

1 be approved, acknowledge that they have reviewed the Consent Agreement and include the
2 results of an initial assessment and a supervision plan regarding the proposed supervision of
3 Respondent. The letter from the supervisor shall be submitted to the Board.

4 **Focus and Frequency of Clinical Supervision**

5 5. The focus of the supervision shall relate to honesty, substance issues and
6 documentation. Respondent shall meet individually in person with the supervisor for a minimum
7 of once weekly for the initial 12 months if working fulltime or twice monthly if working less than
8 20 hours per week. Following the initial 12 months of clinical supervision, the frequency shall be
9 at the recommendation of the clinical supervisor.

10 **Reports**

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

- 15 a. Dates of each clinical supervision session.
16 b. A comprehensive description of issues discussed during supervision
17 sessions.

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

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

25 ...

1 **Change of Clinical Supervisor During Probation**

2 9. If, during the period of Respondent's probation, the clinical supervisor determines
3 that they cannot continue as the clinical supervisor, they shall notify the Board within 10 days of
4 the end of supervision and provide the Board with an interim final report. Respondent shall
5 advise the Board Chair or designee within 30 days of cessation of clinical supervision by the
6 approved clinical supervisor and provide the name of a new proposed clinical supervisor. The
7 proposed clinical supervisor shall provide the same documentation to the Board as was required
8 of the initial clinical supervisor.

9 **Therapy**

10 10. During the period of probation, Respondent shall attend therapy for 24 months
11 with a masters or higher level behavioral health professional licensed at the independent level.
12 Within 30 days of the date of this Consent Agreement, Respondent shall submit the name of
13 their therapist and the therapist's curriculum vitae for pre-approval by the Board Chair or
14 designee. Also within 30 days of the date of this Consent Agreement, the therapist shall submit
15 a letter addressing why they should be approved, acknowledging that they have reviewed the
16 Consent Agreement and include the results of an initial assessment and a treatment plan
17 regarding the proposed treatment of Respondent.

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

21 **Focus and Frequency of Therapy**

22 12. The focus of the therapy shall relate to concerns identified in the Board's
23 investigative report. Respondent shall meet in person with the therapist for a minimum of twice
24 monthly. Following the initial six months of therapy, the frequency shall be at the
25 recommendation of the therapist.

1 **Reports**

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

10 **Change of Therapist**

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

18 **Recovery Program**

19 15. While on probation, Respondent shall attend recovery support meetings at a
20 minimum of twice weekly. Respondent shall obtain a sponsor, mentor, or group leader and that
21 individual shall provide quarterly reports to the Board Chair or designee attesting to
22 Respondent's attendance and participation.

23 **Biological Fluid Testing**

24 16. Within 10 days of the effective date of this Order, Respondent shall enroll in a
25 program that meets Board criteria for observed random biological fluid testing. The chemicals

1 tested shall be determined by the Board Chair or designee. Random testing shall be done at a
2 minimum of once monthly and may be required more frequently as requested by the Board or its
3 designee. Respondent shall direct the Board-approved testing laboratory to provide a copy of
4 each test result to the Board. Respondent shall direct the Board-approved testing laboratory to
5 advise the Board or its designee within 7 days regarding any issue of noncompliance by
6 Respondent. Respondent shall notify the biological fluid testing laboratory and the Board, in
7 writing, of unavailability to test prior to an anticipated absence or if unable to provide a sample
8 due to illness. Respondent must submit in writing within 7 days of the missed specimen,
9 documentation from a treating physician who has personally evaluated Respondent on the day
10 of the requested screen that Respondent was not physically able to report to the laboratory for
11 biological fluid testing.

12 ***Failure to show for a random biological fluid test or failure to provide a random***
13 ***biological fluid sample on a day when a sample is requested by the Board, its designee***
14 ***or the laboratory will be considered an admission of a positive urine screening.*** The
15 following situations will also constitute ***an admission of a positive urine screen***: submission of
16 a specimen where the integrity has been compromised as indicated by the presence of
17 adulterants, with determination made by laboratory personnel; submission of a sample that is
18 below acceptable volume or temperature to be tested; failure to provide written advance notice
19 of anticipated absence; and failure to provide written verification of illness from a physician
20 within 7 days of the missed specimen.

21 ***Failure to show for the random biological fluid test, failure to provide a random***
22 ***biological fluid sample*** or a positive drug screen showing evidence of any drug other than an
23 authorized medication ***will constitute a violation of this Order. A violation of this Order for***
24 ***those reasons will be deemed to be a threat to the public's health, safety and welfare.***
25 ***The Board may then summarily suspend Respondent's license and may impose***

1 ***disciplinary action including but not limited to suspension or revocation of Respondent's***
2 ***license, after notice and opportunity for a hearing. The issue at such hearing will be***
3 ***limited to whether Respondent violated this Order by failing to show for a random***
4 ***biological fluid test, failing to provide a random biological fluid sample or for having***
5 ***tested positive for any drug other than an authorized medication.***

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

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

15 19. Orders prohibiting Respondent from personal use or possession of controlled
16 substances, dangerous drugs, narcotics, or medications do not apply to medications lawfully
17 prescribed to Respondent for a bona fide illness or condition by a medical care provider. During
18 the duration of this Consent Agreement, Respondent shall select one (1) medical care provider
19 to coordinate their health care needs and to be aware of all prescriptions utilized by
20 Respondent. Respondent shall immediately submit to that provider a copy of this Consent
21 Agreement and shall execute all release of information forms as required by the Board or its
22 designee. The medical care provider shall, within 14 days of the effective date of this Consent
23 Agreement, inform the Board, in writing, of knowledge of Respondent's Consent Agreement and
24 provide a list of medications prescribed for Respondent. During the duration of this Consent
25 Agreement, Respondent shall cause all providers to notify the Board of any additional

1 medications ordered by the provider. The notification shall be made in writing within 7 days of
2 the provider's issuance of the prescription.

3 20. If Respondent has a lawful prescription for a narcotic or mood-altering drug,
4 Respondent shall cause their prescribing provider to submit monthly reports to the Board by the
5 30th day of each month regarding the continued need for the prescribed narcotic or mood-
6 altering medications. The Board or its designee may, at any time, request the provider to
7 document the continued need for prescribed medications. Respondent shall keep a written
8 record of medications taken, including over the counter drugs, and produce such record upon
9 request by the Board or its designee.

10 Early Release

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

14 GENERAL PROVISIONS

15 Provision of Clinical Supervision

16 22. Respondent shall not provide clinical supervision while subject to this Consent
17 Agreement.

18 Civil Penalty

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

21 24. Respondent's payment of the civil penalty shall be stayed so long as Respondent
22 remains compliant with the terms of this Consent Agreement. If Board staff determines that
23 Respondent is noncompliant with the terms of this Consent Agreement in any respect, with the
24 exception of the tolling provision under paragraph 3, the stay of the civil penalty payment shall
25 be automatically lifted and payment of the civil penalty shall be made by certified check or

1 money order payable to the Board within 30 days after being notified in writing of the lifting of
2 the stay.

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

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

15 27. If Respondent currently sees clients in their own private practice, and obtains any
16 other type of behavioral health position, either as an employee or independent contractor, where
17 they provide behavioral health services to clients of another individual or agency, they shall
18 comply with requirements set forth in paragraphs 28 through 30 below.

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

25 ...

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 29. 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 30. 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 31. 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 32. 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 33. Respondent shall bear all costs relating to probation terms required in this
18 Consent Agreement.

19 34. 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 35. This Consent Agreement shall be effective on the date of entry below.

22 36. 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 E. Lear
3 Erick C. Lear

8/18/18
Date

4 BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

5 Dated this 22nd day of August, 2018.

6
7 By: M. Zavala
8 TOBI ZAVALA, Executive Director
9 Arizona Board of Behavioral Health Examiners

10
11 ORIGINAL of the foregoing filed
12 This 22nd day of August, 2018 with:

13 Arizona Board of Behavioral Health Examiners
14 1740 West Adams Street, Suite 3600
Phoenix, AZ 85007

15 COPY of the foregoing mailed via Interagency Mail
16 This 22nd day of August, 2018, to:

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

19 COPY of the foregoing mailed via
20 Certified mail no. 9499 009000276043657535
This 22nd day of August, 2018, to:

21 Erick C. Lear
22 Address of Record
Respondent

1 4. Respondent understands that this Interim Consent Agreement does not
2 constitute a dismissal or resolution of this matter or any matters that may be currently pending
3 before the Board and does not constitute any waiver, express or implied, of the Board's
4 statutory authority or jurisdiction regarding any other pending or future investigations, actions,
5 or proceedings. Respondent also understands that acceptance of this Interim Consent
6 Agreement does not preclude any other agency, subdivision, or officer of this State from
7 instituting civil or criminal proceedings with respect to the conduct that is the subject of this
8 Interim Consent Agreement. Respondent does not intend their acceptance of this Interim
9 Consent Agreement to constitute an admission of any fact or facts and they enter into this
10 agreement as an interim compromise of a pending matter. Respondent further does not
11 relinquish their rights to an administrative hearing, rehearing, review, reconsideration, judicial
12 review or any other administrative and/or judicial action, concerning the matters related to a
13 final disposition of this matter, unless they affirmatively does so as part of the final resolution of
14 this matter.

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

20 6. Respondent understands that this Interim Consent Agreement shall not become
21 effective unless and until it is adopted by the Board and signed by its Executive Director.

22 7. Respondent understands and agrees that if the Board does not adopt this
23 Interim Consent Agreement, they will not assert in any future proceedings that the Board's
24 consideration of this Interim Consent Agreement constitutes bias, prejudice, prejudgment, or
25 other similar defense.

1 2. The Board is authorized to enter into an interim consent agreement with a
2 licensed masters social worker to limit or restrict the professional's practice in order to protect
3 the public and ensure that the professional is able to safely engage in the practice of social work
4 pursuant to A.R.S. § 32-3281.

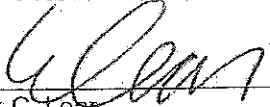
5 **INTERIM ORDER**

6 Based on the Interim Findings of Fact and Interim Conclusions of Law, and pursuant to
7 the authority granted to the Board under A.R.S. § 32-3281:

8 **IT IS HEREBY ORDERED** that Respondent shall not practice under their license until
9 such time as they submit a written request for the reinstatement of their license to the Board and
10 the Board affirmatively approves Respondent's request for reinstatement. The Board may, in its
11 discretion, require any combination of staff-approved physical, psychiatric, or psychological
12 examinations, or other types of examinations, evaluations or interviews it believes are
13 necessary to assist the Board in determining whether Respondent is able to safely and
14 competently return to the practice of social work. The Board's affirmative approval to permit
15 Respondent to return to practicing under their license shall not preclude the Board from taking
16 any other action it deems appropriate based upon the conduct set forth in the Interim Findings
17 of Fact.

18 Respondent's agreement not to practice under License No. LMSW-12496 will be
19 considered an interim suspension of their license.

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

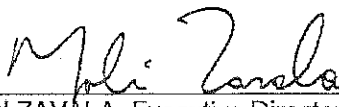
21
22 
23 Erick C. Lear

24
25 3-8-17
Date

BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

Dated this 13th day of April, 2017.

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

ORIGINAL of the foregoing filed
This 12th day of April, 2017, with:

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

COPY of the foregoing mailed via Interagency Mail
This 12th day of April, 2017, to:

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

COPY of the foregoing mailed via
Certified mail no: 7046 2140 0000 18040549
This 12th day of April, 2017, to:

Erick C. Lear
Address of Record
Respondent