

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

2 **In the Matter of:**

3 **Jennifer L. Rivera, LPC-12617,**  
4 **Licensed Professional Counselor,**  
5 **In the State of Arizona.**

6 **RESPONDENT**

**CASE NO. 2023-0083**

**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 December 19<sup>th</sup>, 2023. After  
9 consideration, the Board voted to release Respondent from the terms and conditions of the  
10 Consent Agreement and Order dated December 19th, 2023.

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 December 19th, 2023.

15 By: *Mpli Zavala* Sep 9, 2024  
16 TOBI ZAVALA, Executive Director Date  
17 Arizona Board of Behavioral Health Examiners

18 **ORIGINAL** of the foregoing filed Sep 9, 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 Sep 9, 2024  
24 to:

25 Jennifer L. Rivera  
Address of Record  
Respondent

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

3 **In the Matter of:**

4 **Jennifer L. Rivera, LPC-12617,**  
5 **Licensed Professional Counselor,**  
6 **In the State of Arizona.**

7 **RESPONDENT**

**CASE NO. 2023-0083**  
**CONSENT AGREEMENT**

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), Jennifer L. Rivera (“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 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. LPC-12617 for the practice of  
15 counseling in Arizona.

16 2. From 04/18 – 11/22, Respondent worked for an integrated health facility  
17 (“Agency”), providing therapy services.

18 3. On 11/03/21, Respondent received a written disciplinary action due to being  
19 extremely behind on charting and various missing and incomplete notes between 04/21 – 10/21.

20 4. A chart audit of Respondent’s records uncovered the following, in part:

21 a. Approximately 34 clients were missing both a treatment plan and consent  
22 forms.

23 b. Approximately 18 clients were missing a treatment plan.

24 c. Approximately 19 clients had consent forms signed months or years after an  
25 assessment had been performed.

1 5. A review of two client records from Respondent's audit was performed and  
2 deficiencies were found.

3 6. Client A.M.'s records contained the following:

4 a. In 09/20, A.M. began receiving therapy services.

5 b. Although there are several 09/20 consent forms, a Terms of Service and  
6 Consent to Treat form is not signed until 10/20.

7 c. Additionally, an Informed Consent for Behavioral Wellness Services is not  
8 signed until 03/22.

9 d. There is no signed treatment plan until 03/22, but progress notes contain a  
10 collaborative care plan section.

11 7. Consent forms used for A.M. were missing three required elements.

12 8. Many of A.M.'s progress notes are not signed and finalized by Respondent until  
13 months after the session has taken place.

14 9. Client S.M.'s records contained the following:

15 a. Although therapy services started in 07/20, a Behavioral Health Consultation  
16 Consent for Services form is not signed until 08/20.

17 b. There is no signed treatment plan for S.M., but progress notes contain a  
18 collaborative care plan section.

19 10. Consent forms for S.M., due to them not being tailored for behavioral health  
20 services, were missing 11 required elements.

21 11. Progress notes for S.M. contained multiple version and were started, left  
22 incomplete, and finished sometimes months after sessions had taken place.

23 12. Progress notes were missing two required elements.

24 13. Respondent represented the following during her investigative interview:

25 ...

- a. They were informed that due to Agency's integrated nature, the forms looked different.
- b. They created forms that could be used as a progress note and treatment plan combined, but there was no place for patients to sign.
- c. Respondent became behind on her documentation due to seeing seven or eight hours of patients and being expected to make time for paperwork.
- d. Respondent kept paper notes taken during sessions and used these to write notes after the session.

14. Respondent was provided time to catch up on her documentation, however, she fell behind again and was scheduled to be written up in 11/22 prior to her resignation due to the following:

- a. In 10/22, at least 23 patient encounters were documented and billed 15-24 days after the session.
- b. Respondent did not have consents for at least 35 patients that year.
- c. Respondent had around 42 patients without a signed treatment plan that year.

15. Respondent noted, during her investigative interview, she fell behind once again due to the same reasons.

#### **CONCLUSIONS OF LAW**

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

2. The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-3251(16)(q), failing or refusing to maintain adequate records of behavioral health services provided to a client.

1 **ORDER**

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

4 1. Respondent's license, LPC-12617, will be placed on probation for 12 months,  
5 effective from the date of entry as signed below.

6 2. Respondent shall not practice under their license, LPC-12617, unless they are  
7 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,  
8 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they  
9 shall immediately notify the Board in writing and shall not practice under their license until they  
10 submit a written request to the Board to re-commence compliance with this Consent  
11 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

16 **Continuing Education**

17 4. In addition to the continuing education requirements of A.R.S. § 32-3273, within  
18 12 months of the effective date of this Consent Agreement, Respondent shall complete 3 clock  
19 hours in the Arizona Board Statutes/Regulations Tutorial. All required continuing education shall  
20 be pre-approved by the Board Chair or designee. Upon completion, Respondent shall submit a  
21 certificate of completion of the required continuing education.

22 5. In addition to the continuing education requirements of A.R.S. § 32-3273, within  
23 12 months of the effective date of this Consent Agreement, Respondent shall complete 3 clock  
24 hours of continuing education addressing Arizona documentation. All required continuing  
25

1 education shall be pre-approved by the Board Chair or designee. Upon completion, Respondent  
2 shall submit a certificate of completion of the required continuing education.

3 6. In addition to the continuing education requirements of A.R.S. § 32-3273, within  
4 12 months of the effective date of this Consent Agreement, Respondent shall complete 3 clock  
5 hours of continuing education addressing self-care. All required continuing education shall be  
6 pre-approved by the Board Chair or designee. Upon completion, Respondent shall submit a  
7 certificate of completion of the required continuing education.

### 8 **Audit**

9 7. While on probation, Respondent shall submit to an audit of all of their private  
10 practice records by a pre-approved auditor. Within 30 days of this consent agreement,  
11 Respondent shall submit the name of an auditor and a plan for conducting the audit for pre-  
12 approval by the Board Chair or designee. The audit shall be completed within 60 days of the  
13 effective date of this consent agreement. Also within 60 days of the effective date of this  
14 consent agreement, the auditor shall provide an audit report and a proposed audit plan  
15 addressing any deficiencies found during the audit to the Board Chair or designee for review  
16 and approval.

### 17 **Practice Monitor**

18 8. While on probation, Respondent shall establish and maintain a relationship with a  
19 practice monitor who is a masters or higher level behavioral health professional licensed by the  
20 Arizona Board of Behavioral Health Examiners at the independent level. The practice monitor  
21 shall provide training and assistance to Respondent regarding setting up appropriate forms and  
22 formats for Respondent's clinical records, implementing current behavioral health standards of  
23 practice related to behavioral health assessment and treatment planning, providing treatment  
24 consistent with the documented treatment plan, and documenting the treatment provided in  
25 accordance with current behavioral health standards. Respondent and the practice monitor shall



1 review the clinical documentation produced for each and every active client Respondent sees at  
2 least once per month. The practice monitor shall ensure that Respondent complies with the  
3 audit plan approved by the Board Chair or designee. Respondent shall meet with the practice  
4 monitor at the recommendation of the practice monitor, but at a minimum, a second visit must  
5 take place at 6 months.

6 9. Within 30 days of the effective date of this Consent Agreement, Respondent shall  
7 submit the name of a practice monitor for pre-approval by the Board Chair or designee. Also  
8 within 30 days of the effective date of this Consent Agreement, the proposed Practice Monitor  
9 shall submit a letter disclosing their prior relationship to Respondent. In that letter, the practice  
10 monitor shall address why they should be approved, acknowledge that they have reviewed the  
11 Consent Agreement and include the results of an initial assessment and a monitoring plan  
12 regarding the proposed practice monitoring of Respondent. The letter from the proposed  
13 Practice Monitor shall be submitted to the Board.

#### 14 **Monitoring Quarterly Reports**

15 10. Once approved, the practice monitor shall submit quarterly reports for review as  
16 needed, if frequent visits are recommended by the practice monitor, and approval by the Board  
17 Chair or designee. The quarterly reports shall include issues presented in this consent  
18 agreement that need to be reported and the practice monitor shall notify the Board if more  
19 frequent monitoring is needed. The practice monitor shall submit a final summary report for  
20 review and approval by the Board Chair or designee. The final summary report submitted by the  
21 practice monitor shall address Respondent's competency to engage in independent practice in  
22 accordance with current standards of practice. Otherwise, one report is needed after 6 months,  
23 following a second visit. This report shall include information as described for quarterly reports  
24 and the final summary report.

25 ...

1 **Change of Practice Monitor During Probation**

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

9 **Early Release**

10 12. After 6 months and upon the practice monitor's recommendation, Respondent  
11 may request early release from the Consent Agreement if all other terms of the Consent  
12 Agreement have been met.

13 **GENERAL PROVISIONS**

14 **Provision of Clinical Supervision**

15 13. Respondent shall not provide clinical supervision to associate level licensees  
16 accruing and submitting hours towards independent licensure while subject to this Consent  
17 Agreement.

18 **Civil Penalty**

19 14. Subject to the provisions set forth in paragraph 15, the Board imposes a civil  
20 penalty against the Respondent in the amount of \$1,000.00.

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

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

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

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

15 18. If Respondent currently sees clients in their own private practice, and obtains any  
16 other type of behavioral health position, either as an employee or independent contractor, where  
17 they provide behavioral health services to clients of another individual or agency, they shall  
18 comply with requirements set forth in paragraphs 19 through 21 below.

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

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

13         21. If, during the period of Respondent's probation, Respondent changes  
14 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on  
15 extended leave of absence for whatever reason that may impact their ability to timely comply  
16 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform  
17 the Board of their change of employment status. After the change and within 10 days of  
18 accepting employment in a position where Respondent provides any type of behavioral health  
19 related services or in a setting where any type of behavioral health, health care, or social  
20 services are provided, Respondent shall provide the Board Chair or designee a written  
21 statement providing the contact information of their new employer(s) and a signed statement  
22 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a  
23 copy of this Consent Agreement. If Respondent does not provide the employer's statement to  
24 the Board within 10 days, as required, Respondent's failure to provide the required statement to

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

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

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

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

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

21 26. This Consent Agreement shall be effective on the date of entry below.

22 27. This Consent Agreement is conclusive evidence of the matters described herein  
23 and may be considered by the Board in determining appropriate sanctions in the event a  
24 subsequent violation occurs.

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

Jennifer L Rivera  
Jennifer L Rivera (Dec 18, 2023 22:39 MST)  
Jennifer L. Rivera

Dec 18, 2023  
Date

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

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

Dec 19, 2023  
Date

**ORIGINAL** of the foregoing filed Dec 19, 2023  
with:

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

**EXECUTED COPY** of the foregoing sent electronically Dec 19, 2023  
to:

Mona Baskin  
Assistant Attorney General  
2005 North Central Avenue  
Phoenix, AZ 85004  
  
Jennifer L. Rivera  
Address of Record  
Respondent