

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

In the Matter of:

**Brianne B. Zamora, LAC-15482,
Licensed Associate Counselor,
In the State of Arizona.**

RESPONDENT

**CASE NO. 2019-0014
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), Brianne B. Zamora ("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 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10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 understands that once the Board approves and signs this Consent
16 Agreement, it is a public record that may be publicly disseminated as a formal action of the
17 Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

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

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

24 ...
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. LAC-15482 for the practice of
4 counseling in Arizona.

5 2. In 03/14, Respondent submitted her LAC application to the Board.

6 3. In doing so, Respondent disclosed a previous DUI arrest, which occurred in
7 11/13.

8 4. In 02/15, following the Board's review of Respondent's LAC application and
9 previous DUI arrest, Respondent entered into non-disciplinary consent agreement requiring that
10 she complete a graduate level course in substance abuse disorders.

11 5. In 11/17, Respondent self-reported another DUI arrest to the Board.

12 6. According to the police officer's 11/15/17 arrest report:

13 a. A citizen reported Respondent's vehicle serving all over the road, fluctuating
14 speeds, and almost hitting other vehicles.

15 b. The officer paced Respondent driving 86mph in a 65mph zone.

16 c. After pulling Respondent over, the officer noticed that Respondent had
17 slurred speech and smelled a moderate odor of alcohol emitting from the
18 vehicle.

19 d. After the field sobriety tests, which showed several cues of impairment, the
20 officer tried to get a PBT sample from Respondent, but she could not blow
21 into the PBT.

22 e. At 10:57 p.m., a search warrant was obtained for Respondent's blood draw.

23 f. At 11:07 p.m., 2 tubes of blood were drawn from Respondent.

24 7. According to the DPS Scientific Examination Report, Respondent's blood test
25 measured her BAC at .253.

1 8. During her investigative interview with Board staff, Respondent indicated the
2 following:

- 3 a. Respondent had new tires installed on her car that morning so she didn't
4 realize how fast she was going.
- 5 b. Respondent was shocked to see that the blood test said her BAC was so
6 high.
- 7 c. Respondent was expecting it to say her BAC was zero because she did not
8 consume any alcohol.
- 9 d. Respondent's attorney informed her that the phlebotomist who drew her
10 blood used hand sanitizer on the injection site so it could be a possibility that
11 alcohol from the sanitizer contributed to a false test result.
- 12 e. When asked how Respondent can reconcile that she did not consume
13 alcohol when the blood test results reflect otherwise, Respondent indicated, "I
14 really don't know."

15 9. In contrast to Respondent's representation that she did not consume any alcohol
16 on the night of her DUI arrest, the evidence indicating she did appears indisputable.

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), any conduct, practice or condition that impairs the ability of
23 the licensee to safely and competently practice the licensee's profession.

24 **ORDER**

25 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree to

1 the provisions and penalties imposed as follows:

2 1. Respondent's license, LAC-15482, will be placed on probation for 24 months,
3 effective from the date of entry as signed below.

4 2. Respondent shall not practice under their license, LAC-15482, unless they are
5 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,
6 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they
7 shall immediately notify the Board in writing and shall not practice under their license until they
8 submit a written request to the Board to re-commence compliance with this Consent
9 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

14 Continuing Education

15 4. 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 self-care. All required continuing education shall be
18 pre-approved by the Board Chair or designee. Upon completion, Respondent shall submit a
19 certificate of completion of the required continuing education.

20 5. 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 take and pass a
22 three semester credit hour graduate level course in substance use disorders from a regionally
23 accredited college or university, pre-approved by the Board Chair or designee. Upon
24 completion, Respondent shall submit to the Board an official transcript establishing completion
25 of the required course.

1
2
3
4
5
6
7
8
9
10
11

Clinical Supervision

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

12
13
14
15

Focus and Frequency of Clinical Supervision

7. The focus of the supervision shall relate to accountability, behavioral health ethics, coping skills, and self-care. Respondent shall meet individually in person with the supervisor for a minimum of one hour monthly.

16
17
18
19
20
21
22

Reports

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

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

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

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

5 **Change of Clinical Supervisor During Probation**

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

13 **Therapy**

14 12. During the period of probation, Respondent shall attend therapy for 12 months
15 with a masters or higher level Licensed Independent Substance Abuse Counselor. Within 30
16 days of the date of this Consent Agreement, Respondent shall submit the name of their
17 therapist and the therapist's curriculum vitae for pre-approval by the Board Chair or designee.
18 Also within 30 days of the date of this Consent Agreement, the therapist shall submit a letter
19 addressing why they should be approved, acknowledging that they have reviewed the Consent
20 Agreement and include the results of an initial assessment and a treatment plan regarding the
21 proposed treatment of Respondent.

22 13. Upon approval, the Board will provide the therapist with copies of any required
23 evaluations completed at the request of the Board prior to this Consent Agreement and the
24 Board's investigative report.
25 ...

1 **Focus and Frequency of Therapy**

2 14. The focus of the therapy shall relate to the issues identified in Board's
3 investigative report. Respondent shall meet in person with the therapist twice monthly.

4 **Reports**

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

13 **Change of Therapist**

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

21 **GENERAL PROVISIONS**

22 **Provision of Clinical Supervision**

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

1 Civil Penalty

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

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

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

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

23 22. Within 10 days of the effective date of this Order, if Respondent is working in a
24 position where Respondent provides any type of behavioral health related services or works in a
25 setting where any type of behavioral health, health care, or social services are provided,

1 Respondent shall provide the Board Chair or designee with a signed statement from
2 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this
3 Consent Agreement. If Respondent does not provide the employer's statement to the Board
4 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a
5 copy of the Consent Agreement.

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

16 24. If, during the period of Respondent's probation, Respondent changes
17 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
18 extended leave of absence for whatever reason that may impact their ability to timely comply
19 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform
20 the Board of their change of employment status. After the change and within 10 days of
21 accepting employment in a position where Respondent provides any type of behavioral health
22 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 a written
24 statement providing the contact information of their new employer(s) and a signed statement
25 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a

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

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

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

19 27. Respondent shall bear all costs relating to probation terms required in this
20 Consent Agreement.

21 28. Respondent shall be responsible for ensuring that all documentation required in
22 this Consent Agreement is provided to the Board in a timely manner.

23 29. This Consent Agreement shall be effective on the date of entry below.

24 30. This Consent Agreement is conclusive evidence of the matters described herein
25 and may be considered by the Board in determining appropriate sanctions in the event a

1 subsequent violation occurs.

2
3 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

4 Brianne B. Zamora
5 Brianne B. Zamora

6 8/15/2018
7 Date

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

9 Dated this 20th day of August, 2018.

10 By: M. Zavala
11 TOBI ZAVALA, Executive Director
12 Arizona Board of Behavioral Health Examiners

13 ORIGINAL of the foregoing filed
14 This 20th day of August, 2018 with:

15 Arizona Board of Behavioral Health Examiners
16 1740 West Adams Street, Suite 3600
17 Phoenix, AZ 85007

18 COPY of the foregoing mailed via Interagency Mail
19 This 20th day of August, 2018, to:

20 Marc Harris
21 Assistant Attorney General
22 2005 North Central Avenue
23 Phoenix, AZ 85004

24 COPY of the foregoing mailed via
25 Certified mail no. 9489009000276000230506
This 20th day of August, 2018, to:

Brianne B. Zamora
Address of Record
Respondent