

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

3 **In the Matter of:**

4 **Sarah E. Kircher, LMSW-19191,**
5 **Licensed Master Social Worker,**
6 **In the State of Arizona.**

7 **RESPONDENT**

CASE NO. 2023-0180
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), Sarah E. Kircher (“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 and the lifting of the stay of suspension.

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

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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. LMSW-19191 for the practice of social
15 work in the State of Arizona.

16 2. Between 02/20 – 04/22 and 01/23 – 04/23, Respondent was employed at Agency
17 1 with Complainant, part time.

18 3. On 02/14/23, Respondent informed Complainant of behavioral health concerns.

19 4. Respondent also notified her other employer, Agency 2, where she was working
20 fulltime, of her behavioral health concerns.

21 5. In a 03/22/23 meeting note from Complainant, she indicated the following:

22 a. Respondent was strongly encouraged to enter the Board's Impaired
23 Professional Program.

24 b. Respondent stated if she does, then she risks her medical records being
25 opened.

1 c. When asked why Respondent did not disclose her behavioral health
2 concerns on her license, Respondent noted she had a diagnosis years ago
3 and had substance use concerns.

4 6. On 04/14/23, the Board received a complaint against Respondent due to
5 concerns of substance use and behavioral health.

6 7. Due to these concerns, Board staff contacted Respondent to discuss an Interim
7 Consent Agreement ("ICA"), and on 04/18/23, Respondent signed and returned the ICA.

8 8. On 09/14/23, approximately five months after signing the ICA, Respondent
9 requested to be released and represented her sobriety date was 01/25/23 and that she had
10 been engaged in treatment for her behavioral health and substance use issues.

11 9. Respondent is aware of her long-standing history with substance use and
12 behavioral health concerns.

13 10. A 07/23 letter from an IOP counselor noted that Respondent completed the
14 Chemical Dependency Intensive Outpatient Group Program on 07/12/23 and she was
15 consistent with attendance, highly involved, and made excellent progress.

16 11. A 09/23 letter from IOP noted that Respondent graduated from the Mental Health
17 Intensive Outpatient program on 09/20/23.

18 12. Respondent was forthcoming about her issues with Therapist and progress notes
19 outline her symptoms improving.

20 13. A 10/23 letter from Psychiatrist noted the following:

21 a. Respondent has been honest about her behaviors, stressors and general
22 mental health and alcohol use.

23 b. She has not let her mental health impact her work.

24 c. Respondent is getting Phosphatidyl ethanol testing every few months, and
25 results for tests taken in 06/23, 09/23 and 11/23 were all negative.

1 14. Respondent represented however, during her investigative interview, that if she
2 ever believed her mental health or substance use impacted her ability to competently and safely
3 practice, she would have reported herself.

4 15. After her behavioral health concerns, hospitalization, and ongoing substance use
5 problem, Respondent failed to self-report to the Board.

6 16. Despite the noted concerns, Respondent has successfully completed two
7 Intensive Outpatient Programs to address her substance use and mental health, and she is
8 participating in ongoing therapy and psychiatric treatment.

9 17. Respondent's recovery plan notes her supports include having her husband
10 present during social gatherings, family and friends, Psychiatrist and Therapist.

11 18. Respondent has represented the following during her investigative interview:

12 a. Respondent's triggers are loneliness, feeling disconnected, and
13 compound stress.

14 b. It does not bother her when others drink around her and her husband
15 does have alcohol in the house.

16 c. Respondent feels the combination of treatment she has received since
17 the ICA has helped her.

18 d. She is ready to resume work as a therapist and feels safe and competent
19 to practice.

20 e. She is going to be a stronger therapist as a result of her experiences.

21 f. If she relapses or finds that her substance use or mental health affects
22 her ability to competently practice, she will report herself.

23 19. During her investigative interview, when asked about previous hospitalizations,
24 Respondent represented she had been previously hospitalized on 10/21.

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1 20. In her ICA release request, Respondent only outlined her treatment history
2 following 01/23.

3 21. A review of her clinical records showed multiple prior hospitalizations for
4 behavioral health concerns that she never reported to the Board previously.

5 22. Furthermore, when Respondent submitted her 12/19 application for a temporary
6 LMSW license, she answered “no” to the background question regarding any substance use
7 treatment within the past five years.

8 23. On 11/22, Respondent renewed her LMSW license and once again answered
9 “no” to the question regarding receiving any treatment within the last five years for use of
10 alcohol or any mental disorder or condition.

11 24. With both applications, Respondent signed a certifying statement and outlined,
12 under penalty of perjury, the information contained in the application is true and correct to the
13 best of her knowledge.

14 25. Despite there being a history of prior hospitalizations, Respondent failed to
15 disclose them to Board staff during the investigative interview and in prior applications and
16 renewals.

17 26. Additionally, Respondent was not fully forthcoming with Board staff during her
18 investigative interview and appears to lack some insight into her substance use due to her
19 representations.

20 **CONCLUSIONS OF LAW**

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

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1 2. The conduct and circumstances described in the Findings of Fact constitute a
2 violation of A.R.S. § 32-3251(16)(l), engaging in any conduct, practice or condition that impairs
3 the ability of the licensee to safely and competently practice the licensee's profession.

4 3. The conduct and circumstances described in the Findings of Fact constitute a
5 violation of A.R.S. § 32-3251(16)(c)(ii), making any oral or written misrepresentation of a fact to
6 secure or attempt to secure the issuance or renewal of a license.

7 **ORDER**

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

10 **Stayed Suspension**

11 1. As of the effective date of this Consent Agreement, Respondent's license,
12 LMSW-19191, shall be **SUSPENDED** for 24 months. However, the suspension shall be stayed
13 and Respondent's license shall be placed on probation.

14 2. During the stayed suspension portion of the Order, if Respondent is
15 noncompliant with the terms of the Order in any way, the stay of the suspension shall be lifted
16 and Respondent's license shall be automatically suspended as set forth above.

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

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

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1 5. Pending the Board's review, Respondent's license shall be reported as
2 suspended - under review. Respondent may not work in any capacity as a licensed behavioral
3 health professional pending the Board's review. The Board's decision and Order shall not be
4 subject to further review.

5 6. Respondent's license, LMSW-19191, will be placed on probation for 24 months,
6 effective from the date of entry as signed below.

7 7. Respondent shall not practice under their license, LMSW-19191, unless they are
8 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,
9 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they
10 shall immediately notify the Board in writing and shall not practice under their license until they
11 submit a written request to the Board to re-commence compliance with this Consent
12 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

17 Therapy

18 9. During the period of probation, Respondent shall attend therapy for 24 months
19 with a masters or higher-level behavioral health professional licensed at the independent level.
20 Within 30 days of the date of this Consent Agreement, Respondent shall submit the name of
21 their therapist and the therapist's curriculum vitae for pre-approval by the Board Chair or
22 designee. Also within 30 days of the date of this Consent Agreement, the therapist shall submit
23 a letter addressing why they should be approved, acknowledging that they have reviewed the
24 Consent Agreement and include the results of an initial assessment and a treatment plan
25 regarding the proposed treatment of Respondent.

1 10. Upon approval, the Board will provide the therapist with copies of any required
2 evaluations completed at the request of the Board prior to this Consent Agreement and the
3 Board's investigative report.

4 **Focus and Frequency of Therapy**

5 11. The focus of the therapy shall relate to issues identified in the Board's report.
6 Respondent shall meet with the therapist twice monthly for the first 12 months. After the first 12
7 months, the frequency of therapy shall be at the recommendation of the therapist, but not less
8 than once monthly.

9 **Change of Therapist**

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

18 **GENERAL PROVISIONS**

19 **Provision of Clinical Supervision**

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

23 **Civil Penalty**

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

1 15. 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 3, 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 16. 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 17. 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 18. 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 19 through 21 below.

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

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

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

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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 22. 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 23. 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 24. Respondent shall bear all costs relating to probation terms required in this
24 Consent Agreement.

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1 25. 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 26. This Consent Agreement shall be effective on the date of entry below.

4 27. 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 
10 Sarah kirch (Jan 20, 2024 14:28 MST)
11 Sarah E. Kircher Jan 20, 2024
12 Date

13
14 **BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

15 By: 
16 TOBI ZAVALA, Executive Director Jan 22, 2024
17 Arizona Board of Behavioral Health Examiners Date

18 **ORIGINAL** of the foregoing filed Jan 22, 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 Jan 22, 2024
24 to:

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

Sarah E. Kircher
Address of Record
Respondent