees that upon signing this Consent
4 Agreement and returning it to the Board's Executive Director, Respondent may not revoke their
5 acceptance of this Consent Agreement or make any modifications to it. Any modification of this
6 original document is ineffective and void unless mutually approved by the parties in writing.

7 5. The findings contained in the Findings of Fact portion of this Consent Agreement
8 are conclusive evidence of the facts stated herein and may be used for purposes of determining
9 sanctions in any future disciplinary matter.

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12 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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

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

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

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

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

FINDINGS OF FACT

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2
3 1. Respondent is the holder of License No. LASAC-13241 for the practice of
4 substance abuse counseling in Arizona.

5 2. Respondent's LASAC license expired on 06/30/15.

6 3. Respondent failed to renew her license by the expiration date or during the
7 subsequent 90-day grace period.

8 4. In 09/15, Respondent submitted a signed "Request Form for Inactive Status"
9 indicating she was unable to afford her licensure renewal fee and wished to put her license on
10 inactive status.

11 5. The form Respondent signed and submitted stated in bold print: "If your request
12 for Inactive Status is approved, you may not engage in the practice of psychotherapy until you
13 have reactivated your license."

14 6. On 10/15/15, the Substance Abuse Credentialing Committee ("SACC") approved
15 Respondent's request to put her license on inactive status.

16 7. The Board sent a letter to Respondent's address of record which included:

17 a. Notification of the SACC approval

18 b. A copy of A.A.C. R4-6-305 which governs inactive status

19 c. The statement: "You may not engage in the practice of psychotherapy
20 under your LASAC-13241."

21 8. Following the Board notification, Respondent continued to provide psychotherapy
22 at a behavioral health agency ("Agency").

23 9. In 12/15, Respondent was promoted to a position which required licensure and
24 involved supervising the clinical work of other Agency employees.
25

1 10. Despite submitting the Request Form for Inactive Status and being notified that
2 her license was inactive, Respondent indicated that she thought she had requested an
3 extension to renew at a future time, and did not realize her license was inactive until 04/16.

4 11. Respondent practiced psychotherapy without a valid license for approximately 7
5 months and provided clinical oversight to at least 6 supervisees while unlicensed.

6 **CONCLUSIONS OF LAW**

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

10 2. The conduct and circumstances described in the Findings of Fact constitute a
11 violation of A.R.S. § 32-3251(16)(b), use of fraud or deceit in connection with rendering services
12 as a licensee or in establishing qualifications pursuant to this chapter.

13 3. The conduct and circumstances described in the Findings of Fact constitute a
14 violation of A.R.S. § 32-3251(16)(n), failing to comply with or violating, attempting to violate or
15 assisting in or abetting the violation of any provision of this chapter, any rule adopted pursuant
16 to this chapter, any lawful order of the board, or any formal order, consent agreement, term of
17 probation or stipulated agreement issued under this chapter as it relates to:

18 **A.R.S. § 32-3286 (B):** A person not licensed pursuant to this chapter shall not
19 use any of the following designations or any other designation that indicated
20 licensure status, including abbreviations, or claim to be licensed pursuant to this
21 chapter: Licensed Associate Substance Abuse Counselor.

22 **ORDER**

23 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree to
24 the provisions and penalties imposed as follows:
25 ...

Early Release

1
2 6. After completion of the continuing education requirements set forth in this
3 Consent Agreement, Respondent may request early release from the Consent Agreement if all
4 other terms of the Consent Agreement have been met.

5 GENERAL PROVISIONS

6 Provision of Clinical Supervision

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

9 Civil Penalty

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

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

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

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

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

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

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

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

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

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

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

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

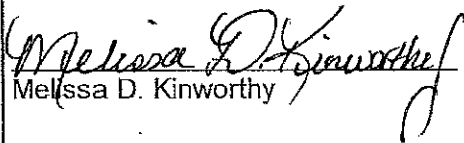
6 18. Respondent shall bear all costs relating to probation terms required in this
7 Consent Agreement.

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

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

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

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

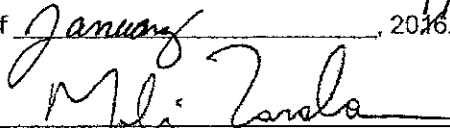
15 
16 Melissa D. Kinworthy

12/29/2016
Date

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

18 Dated this 3rd day of January, 2017.

19 By:


20 TOBÍ ZAVALA, Executive Director
21 Arizona Board of Behavioral Health Examiners

22 ORIGINAL of the foregoing filed
23 This 3rd day of January, 2017 with:

24 Arizona Board of Behavioral Health Examiners
25 3443 N. Central Ave., Suite 1700
Phoenix, AZ 85012

1 COPY of the foregoing mailed via Interagency Mail
This 2nd day of January, 2017, to:

2
3 Marc Harris
4 Assistant Attorney General
5 1275 West Washington.
6 Phoenix, Arizona 85007

7 COPY of the foregoing mailed via
8 Certified mail no. 7041200000633 8911
9 This 3rd day of January, 2017, to:

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Melissa D. Kinworthy
Address of Record
Respondent