

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

3 **In the Matter of:**

4 **Jessica D. Lewis, LAMFT-10764**
5 **Licensed Associate Masters Family**
6 **Therapist, In the State of Arizona.**

7 **RESPONDENT**

CASE NO. 2023-0135

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), Jessica D. Lewis ("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. LAMFT-10764 for the practice of
9 marriage and family therapy in the State of Arizona.

10 2. Since 04/21, Respondent has been licensed as an LAMFT with the Board.

11 3. As an associate level licensee, Respondent is required to comply with A.A.C. R4-
12 6-210 and A.A.C. R4-6-211 which specifies an associate level Respondent shall not engage in
13 the independent practice of behavioral health unless under direct supervision as prescribed in
14 A.A.C. R4-6-211.

15 4. Pursuant to A.A.C. R4-6-211, an associate level licensee needs pre-approval
16 from the Board in order to engage in the independent practice of behavioral health.

17 5. From 10/22 – 02/23, Complainant was providing some sort of supervision to
18 Respondent regarding confidential consultation over the supportive services Respondent was
19 providing to students at Agency, which was not psychotherapy.

20 6. On 02/10/23, during one of their meetings, Respondent informed Complainant
21 that she been seeing clients through a private practice setting for over a year and never
22 disclosed this to Complainant prior to this date.

23 7. In 04/21, almost immediately after receiving her LAMFT license with the Board,
24 Respondent began providing psychotherapy services through Private Practice without Board
25 approval or any sort of supervision in place.

1 8. In a 10/31/22 documented supervision session between Respondent and
2 Complainant, there was a discussion around working for an agency versus working in a private
3 practice and Respondent disclosed wanting to open a private practice.

4 9. At the time of this discussion, Respondent had already been actively running an
5 unlawful practice for at least 18 months at that time.

6 10. From 04/21 – 02/23, Respondent was concealing from Complainant that she was
7 actively engaging in unlawful practice through Private Practice without Board approval.

8 11. Board staff subpoenaed Respondent for a complete client list of all clients she
9 has ever provided psychotherapy services to through Private Practice.

10 12. Upon receipt of this client list, it showed Respondent had seen at least 223
11 clients through Private Practice from 04/21 – 02/23.

12 13. Board staff requested additional information in regards to all sessions conducted
13 and moneys collected through Private Practice.

14 14. The response outlined over 1200 client sessions and roughly \$107,540 collected
15 from services Respondent provided at Private Practice.

16 15. On 03/26/20, Respondent emailed Supervisor stating she needed an AAMFT
17 approved supervisor in order to fulfill her hours in a private practice setting, indicating
18 Respondent in fact knew she needed a supervisor before opening a private practice.

19 16. On 06/02/21, Respondent emailed Supervisor forms indicating they were
20 supervision forms that Respondent needed to send to the Board and asked Supervisor to sign
21 and return so Respondent could submit.

22 17. When an associate level licensee obtains their license, Board staff sends them a
23 document that specifically lays out as an associate level Respondent they are required to
24 practice under direct supervision pursuant to A.A.C. R4-6-211.

25 ...

1 18. Not only was Respondent informed that she needed to be under direct
2 supervision as an LAMFT, but Respondent contacted Supervisor asking for supervision with
3 forms from the Board for supervision approval meaning she was aware she needed a
4 supervisor.

5 19. Respondent represents that from 09/20 – 08/21, Supervisor provided
6 supervision.

7 20. Records from Supervisor, however, indicate the supervision was from 08/20 –
8 05/21 for a total of 9 documented sessions without any sort of indication where the supervision
9 took place.

10 21. Regardless of whether Supervisor supervised Respondent from 04/21 – 08/21, it
11 would still indicate Respondent practice unlawfully without any sort of supervision from 08/21 –
12 02/23 in Private Practice.

13 22. There was no legally binding supervisory contract signed and dated in place
14 between Respondent and Supervisor.

15 23. Respondent represented the following during an investigative interview:

- 16 a. Respondent thought she could get into private practice if she had a
17 supervisor as long as the supervisor came to the practice.
- 18 b. In school Respondent thought there was a recent rule that allowed LAMFTs
19 to open a private practice as long as they were supervised.
- 20 c. Respondent acknowledged receiving notice from the Board when she first
21 became licensed that laid out she needed to be under direct supervision.
- 22 d. Once Supervisor stopped supervising her, Respondent knew she was
23 practicing unlawfully.
- 24 e. Respondent continued Private Practice because she was trying to find
25 another supervisor and it was not intentional to continue Private Practice.

- 1 f. Respondent admits she did not contact the Board due to fear that she was
2 practicing unlawfully.
- 3 g. Respondent thought Supervisor was going to fill out the appropriate forms
4 and submit them to the Board.
- 5 h. Respondent believes had the Board complaint not been filed she would still
6 be running Private Practice.
- 7 i. Respondent purposely did not tell Complainant about Private Practice and
8 only told her after she received an email from Board staff about Private
9 Practice.

10 24. Respondent provided the following contradictory misrepresentations during the
11 Board's investigation:

- 12 a. Despite Respondent representing during the interview that she thought
13 Supervisor would complete the appropriate forms for the Board and submit
14 them, Respondent emailed Supervisor asking her to complete the forms so
15 Respondent herself could submit the forms to the Board.
- 16 b. Respondent represented she thought as long as she had a supervisor she
17 could go into private practice, yet she submitted the pre-approval supervision
18 forms to Supervisor indicating Respondent knew she needed these
19 completed and sent to the Board.
- 20 c. Respondent represented in her written response that she thought she had
21 sixty days from the termination of the supervision agreement to cease her
22 practice, yet continued to engaged in unlawful practice for over a year.
- 23 d. On 02/06/23, Respondent emailed Board staff that she had a private practice
24 for a few months in 2021, but referred clients out after Supervisor ceased
25 supervision.

1 e. Respondent had, in fact, continued Private Practice for over a full year after
2 Supervisor ceased any sort of supervision.

3 f. Respondent acknowledged receiving notice from the Board indicating she
4 needed to be under direct supervision, and rather than ceasing Private
5 Practice after Supervisor stopped supervision, she simply tried finding a new
6 supervisor hoping for a miracle.

7 25. Respondent further misrepresented to her clients by notifying them via email that
8 there was an issue with her license renewal and had to stop seeing clients at this time, which is
9 completely untruthful.

10 26. Respondent admitted not telling Complainant about Private Practice, showing the
11 intention Respondent had to conceal this unlawful practice.

12 27. Respondent has displayed a complete lack of insight or regard for Board rules
13 and regulations by intentionally continuing her unlawful practice for almost two years.

14 28. Due to Respondent opening a private practice without Board approval or
15 knowledge, Board staff requested all of Respondent's practice forms she utilized in Private
16 Practice.

17 29. Respondent's informed consent templates failed to include the following
18 minimum Board requirements:

- 19 a. A line or section for the client or Respondent's dated signature.
- 20 b. General procedures to be used in treatment.
- 21 c. Client's right to participate in treatment decisions and in the development and
22 periodic review and revision of a treatment plan.
- 23 d. Additionally, the Informed Consent was missing the following telehealth
24 element:

- 1 • Manner of identifying the client when using electronic communication that
2 does not involve video.

3 30. Despite the templates failing to include certain elements, the randomly
4 subpoenaed clinical record Board staff obtained only failed to include the following minimum
5 Board requirements within the informed consent:

- 6 a. General procedures to be used in treatment.
7 b. Clients right to participate in treatment decisions and in the development and
8 periodic revision of a treatment plan.
9 c. The telehealth requirement regarding the manner of identifying the client
10 when using electronic communication that does not involve video.

11 31. Respondent's treatment plan template failed to include the following minimum
12 requirements:

- 13 a. A section for the review date.
14 b. A line or section for the client's dated signature
15 c. A line or section for Respondent's dated signature.
16 d. A section for treatment goals.
17 e. A section for treatment modalities.

18 32. Furthermore, the treatment plan for the randomly subpoenaed clinical record
19 failed to include the following minimum Board requirements:

- 20 a. A review date and there was no section for a review date.
21 b. Treatment goals and there was no section for treatment goals.
22 c. Treatment methods and there was no section for treatment methods.
23 d. The dated signature of the client and there was no section for the dated
24 signature.

1 33. Respondent's progress notes failed to include the following minimum Board
2 requirements:

- 3 a. A line or section for Respondent's dated signature.
- 4 b. A line or section for the date of service.
- 5 c. A section for the duration of the session.
- 6 d. A section for the mode of session if telehealth and local emergency contacts.

7 34. Even though Respondent's progress note template failed to include these
8 minimum requirements, the randomly subpoenaed clinical record only failed to include the
9 following minimum Board requirements:

- 10 a. Local emergency contacts.
- 11 b. The client's physical location during the telehealth session.
- 12 c. One note failed to indicated the mode of session as well.

13 35. For almost two years Respondent owned and operated Private Practice
14 unlawfully without ever notifying the Board.

15 36. Pursuant to Board rules, Respondent was required to update any change of
16 employment within 30 days of that change.

17 37. Respondent failed to ever update her employment or notify the Board of her
18 employment through Private Practice.

19 38. During an investigative interview Respondent acknowledged knowing about the
20 Board's rule regarding updating her employment and did not have an answer as to why she
21 never updated her employment with the Board.

22 **CONCLUSIONS OF LAW**

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

1 2. The conduct and circumstances described in the Findings of Fact constitute a
2 violation of A.R.S. § 32-3251(16)(c)(ii), making any oral or written misrepresentation of a fact in
3 any statements provided during an investigation or disciplinary proceeding by the Board.

4 3. The conduct and circumstances described in the Findings of Fact constitute a
5 violation of A.R.S. § 32-3251(16)(j), engaging in conduct that the board determines is gross
6 negligence or repeated negligence in the licensee's profession.

7 4. The conduct and circumstances described in the Findings of Fact constitute a
8 violation of A.R.S. § 32-3251(16)(p), failing to conform to minimum practice standards as
9 developed by the board as it relates to:

10 A.A.C. R4-6-1101. Consent for Treatment

11 A.A.C. R4-6-1102. Treatment Plan

12 A.A.C. R4-6-1103. Client Record

13 A.A.C. R4-6-1106. Telepractice

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

17 A.A.C. R4-6-205. Change of Contact Information

18 A.A.C. R4-6-210. Practice Limitations

19 A.A.C. R4-6-211. Direct Supervision: Supervised Work Experience: General

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, LAMFT-10764, shall be surrendered to the Board,
24 effective from the date of entry as signed below.

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

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

2 Jessica D. Lewis
Jessica D. Lewis (Jun 29, 2023 17:52 PDT)

Jun 29, 2023

3 Jessica D. Lewis

Date

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

5 By: Mpli Zavala

Jun 29, 2023

6 TOBI ZAVALA, Executive Director
7 Arizona Board of Behavioral Health Examiners

Date

8
9 **ORIGINAL** of the foregoing filed Jun 29, 2023
with:

10 Arizona Board of Behavioral Health Examiners
11 1740 West Adams Street, Suite 3600
Phoenix, AZ 85007

12 **EXECUTED COPY** of the foregoing sent electronically Jun 29, 2023
13 to:

14 Mona Baskin
15 Assistant Attorney General
2005 North Central Avenue
Phoenix, AZ 85004

16 Jessica D. Lewis
17 Address of Record
Respondent

18 Mandi Karvis
19 Wicker Smith O'Hara McCoy & Ford, P.A.
One N. Central Ave. Suite 885
Phoenix, AZ 85004
20 Attorney for Respondent