

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

2 **In the Matter of:**

3 **Sheri N. Whinery, LMSW-18843,**
4 **Licensed Master Social Worker,**
5 **In the State of Arizona.**

6 **RESPONDENT**

CASE NO. 2023-0023

**RELEASE FROM
CONSENT AGREEMENT AND ORDER**

7 The Board received a request from Respondent to release them from the terms and
8 conditions of the Consent Agreement and Order dated August 22nd, 2022. After consideration,
9 the Board voted to release Respondent from the terms and conditions of the Consent
10 Agreement and Order dated August 22nd, 2022.

11 **ORDER**

12 **GOOD CAUSE APPEARING, IT IS THEREFORE ORDERED THAT:**

13 Respondent is hereby released from all terms and conditions of the Consent Agreement
14 and Order dated August 22nd, 2022.

15 By: 
16 **TOBI ZAVALA, Executive Director**
Arizona Board of Behavioral Health Examiners

Mar 16, 2023
Date

17
18 **ORIGINAL** of the foregoing filed Mar 16, 2023
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 Mar 16, 2023
24 to:

25 Sheri N. Whinery
Address of Record
Respondent

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

3 **In the Matter of:**

4 **Sheri N. Whinery, LMSW-18843,**
5 **Licensed Master Social Worker,**
6 **In the State of Arizona.**

CASE NO. 2023-0023
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), Sheri N. Whinery ("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 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. LMSW-18843 for the practice of social
15 work in Arizona.

16 2. On 02/16/22, Respondent was arrested for driving under the influence.

17 3. Respondent's blood alcohol content was measured at .215% approximately two
18 hours after the collision.

19 4. Respondent acknowledges having one glass of white wine and one glass of
20 sangria prior to driving.

21 **CONCLUSIONS OF LAW**

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

25

1 **Recovery Program**

2 5. While on probation, Respondent shall attend a minimum of 3 Mothers Against
3 Drunk Driving (“M.A.D.D.”) meetings in person or an equivalent program. Respondent shall
4 provide a report to the Board Chair or designee substantiating his/her attendance at M.A.D.D.
5 meetings or equivalent program.

6 **Early Release**

7 6. After completion of the continuing education requirements set forth in this
8 Consent Agreement, Respondent may request early release from the Consent Agreement if all
9 other terms of the Consent Agreement have been met.

10 **GENERAL PROVISIONS**

11 **Provision of Clinical Supervision**

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

14 **Civil Penalty**

15 8. Subject to the provisions set forth in paragraph 9, the Board imposes a civil
16 penalty against the Respondent in the amount of \$1,000.00.

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

24 10. Within 10 days of being notified of the lifting of the stay, Respondent may request
25 that the matter be reviewed by the Board for the limited purpose of determining whether the

1 automatic lifting of the stay was supported by clear and convincing evidence. If the Board
2 receives the written request within 10 days or less of the next regularly scheduled Board
3 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
4 scheduled Board meeting. The Board's decision on this matter shall not be subject to further
5 review.

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

11 12. If Respondent currently sees clients in their own private practice, and obtains any
12 other type of behavioral health position, either as an employee or independent contractor, where
13 they provide behavioral health services to clients of another individual or agency, they shall
14 comply with requirements set forth in paragraphs 13 through 15 below.

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

23 14. If Respondent is not employed as of the effective date of this Order, within 10
24 days of accepting employment in a position where Respondent provides any type of behavioral
25 health related services or in a setting where any type of behavioral health, health care, or social

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

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

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

25 ...

1 17. Prior to the release of Respondent from probation, Respondent must submit a
2 written request to the Board for release from the terms of this Consent Agreement at least 30
3 days prior to the date they would like to have this matter appear before the Board. Respondent
4 may appear before the Board, either in person or telephonically. Respondent must provide
5 evidence that they have successfully satisfied all terms and conditions in this Consent
6 Agreement. The Board has the sole discretion to determine whether all terms and conditions of
7 this Consent Agreement have been met and whether Respondent has adequately demonstrated
8 that they have addressed the issues contained in this Consent Agreement. In the event that the
9 Board determines that any or all terms and conditions of this Consent Agreement have not been
10 met, the Board may conduct such further proceedings as it determines are appropriate to
11 address those matters.

12 18. Respondent shall bear all costs relating to probation terms required in this
13 Consent Agreement.

14 19. Respondent shall be responsible for ensuring that all documentation required in
15 this Consent Agreement is provided to the Board in a timely manner.

16 20. This Consent Agreement shall be effective on the date of entry below.

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

20
21 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

22 *Sheri Whinery*

23 Sheri Whinery (Aug 1, 2022 07:49 PDT)

24 Sheri N. Whinery

25 Aug 1, 2022

Date

BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

1 By:



Aug 22, 2022

2 TOBI ZAVALA, Executive Director
3 Arizona Board of Behavioral Health Examiners

Date

4 **ORIGINAL** of the foregoing filed
5 with:

Aug 22, 2022

6 Arizona Board of Behavioral Health Examiners
7 1740 West Adams Street, Suite 3600
8 Phoenix, AZ 85007

9 **EXECUTED COPY** of the foregoing sent electronically
10 to:

Aug 22, 2022

11 Mona Baskin
12 Assistant Attorney General
13 2005 North Central Avenue
14 Phoenix, AZ 85004

15 Sheri N. Whinery
16 Address of Record
17 Respondent
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