

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

2 **In the Matter of:**

3 **Dwayne A. Kruse, LMFT-15582,**
4 **Licensed Marriage and Family Therapist,**
5 **In the State of Arizona.**

6 **RESPONDENT**

CASE NO. 2021-0121


**RELEASE FROM
CONSENT AGREEMENT AND ORDER**

7 The Board received a request from Respondent to release them from the terms and
8 conditions of the Consent Agreement and Order dated March 26th, 2021. After consideration,
9 the Board voted to release Respondent from the terms and conditions of the Consent
10 Agreement and Order dated March 26th, 2021.

11 **ORDER**

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

13 Respondent is hereby released from all terms and conditions of the Consent Agreement
14 and Order dated March 26th, 2021.

15 By:  Mar 11, 2024
16 TOBI ZAVALA, Executive Director Date
17 Arizona Board of Behavioral Health Examiners

18 **ORIGINAL** of the foregoing filed Mar 11, 2024
19 with:

20 Arizona Board of Behavioral Health Examiners
21 1740 West Adams Street, Suite 3600
22 Phoenix, AZ 85007

23 **EXECUTED COPY** of the foregoing sent electronically Mar 11, 2024
24 to:

25 Dwayne A. Kruse
Address of Record
Respondent

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11 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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. LMFT-15582 for the practice of
15 marriage and family therapy in Arizona.

16 **Case 2011-0091**

17 2. In 08/10, a mother ("Mother") and father ("Father") were divorced and in conflict
18 over custody and parenting time issues with respect to their 9-year-old daughter ("Daughter").

19 3. During a 08/16/10 hearing, Temporary Custody Orders were issued that:

- 20 a. Limited Father to supervised visitation with Daughter.
21 b. Ordered Mother to Engage Daughter "in counseling sessions with a
22 professional counselor to address issues of whether or not abuse has
23 occurred and the child's anxiety in regard to seeing her father."
24 c. Ordered Mother to "provide a report to the Court from the counselor as to the
25 need for continued supervised visitation."

1 4. Mother subsequently contacted Respondent to initiate services for Daughter.

2 5. On 09/04/10, Respondent was scheduled to meet with Father at the home of
3 father and Father's girlfriend ("Girlfriend").

4 6. Respondent indicated the following with regard to that meeting:

5 a. When Daughter said she did not want to see Father and refused to go to
6 Father/Girlfriend's home, the intended interview with Father and Daughter
7 together turned into an "impromptu individual meeting in a parking lot" with
8 Daughter.

9 b. Mother was engaged to a man ("Fiancé") who sat in his own car in the
10 parking lot while Respondent interviewed Daughter in Respondent's car.

11 c. At the end of Respondent's interview with Daughter:

12 ▪ A deputy sheriff approached Respondent's car and said that a concerned
13 citizen had reported "a strange man was sitting with a little girl for over an
14 hour in the parking lot."

15 ▪ Respondent showed the deputy sheriff his credentials, identification, and
16 Daughter's consent for treatment, identified Fiancé' as Daughter's custodian,
17 and described the circumstances leading to Respondent's session with
18 Daughter in the parking lot.

19 ▪ The deputy sheriff then went to speak with Fiancé.

20 7. Respondent's decision to conduct an interview of Daughter in his car in the
21 parking lot of a grocery store was inappropriate based on the following:

22 a. Respondent did not provide any clinical justification for his decision to
23 interview Daughter in his car in a public parking lot.

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1 b. It would seem difficult to justify the provision of any type of behavioral health
2 service to a young child within the confines of a car and in a public parking
3 lot.

4 c. As a result of Respondent's decision to interview Daughter in his car and
5 while in a public parking lot:

6 ■ It appears that someone was concerned enough about the nature of
7 Respondent's interactions with Daughter to report the matter to law
8 enforcement.

9 ■ A deputy sheriff interrupted the session to inquire about Respondent's
10 conduct with Daughter.

11 ■ In order to explain the situation, Respondent disclosed confidential
12 information about Daughter to the deputy sheriff.

13 8. Mother alleged that Daughter told her that, during the parking lot session,
14 Respondent told Daughter that he did not believe Daughter's representation that a bruise on her
15 leg was the result of Father beating her with a belt buckle.

16 9. Fiancé indicated that Daughter was mentally distraught and physically sick for
17 days after Respondent told Daughter that he did not believe her.

18 10. Respondent acknowledges the following regarding his conduct during his parking
19 lot session with Daughter:

20 a. Respondent discussed the difference between the truth and a lie with
21 Daughter.

22 b. Respondent discussed the bruise on Daughter's leg and showed her a
23 picture of the bruise.

24 c. Respondent "[t]aught [Daughter] what a bruise was, a subdural hematoma
25 and what that means and why bruises are red and purple at first."

- 1 d. Respondent told Daughter that Respondent, "felt the belt mark could not
2 have been done by [Father] and that the facts did not add up."
3 e. Respondent was clear to Daughter that he wanted her to be safe, but he
4 "was also clear that science and evidence in this case did not add up."
5 f. Daughter "became emphatic that her father whipped her with the belt buckle
6 and created the bruise."
7 g. Respondent "asserted he felt a belt buckle did not make that bruise and
8 challenged [Daughter] to give a different rendition of her story."
9 h. Daughter then "withdrew and put her head down."
10 i. Daughter "started to talk three times but did not. One time she said 'Mom...'
11 then did not finish her statement."

12 11. Respondent's conduct was inappropriate based on the following:

- 13 a. The Court involved in Father's and Mother's custody dispute requested that
14 Daughter see a counselor in order to:
- 15 ▪ Engage Daughter "in counseling sessions ... to address issues of whether
16 or not abuse has occurred and the child's anxiety in regard to seeing her
17 father."
 - 18 ▪ "[P]rovide a report to the Court from the counselor as to the need for
19 continued supervised visitation."
- 20 b. In order to provide the evaluation ordered by the Court, it was reasonable for
21 Respondent to:
- 22 ▪ Review information provided by the parties.
 - 23 ▪ Interview the parties.
 - 24 ▪ Form a professional opinion with regard to the credibility of those he
25 interviewed and the accuracy of the information they provided.

- 1 ▪ Report his professional opinions and the bases for those opinions to the
- 2 judge.
- 3 c. Respondent did not restrict his activities to those listed above. Instead, after
- 4 forming an opinion that Daughter's representation that Father hit her with a
- 5 belt buckle was not credible:
- 6 ▪ Respondent advised Daughter that he did not believe her representation
- 7 was consistent with the picture of her bruise.
- 8 ▪ When Daughter continued to insist that she was telling the truth,
- 9 Respondent "challenged [Daughter] to give a different rendition of her
- 10 story."
- 11 d. Following this interaction, Respondent acknowledges that Daughter put her
- 12 head down and withdrew.
- 13 e. As Respondent acknowledges, he could see how his interview of Daughter
- 14 could "produce a fearful response to counselors".
- 15 f. Under these circumstances, it is difficult to understand how Respondent
- 16 could have reasonably believed there was an appropriate therapeutic basis
- 17 for such an interaction with Daughter, particularly within the confines of
- 18 Respondent's car.

19 12. Mother provided the following information regarding Father's treatment of
20 Daughter's small dog ("Dog"):

- 21 a. Daughter observed Father's "cruelty and abuse of [Dog] many times."
- 22 b. During Daughter's 04/10 visit with Father at Father's home, Daughter brought
- 23 Dog, to whom she had a very strong attachment.
- 24 c. During the visitation, Daughter texted Mother that Father was mean to Dog
- 25 and Daughter feared for Dog's safety.

- 1 d. After the 04/10 visitation, Father returned Daughter to Mother, but did not
2 return Dog.
- 3 e. Daughter was distraught over Father keeping Dog from her.
- 4 f. Father later texted Mother stating that he would return Dog to Mother's home
5 and pick up his belongings at the same time.
- 6 g. Mother refused to permit Father to pick up his belongings at her home as it
7 was against a 09/09 Order of Protection Mother had obtained.
- 8 h. Father refused to meet Mother at a designated location to exchange Dog and
9 Father's belongings.

10 13. Respondent indicated Daughter provided the following information when he
11 interviewed her:

- 12 a. Daughter talked about Dog a lot and "seemed quite connected to [Dog]."
13 b. Daughter said that Father had "grabbed [Dog] by the neck and threw [Dog]
14 on the wall and [Dog] slid down the wall."

15 14. Despite reports by Mother and Daughter that Daughter witnessed Father being
16 abusive/cruel to Dog and intentionally withheld Dog from Daughter in order to manipulate
17 Mother, there is no indication that Respondent made any attempt to inquire further with regard
18 to Father's alleged mistreatment of Dog.

19 15. Respondent's failure to inquire further or follow up in any way regarding Father's
20 alleged mistreatment of Dog was inappropriate where:

- 21 a. Research has established a link between animal cruelty/abuse and family
22 violence, including threats of harm to pets as a means to exert power and
23 control over others in domestic violence situations.
- 24 b. Respondent became involved in this matter to help the Court determine
25 whether the abuse allegations against Father were credible.

1 16. During his interview of Daughter in the grocery store parking lot, a deputy sheriff
2 approached Respondent's car and spoke with Respondent.

3 17. Respondent has indicated the following with regard to that encounter:

4 a. The deputy sheriff told him that a concerned citizen had reported "a strange
5 man was sitting with a little girl for over an hour in the parking lot."

6 b. Respondent showed the sheriff his credentials, identification, and Daughter's
7 consent for treatment, identified Fiancé' as Daughter's custodian, and
8 described the circumstances leading to Respondent's meeting with Daughter
9 in the parking lot.

10 c. The deputy sheriff then went to speak with Fiancé.

11 d. Subsequently, the sheriff's office dispatch told Respondent that:

12 ▪ There was no record of a 09/04/10 meeting between the deputy sheriff
13 and Respondent in the parking lot

14 ▪ That the parking lot was in the Benson police department's jurisdiction.

15 e. The Benson police department also did not have a record of the incident

16 18. Based on that information, Respondent included a statement in his Family
17 Evaluation report ("09/10 Report") indicating that he believes that Fiancé, a "former under
18 Sheriff", asked the deputy sheriff "for a favor" to approach Daughter and Respondent during the
19 parking lot meeting.

20 19. Respondent's decision to include a highly inflammatory statement about Fiancé
21 in his 09/10 Report without clear evidence was inappropriate.

22 20. Respondent's 09/10 Report indicates that his evaluation included speaking with
23 Daughter's school counselor ("School Counselor").

24 21. Respondent's records did not include a written authorization for School
25 Counselor.

1 22. Respondent's decision to interview School Counselor about Daughter without
2 first obtaining written authorization to discuss Daughter with School Counselor was
3 inappropriate.

4 23. Respondent's informed consent for treatment form lacked required elements set
5 forth in AAC.R4-6-1101.

6 24. Respondent had Father sign an Information and Consent form for Daughter, but
7 failed to ensure that Father dated his signature, as required.

8 25. Respondent's progress notes did not include the following required elements:

- 9 a. Respondent's signature and the date signed.
- 10 b. The date and duration of each session conducted in this matter.

11 26. Respondent's progress notes were also deficient in that:

- 12 a. They contained information from multiple sources without a clear delineation
13 of who was interviewed, the date of the interview, and the information
14 provided during each individual interview.
- 15 b. As a result, it is impossible to determine from Respondent's progress notes
16 which interviewees provided the information included in each note.
- 17 c. Respondent did not identify the date of each individual interview he
18 conducted.

19 **Case 2012-00035**

20 27. The presiding judge for Family Court in Sierra Vista ("Judge") heard matters
21 pertaining to the custody of a pre-teen boy' ("Son") for several years.

22 28. In 02/07, Judge ordered that an evaluation and treatment be initiated for Son.

23 29. The 05/07 divorce decree of Son's parents ("Parents"):

- 24 a. Gave Son's father ("Father") sole legal and physical custody of Son.

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1 b. Found that Son was "in need of continued therapy to assist him with re-
2 establishing contact with [his mother] and that therapeutic visitation is needed
3 prior to any further visitation."

4 c. Prohibited Son's mother ("Mother") from having any contact with Son until:

- 5 ▪ Mother resumed treatment for her diagnosed mental health condition.
- 6 ▪ Mother participated in therapeutic visitation with Son.
- 7 ▪ Mother's and Son's treatment providers were consulted.

8 30. During Father's military deployments, Son stayed with Father's parents
9 ("Grandparents").

10 31. Court documents indicate that Mother took steps to comply with the Court's
11 requirements.

12 32. In 02/08, Mother was granted limited supervised visitation with Son. In 06/10,
13 Mother was granted limited unsupervised visitation with Son.

14 33. In 08/01/ 11, Father committed suicide and Son was left without a legal guardian.

15 34. On 08/10/11, Father's mother ("Grandmother") took Son to see Respondent at
16 Respondent's private practice.

17 35. Respondent met with Son and Grandmother to complete an assessment of Son.

18 36. Following his assessment session, Respondent completed a report that same
19 day indicating the following:

20 a. Respondent was asked to interview Son "to assess his current mental
21 emotional state due to his father's recent death, an apparent suicide."

22 b. Respondent was "also asked to evaluate what the child wants in regards to
23 where he wishes to live and who he wishes to have as his guardian."

24 c. Respondent "was informed the purpose was that [Grandparents] will be
25 seeking an emergency ex parte order for the custody of [Son]."

- 1 d. Son disclosed prior sexual and other abuse by Mother.
- 2 e. Respondent was "made aware that there has been a long custody battle for
- 3 [Son] including at present [Mother] having supervised visitation"
- 4 f. Son stated he does not want to live with Mother and, until recently, only saw
- 5 her approximately 2 times a year.
- 6 g. The only current legal matter is that of Grandparents "seeking emergency
- 7 orders for custody due to father's death."
- 8 h. It appears that Grandparents have effectively parented Son over the 6 years
- 9 that they cared for Son during Father's deployments.
- 10 i. "It is unfortunate yet apparent that mom has not been well involved over the
- 11 past several years".
- 12 j. "It is also apparent that there has been a significant trauma between mother
- 13 and child as evidenced not only by the child's account of sexual abuse but by
- 14 his reactivity to such abuse."
- 15 k. "I should still meet with mother to round out this assessment. It is clear
- 16 though that in this time of instability that [Son] is even more reactive and
- 17 fearful that he may live with his mother instead of his grandparents."
- 18 l. "As of the completion of this assessment and its write-up, [Respondent is]
- 19 aware that mother has retained a lawyer and has an exparte [sic] granted for
- 20 custody of Son. [Respondent has] been requested to furnish a copy of this
- 21 assessment to mother as well."

22 37. Pursuant to A.AC. R4-6-1101, licensees are required to obtain written informed

23 consent from a minor client's legal representative before providing any type of treatment to the

24 minor client.

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1 38. In accordance with this rule, before providing any type of services to Son,
2 Respondent needed to take appropriate measures to ensure that Grandmother had legal
3 authority to consent to Respondent's services.

4 39. Mother's Board complaint alleged that Respondent acted inappropriately by
5 meeting with Son given that Grandmother lacked legal authority to authorize any type of
6 behavioral health services for Son.

7 40. Mother's complaint appears valid based on the following:

- 8 a. Pursuant to Parents' 05/07 divorce decree, Father had sole legal and
9 physical custody of Son.
- 10 b. When Father committed suicide on 08/01/11, Son was left without a legal
11 guardian.
- 12 c. On 08/08/11, Mother obtained a Court Order:
 - 13 ▪ Granting immediate physical and legal custody of Son to Mother.
 - 14 ▪ Ordering Grandparents to immediately turn Son over to Mother.
- 15 d. At the time Respondent completed his 08/10/11 assessment, Grandmother
16 lacked legal authority to authorize this service for Son.

17 41. Respondent indicated the following regarding his decision to assess Son:

- 18 a. Grandparents provided documentation to Respondent indicating that they
19 had "Power of Attorney" for Son.
- 20 b. Respondent felt he "had done due diligence in determining who was legally
21 allowed to sign off for [Son's] medical care."
- 22 c. Respondent "conducted the assessment in good faith" that Grandparents had
23 authority to sign for Son's care in the event of Father's absence or death.

24 42. Respondent's justification for accepting Son as a client appears inadequate
25 based on the following:

- 1 a. Respondent's statement that he received documentation indicating that
2 Grandparents had Power of Attorney for Son is erroneous.
- 3 b. Instead, Respondent's records reflect that, at 11:15 am, Grandparents'
4 attorney faxed Respondent a copy of Father's 09/07 will that, upon Father's
5 death, appointed Grandmother to be Son's guardian.
- 6 c. Father's desire, as expressed in his will, that Grandmother become Son's
7 guardian upon Father's death had no legal authority.
- 8 d. The determination of who would be Son's legal guardian following Father's
9 death was a matter to be determined by the courts.
- 10 e. Respondent's erroneous description in his complaint response of the
11 documentation Grandparents provided as "Power of Attorney" for Son
12 strongly suggests that Respondent did not/does not understand the legal
13 significance of the documents he received and upon which he based his
14 decision to see Son.
- 15 f. Based upon Respondent's representations, it appears he accepted Father's
16 will as evidence of Grandparents' right to seek behavioral health services for
17 Son without any effort to independently confirm whether this document, in
18 fact, provided such authority to Grandparents.
- 19 g. Given Respondent's apparent lack of knowledge in this area, his decision to
20 proceed with his assessment of Son without any effort to independently
21 confirm Grandparents' legal authority to obtain such an assessment was
22 inappropriate.

23 43. Following his assessment session with Son, Respondent completed a report that
24 contained a number of statements:

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- 1 a. Strongly suggesting that it would not be appropriate for Mother to be given
2 custody of Son.
- 3 b. Strongly suggesting that it was in Son's best interest for Grandparents to be
4 given immediate custody of Son.

5 44. Respondent indicated the following in his report with regard to his decision to
6 proceed with Grandparents' request that he assess Son and provide a written assessment
7 report:

- 8 a. Respondent was aware that Son had been the subject of a long custody
9 battle.
- 10 b. Respondent received a copy of Father's will appointing Grandmother as
11 Son's guardian.
- 12 c. Based on this information, Respondent was "confident that [Grandmother],
13 absent any other legal guardian has the authority to sign an informed consent
14 for... [Son]."

15 45. Respondent's decision to complete the report Grandparents requested was
16 particularly inappropriate where:

- 17 a. On 08/08/11, Mother obtained a Court Order indicating the following:
- 18 ▪ Mother had legal and physical custody of Son.
 - 19 ▪ Grandparents were required to immediately turn Son over to Mother.
- 20 b. At 2:00 pm on 08/10/11, Mother's attorney faxed Respondent a copy of
21 Mother's Ex Parte Order.
- 22 c. It appears Respondent was aware of Mother's Ex Parte Order when he
23 completed his report given that he specifically indicated the following in that
24 report:

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- "As of the completion of this assessment and its write-up, [Respondent is] aware that mother has retained a lawyer and has an ex parte [sic] granted for custody of Son."

d. It also appears that Respondent was aware when he completed his report that Grandparents did not have custody of Son given that he specifically indicated the following in his report:

- Respondent was "asked to evaluate what [Son] wants in regards to where he wishes to live and who he wishes to have as his guardian."
- Respondent "was informed the purpose was that [Grandparents' attorney] and [Grandparents] will be seeking an emergency ex parte order for the custody of [Son]."
- The only current legal matter is that of Grandparents "seeking emergency orders for custody due to father's death."

e. Based on the above, it is clear that, at the time Respondent wrote his report, he was aware of the following:

- Following Father's death, Mother had obtained legal custody of Son.
- Grandparents were seeking a court order awarding them custody of Son.
- Grandparents intended to submit Respondent's report to support their effort to obtain custody of Son.

f. Under these circumstances, Respondent's decision to provide a written report regarding Son's assessment to Grandparents despite being fully aware that Grandparents had no legal authority to authorize such services was inappropriate.

1 46. During Respondent's 08/10/11 assessment session, Son disclosed the following:

2 a. Son woke up one night when he was younger and "saw mom touching his
3 penis".

4 b. Mother tried to kill him once, but he "had no details nor did he have a general
5 date."

6 47. Respondent's records do not reflect that he inquired further or made any type of
7 report regarding Son's abuse allegations.

8 48. Respondent not document any information indicating:

9 a. That he was aware of his responsibility as a mandated reporter to report
10 abuse allegations.

11 b. The basis for his determination not to file a report.

12 49. Under these circumstances:

13 a. It appears Respondent's failure to file a report regarding Son's abuse
14 allegations was based on Respondent's failure to recognize his responsibility
15 to file such a report.

16 b. Respondent's failure to inquire further with regard to Son's allegations or to
17 take any other action to determine whether an abuse report was necessary
18 was inappropriate.

19 50. Respondent's informed consent for treatment form lacked required elements set
20 forth in A.A.C. R4-6-1101.

21 51. Respondent did not maintain any type of progress note documenting his
22 08/10/11 session with Son, as required.

23 **Case 2012-0060**

24 52. A young child ("Son") was 7 years old at the time of the events referenced in a
25 Board complaint filed by Son's mother ("Mother").

1 53. Son has cerebral palsy, is wheelchair bound, and requires substantial assistance
2 with activities of daily living.

3 54. In 05/10, Mother and Son's father ("Father") divorced.

4 55. Father was in a relationship with a woman, ("Girlfriend") and left Son in
5 Girlfriend's care if he was required to work during Son's visitation time.

6 56. In 03/11:

7 a. Mother had legal and physical custody of Son.

8 b. Father had visitation with Son every other weekend.

9 57. On or about 03/29/11, Son alleged that, while in the care of Girlfriend a few days
10 earlier:

11 a. Son got into verbal argument with Girlfriend.

12 b. Girlfriend purposefully burned Son on the inner thigh with a cigarette lighter
13 and left him isolated in another room for a long period of time.

14 58. Son had a mark on his inner thigh where he alleged Girlfriend had burned him.

15 59. Following this alleged incident, Mother obtained:

16 a. An injunction against harassment to prohibit Girlfriend from having contact
17 with Son.

18 b. A Temporary Order suspending Father's parenting time based on the alleged
19 abuse and other allegations.

20 60. During an investigation of the alleged incident by law enforcement:

21 a. Son and Mother made additional allegations regarding Girlfriend's prior
22 behavior toward Son, including the following:

- 23 ▪ Girlfriend had previously "punched [Son in] the chest & threw him in his
24 room"

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- Girlfriend had been verbally abusive to Son on several occasions and had pointed a rifle and a pistol at him in the past.
 - Girlfriend had shown Son nude pictures in a magazine called "Let's Get Naked" and had touched his "pee bone" on one occasion.
 - b. Girlfriend denied all abuse allegations against her.
 - c. Son's primary care provider reported the following regarding Son's injury:
 - It was consistent with a superficial burn.
 - It could not have been caused by a device on Son's wheelchair.
61. On 05/26/ 11, Mother initiated Son's counseling with Respondent.
62. The only consent for treatment Respondent maintained authorized him to provide treatment to Son.
63. A Biopsychosocial form completed by Mother indicated the following:
- a. Son had experienced physical, emotional, sexual abuse and neglect by Girlfriend.
 - b. The abuse/neglect was reported to authorities on 03/29/11 and the case was going to the Grand Jury on 06/02/11.
 - c. Son's problems included:
 - Mood swings, anxiety, and obsessive thoughts "at times since burning issue"
 - Lying in the past "after divorce"
 - Fears "of [Girlfriend]"
 - Abuse/neglect by Father and Girlfriend
 - Feeling inadequate/low self-worth
 - "[S]aid to mom he has no dignity"
 - d. Son "needs to learn to deal with what [Girlfriend] did"

1 e. "Goals for Counseling" were as follows:

- 2 ■ Son "needs help dealing with what happened to him"
- 3 ■ "How to move forward"
- 4 ■ "What to expect"

5 64. Respondent's progress note for the 05/26/11 intake session indicated the
6 following with regard to a joint session with Mother and Son:

- 7 a. Mother wanted Son to learn how to manage his reactivity to Girlfriend and the
8 burn.
- 9 b. Son indicated he felt safe with Father.
- 10 c. Mother refuted Son's statement based on Father leaving Son with an abuser.
- 11 d. It was apparent that Mother and Father did not get along.
- 12 e. Son seemed to have a good relationship with Mother and spoke highly of
13 Father.
- 14 f. Son seemed ambivalent about Girlfriend in that he made, "intense
15 accusations", yet spoke well of her and the things they did that were positive."
- 16 g. Son wanted to work out his fears regarding Girlfriend.
- 17 h. Mother was not as enthusiastic about working things out.
- 18 i. Son seemed to be having adjustment problems due to not seeing Father.
- 19 j. Mother stated that she intended to get remarried and move out of the area.
- 20 k. "She is sure by then she will have custody of [Son] and they will be free form
21 [sic] father".

22 65. Respondent's progress notes reflect the following occurred during his treatment

- 23 a. 06/02/11 and 06/09/11:
 - 24 ■ Mother participated in at least a portion of both sessions with Son.

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- Son indicated that, prior to the burn incident, he had fun playing games and going places with Father and Girlfriend.
- Mother became defensive when Respondent discussed Son's fondness and affection regarding Father and Girlfriend.
- "Mother indicated it was important to [Son] that [Respondent] believe him that he was burned."
- When Respondent briefly spoke with Son alone, Son talked about wanting a relationship with Girlfriend and about forgiveness.
- "Mother was quite convinced she did not wish [Son] to have a relationship with [Girlfriend] and likely not his father if he was going to continue dating [Girlfriend]."
- Mother "became furious and ended the meeting" when Respondent stated that it appeared Son wished to continue a relationship with Girlfriend "under safe circumstances with controls put into place."
- Son "is ambivalent about how he feels about [Girlfriend]. It is almost as if he feels he has to please mother to be upset about the burn."
- Son does not seem reactive to talking about Girlfriend or about his burn except when in front of Mother.
- Mother is highly reactive to the burn and to Girlfriend.
- It appears that "the transference from [Mother] to [Son] is strong."
- Respondent's documentation for these sessions:
 - Did not address the therapeutic basis for Mother's participation, i.e. whether she was considered a client or a collateral participant in Son's therapy.

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- Did not include any information indicating that Mother was given any information with regard to her role during these sessions.
- Did not include any information indicating that Respondent advised Mother of a plan to meet with Father and Girlfriend.

b. 06/16/11:

- Father and Girlfriend participated in a joint session without Son.
- Respondent's documentation for this session:
 - Did not address the therapeutic basis for this session.
 - Did not address the nature of Father's and Girlfriend's participation, i.e. whether they were considered clients or collateral participants in Son's therapy.
 - Did not include any information indicating that Father and Girlfriend were given any information with regard to their roles during their sessions with Respondent.
- Respondent did not document any information indicating that he advised Mother of this session.

c. 06/24/11:

- Mother again participated in at least a portion of Respondent's session with Son without any documentation clarifying the nature of the basis for her participation.
- Mother indicated she was not happy with Respondent's plan to meet with Son and Father together with Respondent the following week.

d. 07/01/11:

- Despite the fact that this session was scheduled as a joint session with Father and Son, Respondent's documentation reflects the following:

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- Mother participated in some portion of the session.
- Respondent discussed Son's progress with Mother and Father.
- Mother challenged Respondent's statement that it appeared Son wanted a relationship with Mother, Father, and Girlfriend.
- Father and Mother argued to the point that Respondent had to separate them.
- Due to the "tension between the parents especially mother", Son may never be able to overcome this issue and have a relationship with Father and/or Girlfriend.
- Respondent did not document any information clarifying the therapeutic basis for his decision to meet with Mother and Father together.

e. 07/05/11:

- Mother again participated in at least a portion of Respondent's session with Son:
- Respondent's documentation reflects that:
 - Mother said Son had regressed, with enuresis and encopresis.
 - Mother was angry and blamed Respondent for allowing Father to participate in a session with Son.
 - Mother indicated that she had been stewing for the past 4 days.

f. 07/11/11:

- Respondent had an individual session with Father.
- Respondent did not document any information clarifying the therapeutic basis for his decision to meet with Father individually.
- Respondent did not document any information indicating that Mother was advised of Respondent's decision to meet with Father individually.

1 g. 07/20/11:

- 2 ▪ Mother and Grandmother participated in at least a portion of
- 3 Respondent's session with Son.
- 4 ▪ Grandmother lodged new allegations against Father.
- 5 ▪ Respondent's documentation for this session:
 - 6 ○ Did not address the nature of Mother's or Grandmother's participation,
 - 7 i.e. whether they were considered clients or collateral participants in
 - 8 Son's therapy.
 - 9 ○ Did not include any information indicating that Mother or Grandmother
 - 10 was given any information with regard to their roles during their
 - 11 session with Respondent.
 - 12 ○ Reflected that:
 - 13 • Mother gains in intensity and aggravation with each session.
 - 14 • Mother does not like being told that she is hindering progress, yet
 - 15 Son seems to be "spiraling due to the increase in the family rift."
 - 16 • Respondent talked with Son and Mother about how Son's need to
 - 17 please the caregiver he is with is a destructive cycle "regardless of
 - 18 whether he was burned or not."
 - 19 • "This aggravated mother. She began cursing and was vehement
 - 20 that [Son] was burned."

21 h. 08/08/11:

- 22 ▪ Respondent had another individual session with Father.
- 23 ▪ Respondent did not document any information indicating he advised
- 24 Mother of his decision to meet with Father individually.

25 i. 09/16/11:

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- Respondent scheduled a session with Son and Girlfriend.
- For several days prior to this session, Mother repeatedly communicated to Respondent that Son was upset and did not want to go forward with the scheduled session.
- Respondent documented the following regarding this session:
 - Son clearly indicated he wanted to leave and was fearful of Girlfriend.
 - When Girlfriend was brought into the session, Son screamed and cried and had to be taken out of the room.
 - Father was in a parked car across from Respondent's office and came into Respondent's office after Girlfriend left.
 - There was a scene outside Respondent's office when Father appeared.
 - "This planned interaction between [Girlfriend] and [Son] was a failed interaction from the start."
 - "Admittedly, [Respondent] should have seen this, months ago...".
 - Mother's actions in the front of Respondent's office "were traumatic to the family in general and [Son] heard much of the drama."
 - "It is quite apparent that [Mother] had significant impact and influence on [Son] and his fear of [Girlfriend], on his wanting dad to never see [Girlfriend] again and on the outcome of this meeting."
 - "This has been a significant detriment to the [Son/Girlfriend] relationship as well as [Son's] relationship to his father".

66. Respondent "was confident [he] could create relationship and healing. It seems [Respondent's] efforts have been misinterpreted, cut off, thwarted every step of the way only to

...

1 be used as evidence for a court hearing process as well as to unwittingly serve to be detrimental
2 to [Son's] emotional and mental health."

3 67. By the end of the 05/26/11 intake session, it appears that Respondent should
4 have been aware of a number of challenging treatment issues in addition to those specifically
5 identified by Mother and Son. Namely:

6 a. It was not clear that Mother and Son shared the same goal with regard to
7 Father and Girlfriend's continued role in Son's life where:

- 8 ■ Despite his abuse allegations, Son appeared amenable to resuming a
9 relationship with Father and Girlfriend.
- 10 ■ Mother had an acrimonious relationship with both Father and Girlfriend.
- 11 ■ Mother had recent taken legal action to prohibit any contact with Son by
12 Father and Girlfriend based upon the abuse allegations.
- 13 ■ Mother noted her goal of getting married and moving, preventing Father
14 from having access to Son.

15 b. The order prohibiting Father's contact with Son was temporary.

16 c. No charges had been filed by 05/26/11 despite the fact that the abuse
17 allegations were reported to law enforcement in 03/11.

18 d. Father was actively seeking reunification with Son.

19 68. Given the complexity of the issues, it was imperative that Respondent work
20 jointly with Mother to:

21 a. Clearly define mutually agreeable goals of Son's treatment.

22 b. Clearly explain the treatment methods/interventions Respondent intended to
23 employ for the purpose of meeting each treatment plan goal, particularly
24 those involving the participation of Father and/or Girlfriend.

25 c. Gain Mother's agreement to the use of those methods/interventions.

1 d. Clearly articulate the agreed upon treatment goals and methods/interventions
2 within a written treatment plan where Mother's understanding and agreement
3 was documented via her signature.

4 69. Respondent did not develop any written treatment planning documentation in this
5 case and there is no indication that he verbally reviewed any unwritten treatment goals and
6 objectives with Mother.

7 70. The extent of Respondent's plan was written in the "Plan" section of his 05/26/11
8 progress note, which stated: "See [Son] weekly to determine relationship guidelines and how
9 best to proceed with managing his reactivity to his burn."

10 71. Respondent's failure to work with Mother on developing a treatment plan clearly
11 specifying treatment goals and identifying the methods/interventions that Respondent intended
12 to use to meet these goals precluded Respondent from proactively identifying the following:

13 a. Whether there were any treatment goals that Respondent believed were in
14 Son's best interest, but with which Mother did not agree, such as repairing
15 Son's relationship with Girlfriend.

16 b. Whether there were any individuals Mother did not want to participate in
17 Son's counseling.

18 c. Whether any differences between Mother's and Respondent's perspectives
19 on what should occur in treatment were so significant that either:

- 20 ▪ Respondent's initial work with Son needed to be limited to the treatment
21 goals Mother agreed to, utilizing methods/interventions with which she
22 also agreed, while Respondent worked with Mother until she was willing
23 to consider more controversial treatment goals, such as repairing
24 Girlfriend's/Son's relationship, or

- Mother's expectations of what should occur in treatment were disparate enough from Respondent's that referral to another treatment provider was warranted.

72. The need for Respondent to ensure that his treatment was aligned with Mother's and objectives was particularly critical in this case where Son's desire to repair his relationship with Girlfriend was highly unlikely to occur without Mother's support given that:

- a. Mother's animosity towards Girlfriend was deeply rooted and was present well prior to Son's abuse allegations.
- b. Early on, Respondent noted that Mother was prone to making inappropriate comments regarding Girlfriend and related adult issues in front of Son.
- c. Son was only 7 years old and had a disability that made him almost completely dependent on Mother.
- d. Son lived with Mother full-time and was clearly very emotionally attached to her.
- e. Given Son's age and vulnerability, it appears doubtful that Son would have had the ability to resist Mother's influence, particularly if he felt doing so might negatively impact his relationship with her.

73. Respondent's failure to ensure clear communication and agreement between he and Mother regarding the goals and objectives of and interventions to be used during Son's treatment appears to have resulted in Respondent providing treatment that was largely unacceptable to Mother.

74. Under these circumstances, Respondent's failure to obtain Mother's agreement to a written treatment plan, as required, appears to have directly contributed to what appear to be significant missteps in Son's treatment.

...

1 75. Father, Mother, Grandma other, and Girlfriend participated in sessions with
2 Respondent in this case.

3 76. Out of a total of 11 sessions:

4 a. 6 sessions were with Son, with Mother attending at least a portion of the
5 session.

6 b. Grandmother accompanied Mother and Son to at least 4 of those sessions
7 and participated in at least 1 of the sessions.

8 c. 1 session was with Girlfriend and Father together.

9 d. 2 sessions were with Father alone.

10 e. 1 session was initially with Father and Son and then was expanded to include
11 Mother.

12 f. The final session began with Son and Girlfriend together, but ended with Son
13 and Father together.

14 77. Respondent's complaint response indicated that he counseled both Mother and
15 Father regarding their own behaviors.

16 78. During a Board interview, Respondent indicated that he attempted to work with
17 each parent individually on their own issues.

18 79. These statements appear consistent with Respondent's progress notes.

19 80. Despite the fact that Respondent expanded his role to include regular meetings
20 Father, Girlfriend, and Grandmother, Respondent did not document any information:

21 a. Addressing the therapeutic basis for meeting with anyone other than Son.

22 b. Indicating any discussion with these individuals regarding the nature and
23 purpose of their participation, i.e. whether they were participating as clients or
24 collateral participants in Son's therapy.

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1 81. Clarification of the nature of the roles of the adult participants in this matter was
2 critical where:

- 3 a. Clients are entitled to a clearly defined set of rights, including the right to have
4 any information they provide kept confidential unless they expressly waive
5 that right.
- 6 b. Collateral participants do not have the same rights as clients, so information
7 they provide as collateral to therapy provided to a client becomes part of the
8 client's record and may be disclosed with the client's permission.
- 9 c. If, as it appears, Respondent was meeting with Father and Mother to provide
10 therapy to address their individual needs, Respondent needed to formalize
11 this relationship by having them sign individual consents for treatment.
- 12 d. Those consents would have clearly advised Mother and Father that they were
13 participating as clients and were entitled to the panoply of rights accorded to
14 clients.
- 15 e. If, as it appears, Respondent met with Grandmother and Girlfriend as
16 collateral to Son's therapy, the nature of that relationship should have been
17 clearly explained to prevent any misunderstanding by them or anyone else.

18 82. Given the highly acrimonious nature of the relationships in this matter,
19 Respondent's decision to meet with multiple family members without clearly addressing the
20 nature of their participation was inappropriate.

21 83. Respondent's progress notes indicate that Mother participated in at least a 14
22 portion of Respondent's 05/26/11, 06/02/11, 06/09/11, 06/24/11, 07/01/11, 07/05/ 11, and
23 07/20/11 sessions with Son.

24 84. Early on, Respondent noted the following:

- 25 a. Mother's participation was problematic and even disruptive.

- 1 b. Mother was highly reactive regarding Son's burn and Girlfriend.
2 c. The transference from Mother to Son was strong.
3 d. Even though Respondent admonished Mother not to talk about incidents in
4 front of Son, Mother continued to do so "adding to [Son's] trauma or at least
5 maintaining his reactivity rather than working to make it go away."

6 85. During the 07/20/11 session, Respondent noted the following:

- 7 a. Respondent talked with Son and Mother about how Son's need to please the
8 caregiver he is with is a destructive cycle "regardless of whether he was
9 burned or not."
10 b. "This aggravated mother. She began cursing and was vehement that [Son]
11 was burned."

12 86. Despite Mother's repeated failure to follow Respondent's direction not to talk
13 about inappropriate subjects in front of Son, Respondent continued to permit Mother to
14 participate in Son's sessions on an ongoing basis.

15 87. Respondent also permitted Grandmother to participate in Son's 07/20/11 session
16 without any apparent or documented therapeutic basis for her participation.

17 88. Respondent's records also reflect the following:

- 18 a. Mother demonstrated nearly uncontrollable anxiety by cursing and crying on
19 the phone immediately prior to Respondent's 09/16/11 meeting between Son
20 and Girlfriend.
21 b. Mother initially indicated that she would have a third-party bring Son to this
22 session.
23 c. When Mother and other family members brought Son to the session,
24 Respondent allowed them to remain in his outer office during the session.

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1 d. A previous Court Order indicated that Father could not attend or be around
2 Respondent's office during the 09/16/11 session with Son and Girlfriend
3 unless specifically authorized by Respondent.

4 e. Although there is no indication that Respondent authorized Father to attend
5 the session:

- 6 ▪ Father parked across the street at the beginning of the session.
- 7 ▪ Father's presence caused considerable chaos and resulted in
8 Grandmother calling the police.
- 9 ▪ As Girlfriend was leaving, Respondent heard Mother curse and scream at
10 Girlfriend.

11 f. Because of the conflict between family members in his outer office:

- 12 ▪ Respondent brought Son back into his office.
- 13 ▪ Respondent attempted to distract Son so he would not be further
14 traumatized by the drama.

15 g. Despite this uninvited disruption, Respondent then allowed Father to meet
16 with Son even though:

- 17 ▪ Son had been taken out of the session with Girlfriend after he screamed
18 and cried.
- 19 ▪ Father told Son that it might be a long time before they saw each other
20 again and that Girlfriend would be there if Son were to see Father.
- 21 ▪ Neither Father nor Son heeded Respondent's intervention to direct the
22 conversation back to visitation.

23 89. Respondent's assessment of the 09/16/11 session indicated the following:

24 a. "This planned interaction between [Girlfriend] and [Son] was a failed
25 interaction from the start."

1 b. "Admittedly, [Respondent] should have seen this, months ago, when [he]
2 wrote the initial letter indicating the child may be influenced by one party or
3 the other..."

4 c. Mother's actions in the front of Respondent's office "were traumatic to the
5 family in general and [Son] heard much of the drama."

6 90. Respondent indicated during a Board interview that he feared for his and Son's
7 safety due to the dynamics that occurred outside his office between Mother's and Father's
8 factions.

9 91. Under these circumstances, it appears that Respondent allowed the adults in this
10 matter to become involved at a level that:

- 11 a. Did not appear to be beneficial to Son.
- 12 b. Was likely detrimental to Son.

13 92. Respondent's failure to set appropriate boundaries with Mother, Father, and
14 Grandmother as necessary to provide an appropriate therapeutic environment for Son was
15 inappropriate.

16 93. Respondent's informed consent for treatment form for Son lacked required
17 elements set forth in A.A.C. R4-6-1101.

18 94. Respondent did not prepare a written treatment plan for Son, as required.

19 95. Respondent's progress notes lack the following required elements:

- 20 a. The duration of time spent providing the behavioral health service.
- 21 b. Whether the counseling was individual counseling, family counseling, or
22 group counseling.
- 23 c. Respondent's signature and the date signed.

24 96. In his complaint response, Respondent indicated he had numerous phone
25 discussions with Mother during the week prior to the 09/16/11 session.

1 97. Respondent failed to document these communications, as required.

2 98. During his investigative interview, Respondent indicated that he received calls
3 from Father prior to the scheduled session on 09/16/11.

4 99. Respondent failed to document these communications, as required.

5 100. Respondent indicated that he consulted with a colleague, who agreed with
6 Respondent that the scheduled meeting with Son and Girlfriend was necessary.

7 101. Respondent did not document this communication, as required.

8 102. In 09/13, the Respondent and Board entered into a consent agreement with
9 stipulations substantially similar to those outlined in this consent agreement.

10 103. The 09/13 consent agreement contained a stayed revocation clause.

11 104. On 02/11/15, Respondent's stay of revocation was lifted due to his failure to
12 comply with the continuing education requirements of the 09/13 consent agreement.

13 105. In 05/15, after considering all the evidence associated with Respondent's request
14 to review the lifting of the stayed revocation, the Board affirmed the lifting of the stay of
15 revocation.

16 106. On 10/26/20, the Board received Respondent's LMFT application.

17 107. On 03/25/21, the Board approved Respondent's LMFT application with the
18 following provisions:

19 a. The license issued to respondent will be immediately placed on probation for
20 24 months.

21 b. Licensee will be subject to the stipulations and terms contained in this
22 consent agreement.

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CONCLUSIONS OF LAW

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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)(l), engaging in any conduct, practice or condition that impairs the
7 ability of the licensee to safely and competently practice the licensee's profession.

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

12 **3.11, Public Statements:**

13 Marriage and family therapists, because of their ability to influence
14 and alter the lives of others, exercise special care when making public
15 their professional recommendations and opinions through testimony
16 or other public statements.

17 4. The conduct and circumstances described in the Findings of Fact constitute a
18 violation of A.R.S. § 32-3251(16)(ii), violating any federal or state law, rule or regulation
19 applicable to the practice of behavioral health as it relates to:

20 A.R.S. § 13-3620, Duty to Report Abuse

21 5. The conduct and circumstances described in the Findings of Fact constitute a
22 violation of A.R.S. § 32-3251(16)(p), Failing to conform to minimum practice standards as
23 developed by the board, as it relates to:

24 A.A.C. R4-6-1101, Consent for Treatment

25 A.A.C. R4-6-1102, Treatment Plan

1 A.A.C. R4-6-1103, Client Records

2 A.A.C. R4-6-1105, Confidentiality

3 **ORDER**

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

6 **Stayed Revocation**

7 1. As of the effective date of this Consent Agreement, Respondent's license,
8 LMFT-15582, shall be **REVOKED**. However, the revocation shall be stayed and Respondent's
9 license shall be placed on probation.

10 2. During the stayed revocation portion of the Order, if Respondent is noncompliant
11 with the terms of the Order in any way, the stay of the revocation shall be lifted and
12 Respondent's license shall be automatically revoked as set forth above.

13 3. If Respondent contests the lifting of the stay as it relates to this paragraph,
14 Respondent shall request in writing, within 10 days of being notified of the automatic revocation
15 of licensure, that the matter be placed on the Board agenda for the Board to review and
16 determine if the automatic revocation of Respondent's license was supported by clear and
17 convincing evidence.

18 4. If the written request is received within 10 days of a regularly scheduled Board
19 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
20 scheduled Board meeting.

21 5. Pending the Board's review, Respondent's license shall be reported as revoked -
22 under review. Respondent may not work in any capacity as a licensed behavioral health
23 professional pending the Board's review. The Board's decision and Order shall not be subject
24 to further review.

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6. Respondent's license, LMFT-15582, will be placed on probation for 24 months, effective from the date of entry as signed below.

7. Respondent's application to be a licensed marriage and family therapist is approved.

8. The license issued to Respondent pursuant to paragraph 2 will be immediately placed on probation for 24 months.

9. Respondent shall not practice under their license, LMFT-15582, unless they are fully compliant with all terms and conditions in this Consent Agreement. If, for any reason, Respondent is unable to comply with the terms and conditions of this Consent Agreement, they shall immediately notify the Board in writing and shall not practice under their license until they submit a written request to the Board to re-commence compliance with this Consent Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

Continuing Education

11. In addition to the continuing education requirements of A.R.S. § 32-3273, within 12 months of the effective date of this Consent Agreement, Respondent shall take and pass a three semester credit hour graduate level family therapy ethics course from a regionally accredited college or university, pre-approved by the Board Chair or designee. Upon completion, Respondent shall submit to the Board an official transcript establishing completion of the required course.

12. Respondent may submit continuing education completed prior to the execution of this consent agreement for consideration of approval by the Board Chair or designee.

1 Clinical Supervision

2 13. 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 14. The focus of the supervision shall relate to current behavioral health
14 documentation standards in Arizona; boundary issues; and mandatory reporting. During each
15 supervision session, the supervisor shall review a minimum of 3 client records chosen at
16 random by the supervisor to ensure Respondent's compliance with current behavioral health
17 documentation standards in Arizona. Respondent shall meet individually in person with the
18 supervisor for a minimum of one hour at least weekly if working fulltime or twice monthly if
19 working less than 20 hours per week.

20 Reports

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

- 25 a. Dates of each clinical supervision session.

1 b. A comprehensive description of issues discussed during supervision
2 sessions.

3 c. The results of each clinical documentation review by the supervisor.

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

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

11 Change of Clinical Supervisor During Probation

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

19 GENERAL PROVISIONS

20 Provision of Clinical Supervision

21 19. Respondent shall not provide clinical supervision while subject to this Consent
22 Agreement.

23 Civil Penalty

24 20. Subject to the provisions set forth in paragraph 21, the Board imposes a civil
25 penalty against the Respondent in the amount of \$1,000.00.

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

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

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

20 24. If Respondent currently sees clients in their own private practice, and obtains any
21 other type of behavioral health position, either as an employee or independent contractor, where
22 they provide behavioral health services to clients of another individual or agency, they shall
23 comply with requirements set forth in paragraphs 25 through 27 below.

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

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

27. If, during the period of Respondent's probation, Respondent changes employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on extended leave of absence for whatever reason that may impact their ability to timely comply with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform the Board of their change of employment status. After the change and within 10 days of accepting employment in a position where Respondent provides any type of behavioral health

...

1 related services or in a setting where any type of behavioral health, health care, or social
2 services are provided, Respondent shall provide the Board Chair or designee a written
3 statement providing the contact information of their new employer(s) and a signed statement
4 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a
5 copy of this Consent Agreement. If Respondent does not provide the employer's statement to
6 the Board within 10 days, as required, Respondent's failure to provide the required statement to
7 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide
8 Respondent's employer(s) with a copy of the Consent Agreement.

9 28. Respondent shall practice behavioral health using the name under which they
10 are licensed. If Respondent changes their name, they shall advise the Board of the name
11 change as prescribed under the Board's regulations and rules.

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

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

25 ...

1 31. Respondent shall be responsible for ensuring that all documentation required in
2 this Consent Agreement is provided to the Board in a timely manner.

3 32. This Consent Agreement shall be effective on the date of entry below.

4 33. This Consent Agreement is conclusive evidence of the matters described herein
5 and may be considered by the Board in determining appropriate sanctions in the event a
6 subsequent violation occurs.

7
8 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

9 Dwayne Kruse Feb 26, 2021
Dwayne Kruse (Feb 26, 2021 11:36 PST)
10 Dwayne A. Kruse Date

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

12 By: Moli Zavala Mar 26, 2021
13 TOBI ZAVALA, Executive Director Date
14 Arizona Board of Behavioral Health Examiners

15 **ORIGINAL** of the foregoing filed Mar 26, 2021
16 with:

17 Arizona Board of Behavioral Health Examiners
18 1740 West Adams Street, Suite 3600
19 Phoenix, AZ 85007

20 **EXECUTED COPY** of the foregoing sent electronically Mar 26, 2021
21 to:

22 Mona Baskin
23 Assistant Attorney General
24 2005 North Central Avenue
25 Phoenix, AZ 85004

Dwayne A. Kruse
Address of Record
Respondent