

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

3 **In the Matter of:**

4 **Ana-Lys Brinkmann, LAC-20066,**
5 **Licensed Associate Counselor,**
6 **In the State of Arizona.**

7 **RESPONDENT**

CASE NOS. 2023-0082
2023-0087

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), Ana-Lys Brinkmann (“Respondent”) and the Board enter into this
12 Consent Agreement, Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as
13 a final 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11 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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. LAC-20066 for the practice of
15 counseling in the State of Arizona.

16 2. From 10/20 – 10/22, Respondent was employed at Agency as a clinician.

17 3. On 05/24/21, Respondent received a verbal corrective action for not meeting
18 productivity for the previous three months.

19 4. On 08/03/21, Respondent received a written corrective action for not meeting
20 productivity for the previous three months.

21 5. On 03/29/22, Respondent received a final corrective action for not meeting
22 productivity for the previous two months.

23 6. On 10/25/22, Respondent was involuntarily terminated from Agency and the
24 termination notice included the following in part:

25 ...

- a. Respondent completed multiple trainings that addressed billing practices considered fraud, waste, and abuse.
- b. On 10/19/22, Respondent met with HR to discuss information discovered during a recent data validation audit regarding billing records for 09/22.
- c. Agency had concerns that Respondent was padding her billing times and suspected fraud, waste, and abuse was committed.
- d. Agency reviewed Respondent's billing from 08/22 – 10/22 and compared the notes completed by Respondent with the phone and ZOOM records.
- e. From 08/22 – 10/22, Respondent's billing showed over 100 padded services.
- f. Respondent reported she did not do this intentionally and admitted she may have billed for things that were not billable such as case management tasks.
- g. Respondent reported rounding times up sometimes and may have committed acts while at Agency that could be considered fraud but she was not attempting to be fraudulent.

7. Board staff obtained Agency's audit which showed roughly 222 entries where Respondent padded her times which did not align with either ZOOM or phone call durations from 05/22 – 10/22.

8. Agency's audit showed various discrepancies in the ZOOM or phone call times and the documented times in the notes which included the following in part:

- a. On 06/01/22, Respondent billed for 55 minutes but the ZOOM or phone records only showed 40 minutes of services provided.
- b. On 06/03/22, Respondent billed for 53 minutes but the ZOOM or phone records only showed 30 minutes of services provided.
- c. On 09/06/22, Respondent billed for 53 minutes but the ZOOM or phone records only showed 36 minutes of services provided.

1 d. On 10/03/22, Respondent billed for 35 minutes but the ZOOM or phone
2 records only showed 13 minutes of services provided.

3 **CONCLUSIONS OF LAW**

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

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

10 **ORDER NOT TO RENEW**

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

13 1. As of the effective date of the Consent Agreement, Respondent shall not practice
14 under their license.

15 2. Respondent's license, LAC-20066, shall by rule, expire on 06/30/23.

16 3. Respondent agrees not to renew their license.

17 4. Respondent agrees not to submit any type of new license application to the
18 Board for a minimum of five (5) years.

19 5. This Consent Agreement is conclusive evidence of the matters described herein
20 and may be considered by the Board in determining appropriate sanctions in the event a
21 subsequent violation occurs.


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

24 Ana-Lys Brinkmann
Ana-Lys Brinkmann (Jun 29, 2023 09:47 PDT)
25 Ana-Lys Brinkmann

Jun 29, 2023
Date

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BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

By:  Jul 25, 2023
TOBI ZAVALA, Executive Director Date
Arizona Board of Behavioral Health Examiners

ORIGINAL of the foregoing filed Jul 25, 2023
with:

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

EXECUTED COPY of the foregoing sent electronically Jul 25, 2023
to:

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

Ana-Lys Brinkmann
Address of Record
Respondent