

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

3
4 In the Matter of:

5 **Dana Johnson, M.S., BCBA**

6 Holder of License No. BEH-001087
7 for the Practice of Behavior Analysis
8 in the State of Arizona

) **CASE NO. 23-49**

) **CONSENT AGREEMENT, FINDINGS**
) **OF FACT, CONCLUSIONS OF LAW,**
) **AND ORDER FOR DECREE OF**
) **CENSURE, PROBATION AND**
) **DISCIPLINARY CONTINUING**
) **EDUCATION**

9 On October 6, 2023, the Arizona Board of Psychologist Examiners ("Board") met
10 virtually in open session to discuss the above-referenced case. Dana Johnson, M.S., BCBA,
11 ("Respondent") appeared virtually with her legal counsel. The parties agree to enter into this
12 Consent Agreement in lieu of further administrative proceedings.

13 **JURISDICTION**

14 1. The Board is the state agency authorized pursuant to Arizona Revised Statutes
15 ("A.R.S.") § 32-2091 *et seq.*, and the rules promulgated thereunder in the Arizona Administrative
16 Code ("A.A.C." or "rules") at R4-26-401 *et seq.*, to regulate and control the licensing of behavior
17 analysts in the State of Arizona.

18 2. Respondent is the holder of license number BEH-001087 for the practice of
19 behavior analysis in the State of Arizona.

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

22 **RECITALS**

23 Respondent understands and agrees that:

24 1. The Board and Respondent enter into this Consent Agreement to promptly and
25 judiciously resolve these matters, consistent with the public interest and the statutory
26 requirements of the Board.

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

2 3. Respondent has a right to a formal public hearing concerning this case where she
3 could present evidence and cross-examine witnesses. Respondent irrevocably waives any right
4 to such a hearing, rehearing or review or to any judicial review or other appeal of this matter upon
5 this Consent Agreement becoming effective.

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8 that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no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

13 5. The Consent Agreement, once approved by the Board, evidenced by the signature
14 of the Executive Director or her designee and signed by the Respondent, shall constitute a public
15 record that may be disseminated as a formal action of the Board and shall be reported to the
16 National Practitioner Data Bank and the Behavior Analyst Certification Board.

17 6. Respondent voluntarily enters into this Consent Agreement for the purpose of
18 avoiding the expense, uncertainty, and prolonged time involved in further administrative
19 proceedings. The issues contained herein are resolved by settlement and not actually litigated.
20 Any allegations and findings herein may not be used for *res judicata* or collateral estoppel effect
21 in any subsequent civil proceedings for any claims of professional liability or negligence by or
22 on behalf of Complainant(s).

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

26 8. Respondent understands that this Consent Agreement does not constitute a
27 dismissal or resolution of any other matters currently pending before the Board, if any, and does
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1 not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction
2 regarding any other pending or future investigation, action or proceeding.

3 9. Furthermore, and notwithstanding any language in this Consent Agreement, this
4 Consent Agreement does not preclude in any way any other state agency or officer or political
5 subdivision of this state from instituting proceedings, investigating claims, or taking legal action
6 as may be appropriate now or in the future relating to this matter other matters concerning
7 Respondent, including but not limited to, violations of Arizona's Consumer Fraud Act.
8 Respondent acknowledges that, other than with respect to the Board, this Consent Agreement
9 makes no representations, implied or otherwise, about the views or intended actions of any other
10 state agency or officer or political subdivision of the state relating to this matter or other matters
11 concerning Respondent.

12 10. Respondent acknowledges and agrees that, upon signing this Consent Agreement
13 and returning this document to the Board's Executive Director, she may not revoke acceptance
14 of the Consent Agreement or make any modifications to the document regardless of whether the
15 Consent Agreement has been signed by the Executive Director. Any modification to this
16 original document is ineffective and void unless mutually agreed by the parties in writing.

17 11. If a court of competent jurisdiction rules that any part of this Consent Agreement
18 is void or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full
19 force and effect.

20 12. Respondent understands that any violation of this Consent Agreement constitutes
21 unprofessional conduct and may result in disciplinary action, pursuant to A.R.S. §32-
22 2091(12)(aa).

23 13. Respondent agrees that the Board will adopt the following Findings of Fact,
24 Conclusions of Law and Order.
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1 ACCEPTED AND AGREED BY RESPONDENT:

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3
4 Dana Johnson, M.S.
5 Dana Johnson, M.S.
6 Respondent

9/8/23
Date: _____

7 **FINDINGS OF FACT**

8 1. Respondent was issued her behavior analyst license by the Board on January 13,
9 2023.

10 2. From November 2022 – April 2023, Respondent worked for Centria Healthcare
11 (“Centria”) in the role of Telehealth Supervising Clinician – BCBA for the Arizona region.

12 3. On April 23, 2023, immediately upon returning from a two-week scheduled
13 vacation leave, Respondent submitted her resignation to her supervisor, Complainant LL, by
14 email. Respondent’s resignation was effective immediately.

15 4. On or about April 25, 2023, LL submitted a complaint against Respondent, alleging
16 that she abandoned clients on her caseload and failed to make any effort to ensure the proper
17 transition of services for those clients.

18 5. During the Board’s investigation of this matter, it was discovered that Respondent
19 secured a behavior analyst position with another company prior to submitting her resignation to
20 Centria. Respondent acknowledged that she started this new employment on April 10, 2023,
21 while she was on scheduled leave with Centria. Respondent failed to notify the Board of her
22 updated work address within 30 days, as required pursuant to A.R.S. § 32-3226.

23 6. On August 25, 2023, the Board’s Committee on Behavior Analysts (“Committee”)
24 reviewed Complaint 23-49 and expressed concern that Respondent did not undertake sufficient
25 efforts to transition the care for her clients. The Committee noted that Respondent did not attempt
26 to schedule nor participate in meetings with agency personnel prior to Respondent’s resignation
27 to ensure the smooth transition of services. The Committee also noted that Respondent’s conduct
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1 was in violation of the Behavior Analyst Certification Board's ("BACB") Professional and
2 Ethical Compliance Code, relating to the transfer of care for clients. Respondent acknowledged
3 to the Committee that her immediate resignation was not appropriate.

4 7. On October 6, 2023, the Board met in open session to review the complaint and
5 accepted the Committee's recommendation to issue this Consent Agreement.

6 CONCLUSIONS OF LAW

7 The conduct and circumstances above constitute a violation of A.R.S. §32-2091(12)(dd),
8 which defines unprofessional conduct as violating an ethical standard adopted by the Board as it
9 relates to the BACB's Professional and Ethical Compliance Code for Behavior Analysts. The
10 conduct set forth above is a violation of the following ethical code provisions: 1.01 (Being
11 Truthful) and 3.16 (Appropriately Transitioning Services).

12 ORDER FOR DECREE OF CENSURE

13 1. Pursuant to A.R.S. § 32-2091.09(5) and based on the foregoing Findings of Fact and
14 Conclusions of Law, the Board has determined that the Respondent's conduct in Complaint No.
15 23-49 warrants disciplinary action. The parties agree that Respondent is hereby issued a Decree
16 of Censure.

17 IT IS FURTHER ORDERED THAT:

18 2. **PROBATION:** Respondent's license as a behavior analyst is placed on probation
19 for a minimum period of three (3) months from the effective date of this Consent Agreement,
20 unless otherwise ordered by the Board. The effective date of this Consent Agreement is the date
21 that it is signed by the Board's Executive Director, or her designee, on behalf of the Board.

22 3. **CONTINUING EDUCATION:** In addition to the continuing education
23 requirements found in A.A.C. R4-26-409 for license renewal, within 90 days of the effective date
24 of this Order, Respondent shall complete an additional three (3) clock hours of continuing
25 education in the content area of appropriate transitioning of services. All continuing education
26 courses must be **pre-approved** by the Board's Executive Director or designee. Within one week
27 of completion of the additional continuing education, Respondent shall provide the Board with
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1 verification of completion of these hours. The continuing education completed as part of this
2 matter may not be used towards the requirement for future license renewal applications.

3 4. **TERMINATION OF PROBATION:** At the end of three (3) months, and upon
4 completion of the continuing education requirements set forth above, Respondent may petition
5 the Board, in writing, and request termination from probation. If the Board determines that
6 Respondent has not complied with the requirements of this Consent Agreement, the Board may
7 either (a) continue the probation, or (b) institute proceedings for noncompliance with this
8 Consent Agreement, which may result in the suspension, revocation, or other disciplinary or
9 remedial action.

10 5. **EFFECTIVE DATE:** Respondent understands that this Consent Agreement shall
11 not become effective unless and until adopted by the Board and executed on behalf of the Board.
12 Any modification to this original document is ineffective and void unless mutually approved by
13 the parties in writing.

14 6. **CONSIDERATION IN FUTURE ACTIONS:** Respondent understands that this
15 Consent Agreement, or any part thereof, may be considered in any future disciplinary action
16 against her.

17 7. **FINAL RESOLUTION:** This Consent Agreement constitutes a final resolution
18 of these disciplinary matters but does not constitute a dismissal or resolution of other matters
19 currently pending before the Board, if any, and does not constitute any waiver, expressed or
20 implied, of the Board's statutory authority or jurisdiction regarding any other pending or future
21 investigations, actions, or proceedings. Further, this Consent Agreement does not preclude any
22 other agency, subdivision, or officer of this State from instituting other civil or criminal
23 proceedings with respect to the conduct that is the subject of this Consent Agreement.

24 8. **TIME:** Time is of the essence with regard to this Consent Agreement.

25 9. **COSTS:** Respondent shall be responsible for all costs incurred as a result of her
26 compliance with this Consent Agreement.

27 10. **NON-COMPLIANCE:** If Respondent fails to comply with the terms of this
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1 Consent Agreement, the Board may properly institute proceedings for noncompliance, which may
2 result in suspension, revocation, or other disciplinary or remedial actions. Violation of this
3 Consent Agreement is a violation of A.R.S. § 32-2091(12)(aa) (“violating a formal board order,
4 consent agreement, term of probation or stipulated agreement”).

5 11. **NON-RENEWAL OR LATE RENEWAL:** If Respondent fails to renew her
6 license while under the terms of this Consent Agreement and subsequently applies for late renewal
7 of license or a new license, the remaining terms of this Consent Agreement shall be imposed if
8 the late renewal or reapplication for license is granted.

9 12. **PUBLIC RECORD:** This Consent Agreement is a public record that may be
10 publicly disseminated as a formal action of the Board and reported to the National Practitioner
11 Data Bank and the Behavior Analyst Certification Board.

12
13 DATED this 11 day of October 2023.

14
15 ARIZONA BOARD OF
16 PSYCHOLOGIST EXAMINERS

17
18 By: 

19 Heidi Herbst Paakkonen
20 Executive Director

21 **ORIGINAL** filed electronically
22 this 11 day of October 2023 with:

23 Arizona State Board of Psychologist Examiners
24 1740 W. Adams St., Suite 3403
Phoenix, Arizona 85007

25 **COPY** mailed by USPS regular mail
26 this 11 day of October 2023 to:

27 Dana Johnson, M.S., BCBA
28 Respondent
Address on Record

1 **COPY** of the foregoing mailed by USPS regular mail
2 this 11 day of October 2023 to:

3 Mandi Karvis, Esq.
4 Wicker Smith
5 One North Central Avenue, Suite 860
6 Phoenix, AZ 85004
7 Attorney for Respondent

8 **COPY** of the foregoing via email (jeanne.galvin@azag.gov)
9 this 11 day of October 2023 to:

10 Jeanne M. Galvin
11 Assistant Attorney General
12 2005 North Central Ave. SGD/LES
13 Phoenix, Arizona 85004
14 Attorney for the State of Arizona

15 By: Jennifer Michaelson
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