

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

**IN THE MATTER OF:**

**EMILY BERRY, PsyD.**

**Applicant for licensure as a Psychologist  
in the State of Arizona**

**CONSENT AGREEMENT AND ORDER  
FOR DENIAL OF LICENSURE  
APPLICATION**

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and the responsibilities of the Arizona State Board of Psychologist Examiners (“Board”) under A.R.S. § 32-2061, *et seq.*, Emily Berry (“Applicant”), applicant for licensure as a psychologist in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order for the Denial of Licensure Application (“Consent Agreement”) as a final disposition of this matter.

**JURISDICTION**

1. The Board is the state agency authorized pursuant to Arizona Revised Statute (“A.R.S.”) § 32-2061 *et seq.*, and the rules promulgated thereunder in the Arizona Administrative Code (“A.A.C.” or “rules”) at R4-26-101 *et seq.*, to regulate and control the licensing of psychologists in the State of Arizona.

2. On May 4, 2021, Applicant submitted to the Board her reapplication for licensure as a psychologist in the State of Arizona.

3. The Board has personal and subject-matter jurisdiction over Applicant pursuant to A.R.S. § 32-2061 *et seq.*, and the rules at A.A.C. R4-26-101, *et seq.*

**RECITALS**

4. Applicant has read and understands this Consent Agreement and has had the opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to discuss this Consent Agreement with an attorney.

1       5. Applicant understands that she has a right to a public administrative hearing concerning  
2 this matter at which hearing she could present evidence and cross examine witnesses. By  
3 entering into this Consent Agreement, Applicant knowingly and voluntarily relinquishes all right  
4 to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal,  
5 judicial review or any other administrative and/or judicial action, concerning the matters set forth  
6 herein.

7       6. Applicant affirmatively agrees that this Consent Agreement shall be irrevocable.

8       7. Applicant understands that this Consent Agreement or any part of the agreement may be  
9 considered in any future disciplinary action by the Board against her.

10       8. Applicant understands this Consent Agreement deals with allegations of unprofessional  
11 conduct against Applicant. The investigation into these allegations against Applicant shall be  
12 concluded upon the Board's adoption of this Consent Agreement.

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

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

20       11. Furthermore, and notwithstanding any language in this Consent Agreement, this Consent  
21 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  
23 as may be appropriate now or in the future relating to this matter other matters concerning  
24 Applicant, including violations of the Arizona's Consumer Fraud Act. Applicant acknowledges  
25 that, other than with respect to the Board, this Consent Agreement makes no representations,  
26 implied or otherwise, about the views or intended actions of any other state agency or officer or

1 political subdivision of the state relating to this matter or other matters concerning Applicant.

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

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

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


17 15. Applicant understands that this Consent Agreement is a public record that may be  
18 publicly disseminated as a formal action of the Board and may be reported as required by law to  
19 the National Practitioner Data Bank.

20 16. The parties understand and agree that Portable Document Format and facsimile copies of  
21 this Consent Agreement including Portable Document Format (PDF) and facsimile signatures  
22 thereto, shall have the same force and effect as the originals.

23 17. Applicant understands that any violation of this Consent Agreement constitutes  
24 unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-2061(16)(aa).

25 18. Applicant agrees that the Board will adopt the following Findings of Fact, Conclusions of  
26 Law and Order.

1 ACCEPTED AND AGREED BY APPLICANT

2   
3 Emily Berry, Psy.D. / Applicant

7/5/2024  
Date

4  
5 **FINDINGS OF FACT**

6 1. The Board is the duly constituted authority for licensing and regulating the practice of  
7 psychology in the State of Arizona.

8 2. In August of 2019, Applicant submitted an application to the Board to take the EPPP, in  
9 which she disclosed a 2012 DUI conviction.

10 3. Applicant was granted to two extensions of time within which to take the EPPP. In late  
11 April of 2021, the Board office was notified that Applicant did not receive a passing score on the  
12 EPPP.

13 4. Applicant submitted a reapplication on May 4, 2021, in which she disclosed an arrest and  
14 criminal charge for a September 4, 2020 DUI. This charge was later reduced to reckless driving.

15 5. The Board’s investigation revealed several discrepancies between Respondent’s written  
16 explanation to the Board of the events surrounding her arrest and those of the police officers on  
17 site. For instance,

18 a. Respondent claimed that at the time of her arrest, she was in her car, parked in the  
19 driveway of her home. In fact, Respondent was located in her car at an  
20 intersection approximately 20 minutes from her home.

21 b. Respondent further represented to the Board that she was in the car for several  
22 hours making phone calls and charging her phone as her house was “very noisy”  
23 due to her children being home because of the pandemic. In fact, the police officer  
24 reported that Respondent stated she was returning home from dropping the kids  
25 off at school and that she was drinking in the car because she did not want to  
26 return home because she was fighting with her husband.

1 c. According to Respondent, upon searching the vehicle, the officers found “several  
2 empty beer cans in the rear compartment of [her] vehicle in a sealed ice chest that  
3 were not removed from a vacation trip.” According to the police, as he  
4 approached Respondent’s vehicle from the passenger side, he witnessed  
5 Respondent drinking from a beer can and attempted to hide it under her skirt as  
6 another officer approached from the driver’s side of the car. One of the officers  
7 also noted a plastic grocery store bag on the front passenger seat that contained  
8 what appeared to be five empty beer cans. It was also reported that as the officer  
9 spoke with Respondent, he noticed a strong odor of intoxicating beverage  
10 “emanating from her person.”

11 d. Further, in her statement to the Board, Respondent asserted that “[T]here was all  
12 allegation or attempt to charge [her] with a DUI...” In fact, Respondent was  
13 arrested for DUI at 11:27 a.m., transported to the Chandler Police Department and  
14 issued a citation for DUI. A blood draw was taken at the station and the results  
15 indicated a BAC of .229.

16 6. The Board’s investigation also revealed that on the May 4, 2021, reapplication,  
17 Respondent did not disclose the fact that she pleaded guilty to a Class 2 Misdemeanor, Unlawful  
18 Violation of a Fire Ban on August 31, 2020.

19 7. It was also discovered that just over two weeks after submitting her reapplication on May  
20 4, 2021, Respondent was charged with driving with a suspended/revoked/cancelled license.

21 8. Providing false or misleading or omission on the application is unprofessional conduct.

22 9. At the direction of the Application Review Committee, Board staff issued a subpoena to  
23 Respondent to attend the September 24, 2021 Committee meeting. Respondent did not attend the  
24 meeting. The Committee moved the application to the full Board for consideration and possible  
25 denial.

26 10. On November 2, 2021, Respondent, through her attorney, reported a domestic violence

1 charge. Respondent failed to report the charge within ten days as required by A.R.S. §32-3208;  
2 the charge was eventually dismissed.

3 11. On November 5, 2021, the Board granted Respondent's application to take the  
4 Examination for Professional Practice in Psychology ("EPPP"). The Board also issued  
5 Respondent an interim order to submit to both a substance use and fitness for duty evaluation.

6 12. In April of 2022, Respondent underwent the evaluation as required; the conclusions and  
7 recommendations of which are contained in the Board's files.

8 13. On September 29, 2023, (approximately six months after this evaluation), Respondent,  
9 through her attorney, reported additional criminal charges, to wit, several felony charges relating  
10 to Aggravated DUI that occurred on October 20, 2022 (charges were filed on September 15,  
11 2023). Respondent was charged with four counts of Felony DUI, four counts of Aggravated  
12 DUI, two counts of Misdemeanor Endangerment. According to official records, Respondent  
13 drove while intoxicated with her twin 3-year-old children as passengers who were not in child  
14 safety seats nor were they wearing seat belts. A search warrant was obtained for the collection  
15 and testing of Respondent's blood. The results indicated a BAC of .40%.

16 14. On May 29, 2024, Respondent pled guilty to Aggravated DUI, a Class 6 Felony, in  
17 violation of A.R.S. § 28-1383(A)(3)(a). Pursuant to the terms of her Plea Agreement,  
18 Respondent was sentenced to supervised probation, 90 days of jail, required to pay a \$4,000 fine,  
19 and perform 720 hours of community service.

20 15. In November of 2023, the Board was notified that Respondent again took the EPPP but  
21 failed to obtain a passing score.

22 16. In February/March of 2024, Respondent voluntarily underwent an updated substance use  
23 evaluation; the conclusions and recommendations of which are contained in the Board's files.

24 17. At all relevant times, Respondent held a Standard School Psychologist, PreK-12  
25 certificate (Educator Identification No. 377-8980) issued by the Arizona State Board of  
26 Education.

1 18. During the Board’s continued investigation into this matter, it was discovered that on  
2 August 28, 2023, the State Board of Education and Respondent entered into a stipulated  
3 Settlement Agreement for Suspension of Certificate(s) with Conditions (“Settlement  
4 Agreement”).

5 19. The Stipulated Facts of the Settlement Agreement were based upon, in part, the events of  
6 October 31, 2022, that lead to Respondent’s arrest and subsequent charges related to the  
7 Aggravated DUI. The Stipulated Facts, to which Respondent admitted, include:

- 8 a. On January 17, 2023, the staff of the Board of Education received notice that  
9 Respondent was arrested and/or fingerprinted for four counts of Felony DUI, four  
10 counts of Aggravated DUI, and two counts of Misdemeanor Endangerment.
- 11 b. The events occurred on October 31, 2022, when Chandler Police Officers responded  
12 to a hit and run accident; it was observed that the vehicle had driven over the median  
13 barrier and collided with a traffic sign.
- 14 c. The Officers located Respondent’s vehicle. They observed Respondent to have run  
15 three red lights, drove in the bike lane and part of the vehicle’s bumper was hanging  
16 off.
- 17 d. The Officers pulled over Respondent and noticed her twin 3-year-old children in the  
18 rear of the car, unrestrained and not in car seats. Upon identifying Respondent, they  
19 noted she was driving on a suspended license.
- 20 e. According to the police report, there was a strong odor of alcohol emitting from  
21 Respondent, she had slurred speech and a dazed look on her face. Upon exiting the  
22 vehicle, Respondent almost fell several times. Officers were unable to conduct  
23 alcohol tests as Respondent was swaying and stopped listening to the Officers’  
24 instructions. She also refused to take a breath test or a blood test.
- 25 f. Inside of Respondent’s car, Officers found an open 12-pack box of White Claw  
26 alcoholic cans located behind the driver’s seat. Inside the box were six unopened

1 cans. There were four cans in the front passenger side floorboard, two were unopened  
2 and two cans were empty. A partially empty can in the center console of the vehicle.  
3 Respondent's blood alcohol test showed a Blood Alcohol Content level of more than  
4 0.400.

5 g. The Board of Education also noted Respondent's "long history of criminal violations  
6 and arrests" to include:

7 i. Respondent was arrested for DUI on 3/27/2012.

8 ii. Respondent was arrested and pleaded guilty to Disorderly Conduct/Fighting on  
9 10/10/2014.

10 iii. Respondent was arrested and pleaded guilty to driving on a suspended license and  
11 driving without an ignition interlock device on 11/10/2015.

12 iv. Respondent was arrested for Reckless Driving on 9/04/2020.

13 v. Respondent was arrested and pleaded guilty to Extreme DUI on 3/08/2021.

14 vi. On or about July 2, 2021, Respondent was arrested for Misdemeanor Assault  
15 involving Domestic Violence when she got into a physical and verbal altercation  
16 with her husband during which she inflicted multiple injuries to his face, arms and  
17 fingers.

18 20. Pursuant to the Settlement Agreement, Respondent's certification was suspended for a  
19 minimum period of three years. The Settlement Agreement further provided that if Respondent is  
20 arrested or charged with driving under the influence of alcohol, drugs, or any other intoxicant at  
21 any time within five years from the date of the Settlement Agreement, her Standard School  
22 Psychologist, PreK-12 certification(s) will automatically be revoked, and she will be barred from  
23 reapplying for certification for an additional five years.

24 21. Respondent did not report to the Board of Psychologist Examiners the suspension of  
25 her Board of Education Standard School Psychologist, PreK-12 certificate, despite having a  
26 pending application for testing.



1 CONCLUSIONS OF LAW

2 1. The Board possesses jurisdiction over the subject matter and over Applicant  
3 pursuant to A.R.S. § 32-2061 *et seq.*

4 2. The Board is authorized to deny an application for licensure if the applicant has a  
5 professional record that indicates that the applicant has committed any act or engaged in any  
6 conduct that constitutes grounds for disciplinary action against a licensee. A.R.S. §32-  
7 2071.01(A)(3).

8 3. The above constitutes a violation of A.R.S. §32-2061(16)(c), which is making or  
9 using statement of a character tending to deceive or mislead.

10 4. The above constitutes a violation of A.R.S. §32-2061(16)(i), which is commission  
11 of a felony, whether or not involving moral turpitude, or a misdemeanor involving moral  
12 turpitude. In either case, conviction by a court of competent jurisdiction or a plea of no contest is  
13 conclusive evidence of the commission.

14 5. The above constitutes a violation of A.R.S. §32-2061(16)(o), which, in part,  
15 provides “engaging in activities as a psychologist that are unprofessional by current standards of  
16 practice.”

17 6. The above constitutes a failure to satisfy licensing requirement A.R.S. §32-  
18 2071.01(A)(2), which requires that an applicant for a psychology license pass the national exam  
19 as set forth in A.R.S. §32-2072(A).

20 ORDER

21 Based on the Findings of Fact and Conclusions of Law, the Board under issues the  
22 following Order:

23 1. **IT IS HEREBY ORDERED THAT Respondent’s reapplication for**  
24 **examination is DENIED.**

25 2. **IT IS FURTHER ORDERED Respondent shall not be allowed to reapply for**  
26 **examination and/or licensure as a psychologist for a minimum period of two years from the**

1 **effective date of this Order.** The effective date of this order is the date it is signed by the  
2 Board's Executive Director on behalf of the Board.

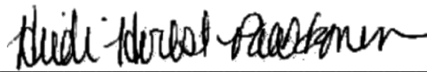
3 3. **IT IS FURTHER ORDERED that** should Respondent apply for licensure as a  
4 psychologist in the future, it shall be her burden to demonstrate that she is qualified and safe to  
5 practice as a psychologist. At a minimum, Respondent shall be prepared to demonstrate to the  
6 Board that:

- 7 a. She has successfully received and completed treatment for the conditions  
8 specified in and in accordance with the evaluations of Drs. Sideman and Keene.
- 9 b. Within the preceding three (3) months of submitting her application for exam  
10 and/or licensure, Respondent undergoes a substance use and fitness for duty  
11 evaluation and that the professional has opined that Respondent is safe to  
12 practice as a psychologist, with or without conditions.
- 13 c. Respondent has not been arrested, charged, convicted of or under investigation  
14 for any crimes in this state or any other jurisdiction, from and after the effective  
15 date of this Order to the date she has submitted an application for exam and/or  
16 licensure.

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

18 ARIZONA STATE BOARD OF PSYCHOLOGIST EXAMINERS

19 DATED this 9th day of July, 2024.

20  
21 

22  
23 Heidi Herbst Paakkonen  
24 Executive Director

25 **ORIGINAL** filed electronically  
26 this 9th day of July, 2024 with:

1 Arizona State Board of Psychologist Examiners  
1740 W. Adams Street, Suite 3403  
2 Phoenix, Arizona 85007

3 **COPY** of the foregoing sent via email. \_\_\_\_\_  
this 9th day of July, 2024 to:

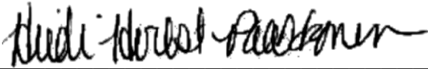
4 Emily Berry  
5 Email address on file  
Applicant

6 **COPY** of the foregoing sent via email  
7 this 9th day of July, 2024 to:

8 Flynn Carey  
9 Attorney for Applicant  
flynn@msclaw.com

10 **COPY** of the foregoing sent via email (jeanne.galvin@azag.gov)  
11 this 9th day of July, 2024 to:

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

15  
16 By:   
#12080220

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