

1 3. Respondent has the right to consult with an attorney prior to entering into this
2 Consent Agreement.

3 4. Respondent acknowledges and agrees that upon signing this Consent
4 Agreement and returning it to the Board's Executive Director, Respondent may not revoke their
5 acceptance of this Consent Agreement or make any modifications to it. Any modification of this
6 original document is ineffective and void unless mutually approved by the parties in writing.

7 5. The findings contained in the Findings of Fact portion of this Consent Agreement
8 are conclusive evidence of the facts stated herein and may be used for purposes of determining
9 sanctions in any future disciplinary matter.

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12 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,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

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

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

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

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

2 **FINDINGS OF FACT**

3 1. In 10/09, while previously licensed by the Board, Respondent entered into a
4 Consent Agreement, which contained several probationary terms and conditions including a
5 practice restriction, continuing education, clinical supervision and therapy.

6 2. In 08/10, without completing any of the terms of his Consent Agreement,
7 Respondent allowed his license to expire.

8 3. In 06/16, Respondent submitted a new Licensed Associate Counselor application
9 to the Board.

10 4. Following the Board's review and consideration, the Board voted to deny
11 Respondent's application for failing to present any evidence establishing that he completed
12 continuing education, attended therapy or received clinical supervision.

13 5. In 03/18, Respondent submitted another Licensed Associate Counselor
14 application to the Board.

15 6. In support of his application, Respondent indicated the following:

16 a. Since 06/16, Respondent has been receiving counseling services.

17 b. Respondent also sees a primary care physician for other behavioral health
18 needs.

19 c. Respondent practices a modified version of the 12 steps with his group
20 members to help navigate life as an adult child of someone who was an
21 alcoholic.

22 d. In the past, Respondent was terminated for employment issues regarding
23 workplace conflict and failure to comply with directives from his supervisors.

24 e. He chose to begin therapy, begin exercising, and continue to attend group
25 meetings to ensure better self-care.

1 f. Respondent also has a very supportive spouse, family, and friends that help
2 him through the stressful times in life as they come.

3 g. Respondent is no longer acting out toward authority figures and knows that
4 his experiences will make him an asset to the counseling field.

5 7. In further support of his application, Respondent submitted 12.25 hours of
6 continuing education in the areas of ethics and documentation, as well as a character reference
7 letter from his sponsor.

8 8. Additionally, a letter from his current therapist indicated that Respondent has
9 demonstrated commitment to the healing process over the last two years.

10 **CONCLUSIONS OF LAW**

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

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

17 **ORDER**

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

20 1. Respondent's application to be a licensed associate counselor is approved.

21 2. The license issued to Respondent pursuant to paragraph 1 will be immediately
22 placed on probation for 24 months.

23 3. Respondent shall not practice under their license unless they are fully compliant
24 with all terms and conditions in this Consent Agreement. If, for any reason, Respondent is
25 unable to comply with the terms and conditions of this Consent Agreement, they shall

1 immediately notify the Board in writing and shall not practice under their license until they
2 submit a written request to the Board to re-commence compliance with this Consent
3 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

8 Practice Restriction

9 5. While on probation, if Respondent engages in the practice of behavioral health,
10 they shall do so only while working at a behavioral health agency licensed by the state of
11 Arizona.

12 Clinical Supervision

13 6. While on probation, Respondent shall submit to clinical supervision for 24 months
14 by a masters or higher level behavioral health professional licensed at the independent level.
15 Within 30 days of the date of this Consent Agreement, Respondent shall submit the name of a
16 clinical supervisor for pre-approval by the Board Chair or designee. Also within 30 days of the
17 date of this Consent Agreement, the clinical supervisor shall submit a letter disclosing their prior
18 relationship to Respondent. In that letter, the clinical supervisor must address why they should
19 be approved, acknowledge that they have reviewed the Consent Agreement and include the
20 results of an initial assessment and a supervision plan regarding the proposed supervision of
21 Respondent. The letter from the supervisor shall be submitted to the Board.

22 Focus and Frequency of Clinical Supervision

23 7. The focus of the supervision shall relate to behavioral health ethics, boundaries,
24 behavioral health training, personal conduct, stress management, and conflict management.

25 ...

1 Respondent shall meet individually in person with the supervisor for a minimum three hours per
2 month if working fulltime or twice monthly if working less than 20 hours per week.

3 Reports

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

8 a. Dates of each clinical supervision session.

9 b. A comprehensive description of issues discussed during supervision
10 sessions.

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

14 10. After Respondent's probationary period, the supervisor shall submit a final
15 summary report for review and approval by the Board Chair or designee. The final report shall
16 also contain a recommendation as to whether the Respondent should be released from this
17 Consent Agreement.

18 Change of Clinical Supervisor During Probation

19 11. If, during the period of Respondent's probation, the clinical supervisor determines
20 that they cannot continue as the clinical supervisor, they shall notify the Board within 10 days of
21 the end of supervision and provide the Board with an interim final report. Respondent shall
22 advise the Board Chair or designee within 30 days of cessation of clinical supervision by the
23 approved clinical supervisor and provide the name of a new proposed clinical supervisor. The
24 proposed clinical supervisor shall provide the same documentation to the Board as was required
25 of the initial clinical supervisor.

1 Early Release

2 12. After 12 months and upon the supervisor's recommendation, Respondent may
3 request early release from the Consent Agreement if all other terms of the Consent Agreement
4 have been met.

5 GENERAL PROVISIONS

6 Provision of Clinical Supervision

7 13. Respondent shall not provide clinical supervision while subject to this Consent
8 Agreement.

9 Civil Penalty

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

12 15. Respondent's payment of the civil penalty shall be stayed so long as Respondent
13 remains compliant with the terms of this Consent Agreement. If Board staff determines that
14 Respondent is noncompliant with the terms of this Consent Agreement in any respect, with the
15 exception of the tolling provision under paragraph 4, the stay of the civil penalty payment shall
16 be automatically lifted and payment of the civil penalty shall be made by certified check or
17 money order payable to the Board within 30 days after being notified in writing of the lifting of
18 the stay.

19 16. Within 10 days of being notified of the lifting of the stay, Respondent may request
20 that the matter be reviewed by the Board for the limited purpose of determining whether the
21 automatic lifting of the stay was supported by clear and convincing evidence. If the Board
22 receives the written request within 10 days or less of the next 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. The Board's decision on this matter shall not be subject to further
25 review.

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

6 18. If Respondent currently sees clients in their own private practice, and obtains any
7 other type of behavioral health position, either as an employee or independent contractor, where
8 they provide behavioral health services to clients of another individual or agency, they shall
9 comply with requirements set forth in paragraphs 19 through 21 below.

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

18 20. If Respondent is not employed as of the effective date of this Order, within 10
19 days of accepting employment in a position where Respondent provides any type of behavioral
20 health related services or in a setting where any type of behavioral health, health care, or social
21 services are provided, Respondent shall provide the Board Chair or designee with a written
22 statement providing the contact information of their new employer and a signed statement from
23 Respondent's new employer confirming Respondent provided the employer with a copy of this
24 Consent Agreement. If Respondent does not provide the employer's statement to the Board
25 within 10 days, as required, Respondent's failure to provide the required statement to the Board

1 shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
2 employer(s) with a copy of the Consent Agreement.

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

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

20 23. Prior to the release of Respondent from probation, Respondent must submit a
21 written request to the Board for release from the terms of this Consent Agreement at least 30
22 days prior to the date they would like to have this matter appear before the Board. Respondent
23 may appear before the Board, either in person or telephonically. Respondent must provide
24 evidence that they have successfully satisfied all terms and conditions in this Consent
25 Agreement. The Board has the sole discretion to determine whether all terms and conditions of

1 this Consent Agreement have been met and whether Respondent has adequately demonstrated
2 that they have addressed the issues contained in this Consent Agreement. In the event that the
3 Board determines that any or all terms and conditions of this Consent Agreement have not been
4 met, the Board may conduct such further proceedings as it determines are appropriate to
5 address those matters.

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

8 25. Respondent shall be responsible for ensuring that all documentation required in
9 this Consent Agreement is provided to the Board in a timely manner.

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

11 27. This Consent Agreement is conclusive evidence of the matters described herein
12 and may be considered by the Board in determining appropriate sanctions in the event a
13 subsequent violation occurs.

14
15 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

16 Roy E. Rockenbach
17 Roy E. Rockenbach

9-29-18
Date

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

19 Dated this 18th day of September, 2018.

20
21 By: Moli Zavala
22 TOBI ZAVALA, Executive Director
23 Arizona Board of Behavioral Health Examiners
24
25

1 ORIGINAL of the foregoing filed
This 18th day of September, 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 18th day of September, 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. 948900900077604365719
This 18th day of September, 2018, to:

12 Roy E. Rockenbach
13 Address of Record
14 Respondent
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