

1 **BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS**
2 **FOR THE STATE OF ARIZONA**

3
4 In the Matter of:

Case No. 22-11

5 **BRIAN HARRISON SCHAFFER, M.S.**

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND CONSENT
AGREEMENT FOR SURRENDER OF
LICENSE AS A BEHAVIOR ANALYST**

6 Holder of License No. BEH-00440
7 for the Practice of Behavior Analysis
8 in the State of Arizona,

9 Respondent.

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11 In the interest of a prompt and judicious settlement of the above-captioned matter before
12 the Arizona Board of Psychologist Examiners (“Board”) and consistent with public interest,
13 statutory requirements and responsibilities of the Board and pursuant to A.R.S. § 32-2091 *et seq.*,
14 and A.R.S. § 41-1092.07(F)(5), Brian Harrison Schaffer, M.S. (“Respondent”), holder of License
15 No. BEH-00440 as a Behavior Analyst and the Board enter into this Consent Agreement for
16 Surrender of License as a Behavior Analyst (“Consent Agreement”) as the final disposition of this
17 matter.
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19 **JURISDICTION**

20 1. The Board is authorized to regulate the practice of behavior analysis in Arizona
21 pursuant to A.R.S. § 32-2091, *et. seq.*, and the rules promulgated thereunder, found in Arizona
22 Administrative Code (“A.A.C.” or “rules”) at R4-26-401, *et seq.*, to regulate and control the
23 licensing of behavior analysts in the State of Arizona.

24 2. Respondent is the holder of license number BEH-00440 for the practice of
25 behavior analysis in the State of Arizona.

26 3. The Board has personal and subject matter jurisdiction over Respondent pursuant
27 to A.R.S. § 32-2091, *et seq.*, and the rules of A.A.C. R4-26-401, *et seq.*
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1 **RECITALS**

2 Respondent understands and agrees that:

3 1. The Board and Respondent enter into this Consent Agreement to promptly and
4 judiciously resolve this matter, consistent with the public interest and the statutory requirements of
5 the Board.

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

8 3. Respondent has a right to a public hearing concerning this case. He further
9 acknowledges that at such formal hearing he could present evidence and cross-examine witnesses.
10 Respondent irrevocably waives his right to such a hearing.

11 4. Respondent irrevocably waives any right to rehearing or review or to any judicial
12 review or any other appeal to this matter.

13 5. Respondent acknowledges and agrees that the acceptance of this Consent
14 Agreement is solely to settle this Board matter and does not preclude the Board from instituting
15 other proceedings as may be appropriate now or in the future.

16 6. Respondent understands that this Consent Agreement does not constitute a dismissal
17 or resolution of any other matters currently pending before the Board, if any, and does not constitute
18 any waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any other
19 pending or future investigation, action or proceeding.

20 7. Furthermore, and notwithstanding any language in this Consent Agreement, this
21 Consent Agreement does not preclude in any way any other state agency or officer or political
22 subdivision of this state from instituting proceedings, investigating claims, or taking legal action as
23 may be appropriate now or in the future relating to this matter or other matters concerning
24 Respondent, including violations of the Arizona Consumer Protection Act. Respondent
25 acknowledges that, other than with respect to the Board, this Consent Agreement makes no
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1 representations, implied or otherwise, about the views or intended actions of any other state agency
2 or officer or political subdivision of the state relating to this matter or other matters concerning
3 Respondent.

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5 8. This Consent Agreement shall be subject to the approval by the Board and shall be
6 effective only when approved by the Board and signed by the Board's Executive Director. In the
7 event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no
8 evidentiary value and shall not be relied upon nor introduced in any action by any party, except the
9 parties agree that should the Board reject this Consent Agreement and this case proceeds to hearing,
10 Respondent shall assert no claim that the Board was prejudiced by its review and discussion of this
11 document or any records relating thereto.

12 9. The Consent Agreement, once approved by the Board and signed by the Respondent
13 and the Executive Director, shall constitute a public record, which may be disseminated as a formal
14 action of the Board and shall be reported to the National Practitioner Data Bank.

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16 10. Although Respondent does not agree that all the Findings of Fact set forth in this
17 Consent Agreement are supported by the evidence, Respondent acknowledges that it is the
18 Board's position that, if this matter proceeded to formal hearing, the Board could establish
19 sufficient evidence to support a conclusion that certain of Respondent's conduct constituted
20 unprofessional conduct.

21 11. Respondent voluntarily enters into this Consent Agreement for the purpose of
22 avoiding the expense, uncertainty, and prolonged time involved in further administrative
23 proceedings. The issues contained herein are resolved by settlement and not actually litigated.
24 Any allegations and findings herein may not be used for *res judicata* or collateral estoppel effect
25 in any subsequent civil proceedings for any claims of professional liability or negligence by or on
26 behalf of complainant(s).
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1 **FINDINGS OF FACT**

2 1. Respondent is a licensed Behavior Analyst in the State of Arizona. He has been
3 licensed in Arizona since March 12, 2019.

4 2. On or about November 2, 2021, the Board and Respondent entered into an Interim
5 Consent Agreement pursuant to which Respondent’s behavior analyst license was suspended.
6 Respondent’s license was to remain suspended for a minimum period of six (6) months, namely
7 during the pendency of Respondent’s criminal proceedings in the State of Colorado.

8 3. The criminal proceedings stemmed from Respondent’s arrest for assault of a child
9 with autism to whom he was providing behavior analytical services.

10 4. On April 5, 2022, Respondent entered into a Plea Agreement in El Paso County,
11 Colorado. Respondent pleaded guilty to one count: Assault in the Second Degree—Strangulation—
12 At-Risk Victim—Heat of Passion in violation of Colorado Law 18-6.5-103.(3)(b); 13-3-203(1)(i),
13 (2)(a). This offense is a Class 5 Felony.

14 5. Respondent entered an Alford plea, which is a plea whereby a defendant in a criminal
15 case does not admit to the criminal acts and maintains innocence, but acknowledges that the
16 evidence presented by the prosecution would likely lead to a guilty verdict. See North Carolina v.
17 Alford, 400 U.S. 25 (1970).

18 6. Despite maintaining his innocence, Respondent entered the plea on the advice of
19 counsel, to accept responsibility for his conduct, and to bring closure to all involved.

20 7. Respondent is scheduled to be sentenced by the Colorado Court on July 19, 2022.

21 **CONCLUSIONS OF LAW**

22 The conduct and circumstances described above constitute unprofessional conduct
23 pursuant to A.R.S. § 32-2091(12)(i), committing a felony, whether or not involving moral
24 turpitude, or a misdemeanor involving moral turpitude. In either case, conviction by a court of
25 competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
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1 **ORDER**

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

4 1. Upon the effective date of this Consent Agreement, Respondent's license number
5 BEH-00440 for the practice of behavior analysis in the State of Arizona shall be surrendered. Once
6 the surrender is effectuated, **Respondent shall not practice behavior analysis in the State of**
7 **Arizona or hold himself out as a licensed behavior analyst in the State of Arizona. Respondent**
8 **shall take all necessary action to delete any references to him being a licensed behavior analyst**
9 **in any business cards, stationary, publications or on-line.** The effective date of this Consent
10 Agreement is the date the Consent Agreement is accepted by the Board as evidenced by the
11 signature of the Board's Executive Director.

12 2. Further, should Respondent apply for and be granted licensure in the future, his
13 compliance with the Amended Consent Agreement in case no. 21-01 shall be completed, in addition
14 to any additional terms and conditions deemed appropriate by the Board.

15 3. Respondent has read and understands this Consent Agreement as set forth herein,
16 and has had the opportunity to discuss this Consent Agreement with an attorney or has waived the
17 opportunity to discuss this Consent Agreement for the purpose of avoiding the expense and
18 uncertainty of an administrative hearing.

19 4. Respondent understands that this Consent Agreement, or any part thereof, may be
20 considered in any future disciplinary action against him or in any future decision regarding re-
21 licensure.

22 5. Respondent understands that the foregoing Consent Agreement shall not become
23 effective unless and until adopted by the Board and executed on behalf of the Board. Any
24 modification to this original document is ineffective and void unless mutually approved by both
25 parties in writing.

26 6. Respondent understands that this Consent Agreement is a public record and may be
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1 publicly disseminated as a formal action of the Board and shall be reported to the National
2 Practitioner Data Bank.

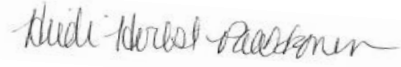
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DATED this 6 day of May, 2022.



Brian Harrison Schaffer
Respondent

Arizona Board of
Psychologist Examiners



Heidi Herbst Paakkonen
Executive Director

ORIGINAL filed electronically
This 6 day of May, 2022 to:

Arizona State Board of Psychologist Examiners
1740 W. Adams St., Suite 3403
Phoenix, Arizona 85007

COPY of the foregoing mailed by Certified Mail No. 9489009000276379774548
This 6 day of May, 2022 to:

Brian Harrison Schaffer
Address of Record
Respondent

COPY of the foregoing mailed by USPS regular mail and email
This 6 day of May, 2022 to:

Flynn C. Carey
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Attorneys for Respondent

COPY of the foregoing via email (jeanne.galvin@azag.gov)
This 6 day of May, 2022 to:

1 Jeanne M. Galvin
Assistant Attorney General
2 2005 North Central Ave. SGD/LES
3 Phoenix, Arizona 85004
Jeanne.galvin@azag.gov
4 Attorney for the State of Arizona

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By: Jennifer Michaelson