

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

3 **In the Matter of:**

4 **Brooke E. Swisher, LPC-15273,**
5 **Licensed Professional Counselor,**
6 **In the State of Arizona.**

7 **RESPONDENT**

CASE NO. 2022-0045
CONSENT AGREEMENT FOR
VOLUNTARY SURRENDER

8 In the interest of a prompt and speedy settlement of the above captioned matter,
9 consistent with the public interest, statutory requirements and responsibilities of the Arizona
10 State Board of Behavioral Health Examiners ("Board"), and pursuant to A.R.S. §§ 32-3281(F)
11 and 41-1092.07(F)(5), Brooke E. Swisher ("Respondent") and the Board enter into this Consent
12 Agreement, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final
13 disposition of this matter.

14 **RECITALS**

15 Respondent understands and agrees that:

16 1. Any record prepared in this matter, all investigative materials prepared or
17 received by the Board concerning the allegations, and all related materials and exhibits may be
18 retained in the Board's file pertaining to this matter.

19 2. Respondent has the right to a formal administrative hearing at which Respondent
20 can present evidence and cross examine the State's witnesses. Respondent hereby irrevocably
21 waives their right to such formal hearing concerning these allegations and irrevocably waives
22 their right to any rehearing or judicial review relating to the allegations contained in this Consent
23 Agreement.

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

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

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

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11 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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

16 7. Respondent acknowledges and agrees that the acceptance of this Consent
17 Agreement is solely to settle this Board matter and does not preclude the Board from instituting
18 other proceedings as may be appropriate now or in the future. Furthermore, and
19 notwithstanding any language in this Consent Agreement, this Consent Agreement does not
20 preclude in any way any other state agency or officer or political subdivision of this state from
21 instituting proceedings, investigating claims, or taking legal action as may be appropriate now or
22 in the future relating to this matter or other matters concerning Respondent, including but not
23 limited to violations of Arizona's Consumer Fraud Act. Respondent acknowledges that, other
24 than with respect to the Board, this Consent Agreement makes no representations, implied or

25 ...

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

7 **FINDINGS OF FACT**

8 1. Respondent is the holder of License No. LPC-15273 for the practice of
9 counseling in the State of Arizona.

10 2. From approximately 03/17 to 03/19, an adult client received behavioral health
11 services from Respondent.

12 3. Respondent admits to having a sexual relationship with a former client.

13 **CONCLUSIONS OF LAW**

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

17 2. The conduct and circumstances described in the Findings of Fact constitute a
18 violation of A.R.S. § 32-3251(16)(v), engaging in any sexual conduct between a licensee and a
19 client or former client.

20 **ORDER**

21 Based upon the foregoing Findings of Fact and Conclusion of Law, the parties agree to
22 the provision and penalties imposed as follows:

23 1. Respondent's license, LPC-15273, shall be surrendered to the Board, effective
24 from the date of entry as signed below.

25 2. The surrender shall be considered a revocation of Respondent's license.

1 **Practice Termination Plan**

2 3. Within 14 days of the effective date of the Consent Agreement, Respondent shall
3 submit a written plan for terminating their private practice for pre-approval by the Board Chair or
4 designee. At a minimum, the proposed termination plan must include each of the following:

- 5 a. A written protocol for the secure storage, transfer and access of the clinical
6 records of Respondent's clients and former clients.
- 7 b. The procedure by which Respondent shall notify each client and former client
8 in a timely manner regarding the future location of the clinical records of
9 Respondent's clients and former clients and how those records can be
10 accessed after the termination of Respondent's practice.
- 11 c. A written protocol for developing an appropriate referral for continuation of
12 care for Respondent's current clients.
- 13 d. A list of Respondent's current clients and the timeframe for terminating
14 services to each client. The timeframe for terminating services shall not
15 exceed 30 days.

16
17 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

18 Brooke E Swisher

Brooke E Swisher (Sep 20, 2021 15:37 PDT)

19 Brooke E. Swisher

Sep 20, 2021

Date

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

21 By: M. Zavala

22 TOBI ZAVALA, Executive Director
23 Arizona Board of Behavioral Health Examiners

Oct 14, 2021

Date

24 ...
25 ...

Oct 14, 2021

1 ORIGINAL of the foregoing filed
with:

2 Arizona Board of Behavioral Health Examiners
3 1740 West Adams Street, Suite 3600
Phoenix, AZ 85007

Oct 14, 2021

4 EXECUTED COPY of the foregoing sent electronically
to:

5 Mona Baskin
6 Assistant Attorney General
7 2005 North Central Avenue
Phoenix, AZ 85004

8 Brooke E. Swisher
9 Address of Record
Respondent

10 Tracy A. Olson
11 One Arizona Center
400 E. Van Buren, Suite 1900
12 Phoenix, AZ 85004
Attorney for Respondent

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