

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

3 **In the Matter of:**

4 **Mary G. Serlin, LPC-0456,**
5 **Licensed Professional Counselor,**
6 **In the State of Arizona.**

7 **RESPONDENT**

CASE NO. 2019-0074
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), Mary G. Serlin (“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11 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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 understands that once the Board approves and signs this Consent
17 Agreement, it is a public record that may be publicly disseminated as a formal action of the
18 Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

19 8. Respondent further understands that any violation of this Consent Agreement
20 constitutes unprofessional conduct pursuant to A.R.S. § 32-3251(16)(n) and may result in
21 disciplinary action pursuant to A.R.S. § 32-3281.

22 9. Although Respondent does not agree that all the Findings of Fact set forth in this
23 Consent Agreement are supported by the evidence, Respondent acknowledges that it is the
24 Board's position that, if this matter proceeded to a formal hearing, the Board could establish
25 sufficient evidence to support a conclusion that certain of Respondent's conduct constituted

1 unprofessional conduct. Therefore, Respondent has agreed to enter into this Consent
2 Agreement as an economical and practical means of resolving the issues associated with the
3 complaint filed against Respondent. Further, Respondent acknowledges that the Board may use
4 the evidence in its possession relating to this Consent Agreement for purposes of determining
5 sanctions in any further disciplinary matter.

6 10. The Board therefore retains jurisdiction over Respondent and may initiate
7 disciplinary action against Respondent if it determines that they have failed to comply with the
8 terms of this Consent Agreement or of the practice act.

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

10 **FINDINGS OF FACT**

11 1. Respondent is the holder of License No. LPC-0456 for the practice of counseling
12 in Arizona.

13 2. From 11/14 – 03/15, Respondent provided premarital counseling to a couple
14 (“Wife and Husband”).

15 3. In 03/18, Respondent was contacted by the couple and began marital
16 counseling.

17 4. On 09/28/18, with full knowledge that divorce proceedings had begun,
18 Respondent wrote a letter intended for the Court, which contained disparaging remarks toward
19 Wife, favorable remarks toward Husband, and a recommendation on where they should live.

20 5. Respondent’s letter was inappropriate for the following reasons:

21 a. The Court did not request or solicit any information from Respondent
22 regarding Wife and Husband’s treatment, or a recommendation of where they
23 should live.

24 b. Wife had no knowledge or forewarning that Respondent would be submitting
25 a letter that contained confidential and subjective information against her.

1 c. Respondent's letter appeared to depict Wife disapprovingly, while depicting
2 Husband favorably.

3 6. In response to this matter, Respondent acknowledges that her letter was
4 inappropriate and proactively completed 6 clock hours of continuing education as a corrective
5 measure.

6 7. In review of Respondent's clinical documentation:

7 a. Respondent failed to create a Consent for Treatment for Wife and Husband.

8 b. Respondent failed to generate any Treatment Planning documentation.

9 c. Respondent's progress notes fail to include all the required elements.

10 d. The clinical record fails to include any billing or financial records.

11 e. Despite providing several sessions via telepractice, Respondent failed to
12 conform to the telepractice documentation standards pursuant to the Board's
13 rules and regulations.

14 8. Since the filing of the Board complaint, Respondent has submitted updated
15 clinical documentation forms, which appear to meet the Board's minimum documentation
16 standards.

17 **CONCLUSIONS OF LAW**

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

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

24 ...

25 ...

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

4 a. A.A.C. R4-6-1101, Consent for Treatment.

5 b. A.A.C. R4-6-1102, Treatment Plan.

6 c. A.A.C. R4-6-1103, Client Record.

7 d. A.A.C. R4-6-1104, Financial and Billing Records.

8 e. A.A.C. R4-6-1106, Telepractice.

9 **ORDER**

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

12 1. Respondent's license, LPC-0456, will be placed on probation for 24 months,
13 effective from the date of entry as signed below.

14 2. Respondent shall not practice under their license, LPC-0456, unless they are
15 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,
16 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they
17 shall immediately notify the Board in writing and shall not practice under their license until they
18 submit a written request to the Board to re-commence compliance with this Consent
19 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

24 ...

25 ...

1 **Continuing Education**

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

8 5. In addition to the continuing education requirements of A.R.S. § 32-3273, within
9 12 months of the effective date of this Consent Agreement, Respondent shall complete 3 clock
10 hours of continuing education addressing family court and confidentiality. All required continuing
11 education shall be pre-approved by the Board Chair or designee. Upon completion, Respondent
12 shall submit a certificate of completion of the required continuing education.

13 6. In addition to the continuing education requirements of A.R.S. § 32-3273, within
14 12 months of the effective date of this Consent Agreement, Respondent shall complete 2 clock
15 hours of continuing education addressing telepractice. All required continuing education shall be
16 pre-approved by the Board Chair or designee. Upon completion, Respondent shall submit a
17 certificate of completion of the required continuing education.

18 **Clinical Supervision**

19 7. While on probation, Respondent shall submit to clinical supervision for 24 months
20 by a masters or higher level behavioral health professional licensed at the independent level.
21 Within 30 days of the date of this Consent Agreement, Respondent shall submit the name of a
22 clinical supervisor for pre-approval by the Board Chair or designee. Also within 30 days of the
23 date of this Consent Agreement, the clinical supervisor shall submit a letter disclosing their prior
24 relationship to Respondent. In that letter, the clinical supervisor must address why they should
25 be approved, acknowledge that they have reviewed the Consent Agreement and include the

1 results of an initial assessment and a supervision plan regarding the proposed supervision of
2 Respondent. The letter from the supervisor shall be submitted to the Board.

3 **Focus and Frequency of Clinical Supervision**

4 8. The focus of the supervision shall relate to the Board's rules and statues, and
5 current behavioral health documentation standards. Respondent shall meet individually in
6 person with the clinical supervisor for a minimum of one hour monthly.

7 **Reports**

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

12 a. Dates of each clinical supervision session.

13 b. A comprehensive description of issues discussed during supervision
14 sessions.

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

18 11. After Respondent's probationary period, the supervisor shall submit a final
19 summary report for review and approval by the Board Chair or designee. The final report shall
20 also contain a recommendation as to whether the Respondent should be released from this
21 Consent Agreement.

22 **Change of Clinical Supervisor During Probation**

23 12. If, during the period of Respondent's probation, the clinical supervisor determines
24 that they cannot continue as the clinical supervisor, they shall notify the Board within 10 days of
25 the end of supervision and provide the Board with an interim final report. Respondent shall

1 advise the Board Chair or designee within 30 days of cessation of clinical supervision by the
2 approved clinical supervisor and provide the name of a new proposed clinical supervisor. The
3 proposed clinical supervisor shall provide the same documentation to the Board as was required
4 of the initial clinical supervisor.

5 **Early Release**

6 13. After 12 months and upon the clinical supervisor's recommendation, Respondent
7 may request early release from the Consent Agreement if all other terms of the Consent
8 Agreement have been met.

9 **GENERAL PROVISIONS**

10 **Provision of Clinical Supervision**

11 14. Respondent shall not provide clinical supervision while subject to this Consent
12 Agreement.

13 **Civil Penalty**

14 15. Subject to the provisions set forth in paragraph 16, the Board imposes a civil
15 penalty against the Respondent in the amount of \$1,000.00.

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

23 17. Within 10 days of being notified of the lifting of the stay, Respondent may request
24 that the matter be reviewed by the Board for the limited purpose of determining whether the
25 automatic lifting of the stay was supported by clear and convincing evidence. If the Board

1 receives the written request within 10 days or less of the next regularly scheduled Board
2 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
3 scheduled Board meeting. The Board's decision on this matter shall not be subject to further
4 review.

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

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

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

22 21. If Respondent is not employed as of the effective date of this Order, within 10
23 days of accepting employment in a position where Respondent provides any type of behavioral
24 health related services or in a setting where any type of behavioral health, health care, or social
25 services are provided, Respondent shall provide the Board Chair or designee with a written

1 statement providing the contact information of their new employer and a signed statement from
2 Respondent's new employer confirming Respondent provided the employer with a copy of this
3 Consent Agreement. If Respondent does not provide the employer's statement to the Board
4 within 10 days, as required, Respondent's failure to provide the required statement to the Board
5 shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
6 employer(s) with a copy of the Consent Agreement.

7 22. If, during the period of Respondent's probation, Respondent changes
8 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on
9 extended leave of absence for whatever reason that may impact their ability to timely comply
10 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform
11 the Board of their change of employment status. After the change and within 10 days of
12 accepting employment in a position where Respondent provides any type of behavioral health
13 related services or in a setting where any type of behavioral health, health care, or social
14 services are provided, Respondent shall provide the Board Chair or designee a written
15 statement providing the contact information of their new employer(s) and a signed statement
16 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a
17 copy of this Consent Agreement. If Respondent does not provide the employer's statement to
18 the Board within 10 days, as required, Respondent's failure to provide the required statement to
19 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide
20 Respondent's employer(s) with a copy of the Consent Agreement.

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

24 24. Prior to the release of Respondent from probation, Respondent must submit a
25 written request to the Board for release from the terms of this Consent Agreement at least 30

1 days prior to the date they would like to have this matter appear before the Board. Respondent
2 may appear before the Board, either in person or telephonically. Respondent must provide
3 evidence that they have successfully satisfied all terms and conditions in this Consent
4 Agreement. The Board has the sole discretion to determine whether all terms and conditions of
5 this Consent Agreement have been met and whether Respondent has adequately demonstrated
6 that they have addressed the issues contained in this Consent Agreement. In the event that the
7 Board determines that any or all terms and conditions of this Consent Agreement have not been
8 met, the Board may conduct such further proceedings as it determines are appropriate to
9 address those matters.

10 25. Respondent shall bear all costs relating to probation terms required in this
11 Consent Agreement.

12 26. Respondent shall be responsible for ensuring that all documentation required in
13 this Consent Agreement is provided to the Board in a timely manner.

14 27. This Consent Agreement shall be effective on the date of entry below.

15 28. This Consent Agreement is conclusive evidence of the matters described herein
16 and may be considered by the Board in determining appropriate sanctions in the event a
17 subsequent violation occurs.

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

19 Mary Serlin
Mary Serlin (Jul 26, 2019)
20 _____
Mary G. Serlin

Jul 26, 2019

Date

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

22 Tobi Zavala
By: Tobi Zavala (Jul 26, 2019)
23 _____
24 TOBI ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

Jul 26, 2019

Date

1 **ORIGINAL** of the foregoing filed Jul 26, 2019
with:

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

5 **EXECUTED COPY** of the foregoing sent electronically Jul 26, 2019
to:

6 Marc Harris
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