

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

3 **In the Matter of:**

4 **Dan L. Newman, LPC-1885,**
5 **Licensed Professional Counselor,**
6 **In the State of Arizona.**

CASE NO. 2018-0005
CONSENT AGREEMENT

7 **RESPONDENT**

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), Dan L. Newman ("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 and may be used for purposes of determining
7 sanctions in any future disciplinary matter.

8 6. This Consent Agreement is subject to the Board's approval, and will be effective
9 only when the Board accepts it. In the event the Board in its discretion does not approve this
10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,
11 nor shall it be relied upon or introduced in any disciplinary action by any party hereto, except
12 that Respondent agrees that should the Board reject this Consent Agreement and this case
13 proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its
14 review and discussion of this document or of any records relating thereto.

15 7. Respondent understands that once the Board approves and signs this Consent
16 Agreement, it is a public record that may be publicly disseminated as a formal action of the
17 Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

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

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

24 ...

25 ...

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

2 **FINDINGS OF FACT**

3 1. Respondent is the holder of License No. LPC-1885 for the practice of counseling
4 in Arizona.

5 2. Respondent maintains a private practice.

6 3. From 05/17 – 07/17, Respondent provided behavioral health services to an adult
7 male client ("Client") for a total of 6 sessions.

8 4. In review of the clinical documentation that Respondent maintained for Client,
9 there were serious clinical documentation deficiencies identified.

10 5. The clinical record lacks Consent for Treatment documentation.

11 6. The clinical record lacks Treatment Planning documentation.

12 7. The clinical record lacks adequate Financial and Billing records.

13 8. Although Respondent appears to have handwritten the cash-paid amount on
14 each of the progress notes, Respondent failed to demonstrate that he made financial
15 arrangements with Client prior to providing services, or that he maintained billing records that
16 are separate from his clinical documentation, as required.

17 9. In review of the Progress Notes that Respondent maintained, they fail to include
18 3 out of the 4 required elements, including:

19 a. The time spent providing the behavioral health service.

20 b. An indication of whether the counseling was individual, family or group.

21 c. The behavioral health provider's dated signature.

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.

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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.

ORDER

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

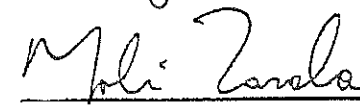
1. As of the effective date of the Consent Agreement, Respondent shall not practice under their license.
2. Respondent's license, LPC-1885, shall by rule, expire on 11/30/19.
3. Respondent agrees not to renew their license.
4. Respondent agrees not to submit any type of new license application to the Board for a minimum of five (5) years.
5. This Consent Agreement is conclusive evidence of the matters described herein and may be considered by the Board in determining appropriate sanctions in the event a subsequent violation occurs.

PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

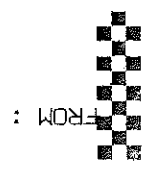
 <hr/> Dan L. Newman	5-1-18 <hr/> Date
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BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

Dated this 7th day of May, 2018.

By: 

 TOBÍ ZAVALA, Executive Director
 Arizona Board of Behavioral Health Examiners



1 ORIGINAL of the foregoing filed
This 7th day of May, 2018 with:

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

5 COPY of the foregoing mailed via Interagency Mail
This 7th day of May, 2018, to:

6 Marc Harris
7 Assistant Attorney General
8 2005 North Central Avenue
9 Phoenix, AZ 85004

10 COPY of the foregoing mailed via
11 Certified mail no. 9489009000276049424490
12 This 7th day of May, 2018, to:

13 Dan L. Newman
14 Address of Record
15 Respondent
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