

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

3 In the Matter of: )  
4 **Neal Olshan, Ph.D.** ) **Case No. 20-03**  
5 Holder of License No. PSY-000429 ) **CONSENT AGREEMENT AND**  
6 for the Practice of Psychology ) **ORDER FOR PROBATION,**  
7 in the State of Arizona ) **MONITORING AND CONTINUING**  
 ) **EDUCATION**

8 On October 2 and 22, 2020, the Arizona Board of Psychologist Examiners (Board)  
9 convened to hold an Informal Settlement Conference with Neal Olshan, Ph.D. (Respondent) in  
10 Complaint No. 20-03. The Informal Settlement Conference was held at Respondent's request  
11 and in accordance with A.R.S. § 41-1092.06. The Informal Settlement Conference was held  
12 virtually. Respondent appeared on his own behalf. Assistant Attorney General Jeanne M.  
13 Galvin represented the State. Assistant Attorney General Marc Harris, of the Licensing and  
14 Enforcement Section of the Attorney General's Office, provided independent legal advice to  
15 the Board. The Board, after considering the arguments of the parties and the administrative  
16 record, voted to enter into this Consent Agreement as a final disposition of this matter and  
17 vacate the formal hearing scheduled on November 10, 2020, before the Office of  
18 Administrative Hearings (OAH).  
19

20 **JURISDICTION**

21 1. The Board is authorized to regulate the practice of psychology in Arizona  
22 pursuant to A.R.S. § 32-2061, *et seq.*, and the rules promulgated thereunder, found in Arizona  
23 Administrative Code ("A.A.C." or "rules") at R4-26-101, *et seq.*, to regulate and control the  
24 licensing of psychologists and behavior analysts in the State of Arizona.  
25

26 2. Respondent is the holder of license number PSY-000429 for the practice of  
27 psychology in the State of Arizona.

28 3. The Board has personal and subject matter jurisdiction over Respondent

1 pursuant to A.R.S. § 32-2061, *et seq.*, and the rules at A.A.C. R4-26-101, *et seq.*

2 **RECITALS**

3 Respondent understands and agrees that:

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

7  
8 2. Respondent has the right to consult with an attorney before entering into this  
9 Consent Agreement.

10 3. Respondent has a right to a formal public hearing concerning this case where he  
11 could present evidence and cross-examine witnesses. Respondent irrevocably waives any right  
12 to such a hearing by entering this Consent Agreement.

13 4. Respondent irrevocably waives any right to rehearing or review or to any  
14 judicial review or any other appeal of this matter upon this Consent Agreement becoming  
15 effective.

16 5. Although Respondent does not agree that all of the allegations in Complaint No.  
17 20-03 are supported by the evidence, Respondent acknowledges that it is the Board's position  
18 that if these matters proceeded to formal hearing, the Board could offer sufficient evidence to  
19 support a conclusion that certain of Respondent's conduct constituted unprofessional conduct.  
20 Therefore, Respondent has agreed to enter into this Consent Agreement as an economical and  
21 practical means of resolving the issues alleged in the Complaint.  
22

23 6. This Consent Agreement shall be subject to the Board's approval and shall be  
24 effective only when signed by the Executive Director and accepted by the Board. In the  
25 event that the Board does not approve this Consent Agreement, it is withdrawn and shall be  
26 of no evidentiary value and shall not be relied upon nor introduced in any action by any party,  
27 except that the parties agree that if the Board rejects this Consent Agreement and this case  
28

1 proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its  
2 review and discussion of this document or any records relating thereto.

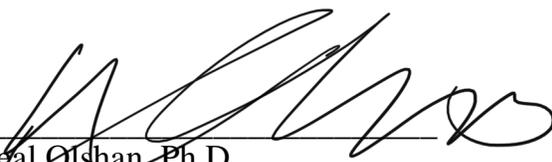
3 7. The Consent Agreement, once approved by the Board, evidenced by the  
4 signature of the Executive Director or her designee and signed by the Respondent, shall  
5 constitute a public record that may be disseminated as a formal action of the Board and shall be  
6 reported to the National Practitioner Data Bank.

7  
8 8. Respondent voluntarily enters into this Consent Agreement for the purpose of  
9 avoiding the expense, uncertainty, and prolonged time involved in further administrative  
10 proceedings. The issues contained herein are resolved by settlement and not actually litigated.  
11 Any allegations and findings herein may not be used for *res judicata* or collateral estoppel  
12 effect in any subsequent civil proceedings for any claims of professional liability or negligence  
13 by or on behalf of Complainant(s).

14 9. Respondent understands that any violation of this Consent Agreement  
15 constitutes unprofessional conduct and may result in disciplinary action, pursuant to A.R.S.  
16 §32-2061(16)(aa).

17  
18 10. Respondent agrees that the Board will adopt the following Findings of Fact,  
19 Conclusions of Law and Order.

20  
21 ACCEPTED AND AGREED BY RESPONDENT:

22  
23  
24   
25 Neal Olshan, Ph.D.  
26 Respondent

27  
28   
Date

**FINDINGS OF FACT**

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2           1.    On July 15, 2019, the Board received Complaint No. 20-03 filed by patient SL,  
3 who was Respondent’s former patient. SL alleged that Respondent failed to provide SL with  
4 promised audio recordings that were part of the agreed-upon treatment using autogenic  
5 recordings. SL also stated that Respondent failed to respond to numerous emails he sent  
6 seeking the recordings.

7  
8           2.    On July 16, 2019, Board staff mailed the notice of complaint to Respondent at his  
9 address of record. Respondent had until August 19, 2019, to respond to the complaint.

10           3.    After not receiving the response by the deadline, staff emailed Respondent on  
11 August 20, 2019, asking for an update on the status of the response.

12           4.    On August 21, 2019, Respondent replied that he “completely forgot about the  
13 deadline.” Staff informed him that he had until 5pm on August 26, 2019, to file the response  
14 and the clinical records to which Respondent replied “Thank you. Will do.”

15           5.    Having not filed the response on August 26, 2019, as promised, on August 27,  
16 2019, Respondent requested and received until September 2, 2019, to provide the written  
17 response to the complaint and the clinical records.

18           6.    On August 28, 2019, Respondent emailed Board staff and stated that his response  
19 will arrive in the mail on September 3, 2019. The response did not arrive as Respondent had  
20 stated. In response to an inquiry from Board staff that same date, Respondent stated that he  
21 would email the response to the Board on the evening of September 3, 2019. No response was  
22 received by Respondent.

23  
24           7.    The Board’s Complaint Screening Committee (CSC) scheduled the complaint to  
25 be heard on September 18, 2019. Less than an hour before the start of the meeting, Respondent  
26 emailed Board staff what appeared to be a response to the complaint, however, no clinical  
27 records were submitted as requested. Respondent stated that he would not be present at the  
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1 CSC meeting as he was performing an evaluation.

2 8. The CSC voted to refer the matter to the Board for possible violations of the  
3 Board's practice act. The CSC also directed staff to issue a subpoena to Respondent to appear  
4 at the Board meeting at which the complaint would be heard and to produce the clinical  
5 records.

6 9. On September 23, 2019, Board staff issued two subpoenas to Respondent. The  
7 first subpoena commanded Respondent to appear at the Board's meeting on December 12,  
8 2019. The subpoena was issued more than 11 weeks prior to the Board meeting.

9 10. The second subpoena, also issued on September 23, 2019, to Respondent  
10 commanded him to produce all patient records relating to SL on or before October 23, 2019, in  
11 preparation of the December 2019, Board meeting. The patient records to be produced included  
12 but were not limited to the entire client file, informed consent, intake forms, treatment plans,  
13 progress notes, billing records and all communications between the Respondent and SL.

14 11. Respondent failed to comply with both subpoenas. He did not appear at the  
15 Board's December 12, 2019, meeting nor did he produce the records pursuant to the September  
16 2019, subpoena.

17 12. At the Board's December 12, 2019, meeting, the Board conducted an initial case  
18 review and referred Complaint No. 20-03 to an Informal Interview. On December 13, 2019, the  
19 Board issued a subpoena to Respondent for his personal appearance at the January 10, 2020,  
20 Board meeting for an Informal Interview. Respondent failed to comply with the December 13,  
21 2019, Board-issued subpoena by not appearing at the January 10, 2020, Board meeting.

22 13. Upon conclusion of an Informal Interview, the Board expressed concern with  
23 Respondent's client care, failure to cooperate with the Board's investigation, and failure to  
24 comply with multiple Board subpoenas. The Board moved to offer Respondent a consent  
25 agreement for the voluntary surrender of his license, and if not signed, proceed to a formal  
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1 hearing before OAH.

2 14. Respondent did not provide the requested records until May 11, 2020.

3 15. Respondent indicated to Board staff that he would not surrender his license.  
4 Accordingly, a formal hearing date was scheduled for November 10, 2020.

5 16. On October 2, 2020, the Board held an Informal Settlement Conference, which  
6 Respondent requested, pursuant to A.R.S. § 41-1092.06. The Board continued the matter so  
7 that Respondent could submit his handwritten session notes and any other part of SL's clinical  
8 record that was not previously submitted. On October 22, 2020, the Board continued the  
9 Informal Settlement Conference. After deliberation, the Board moved to offer Respondent this  
10 Consent Agreement, and if signed by Respondent, the formal hearing would be vacated.

11  
12 17. The Board noted that the clinical record maintained by Respondent for SL's  
13 treatment fell below the standard of care and that the handwritten notes contained minimal  
14 information in comparison to the typed notes he submitted to the Board previously.

15 **CONCLUSIONS OF LAW**

16 1. The conduct and circumstances described in the Findings of Fact constitute a  
17 violation of a A.R.S. §32-2061(16)(h), failing or refusing to maintain and retain adequate  
18 business, financial or professional records pertaining to the psychological services provided to a  
19 client or patient.

20  
21 2. The conduct and circumstances described in the Findings of Fact constitute a  
22 violation of a A.R.S. §32-2061(16)(bb), failing to furnish information in a timely manner to the  
23 board or its investigators or representatives if requested or subpoenaed by the board as  
24 prescribed by this chapter.

25 **ORDER**

26 Based on the foregoing Findings of Fact and Conclusions of Law, the parties agree to the  
27 following terms and condition:  
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1           1.    **PROBATION:** Respondent’s license as a psychologist is placed on probation  
2 for a minimum period of twelve (12) months from the effective date of this Consent  
3 Agreement, unless otherwise ordered by the Board. The effective date of this Consent  
4 Agreement is the date that it is signed by the Board’s Executive Director, or her designee, on  
5 behalf of the Board.

6           2.    **CONTINUING EDUCATION:** Within six (6) months of the effective date of  
7 this Consent Agreement and, in addition to the continuing education requirements that are  
8 required by rule for license renewal, Respondent shall complete an additional ten (10) hours of  
9 continuing education in the areas of ethics and recordkeeping (minimum four hours in each  
10 area). All continuing education courses must be pre-approved by the Board’s Executive  
11 Director or designee. Within fourteen (14) days of completing this continuing education,  
12 Respondent shall submit the certificates of completion to the Executive Director or designee.  
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14           3.    **PRACTICE MONITOR:** While on probation, Respondent shall work with a  
15 Practice Monitor pre-approved by the Board’s Executive Director or designee and who will  
16 provide professional guidance and input to Respondent with respect to ethics, clinical  
17 documentation, recordkeeping, responding to subpoenas, managing a high caseload, good  
18 judgment, competency and any other topic deemed pertinent by the Practice Monitor. The  
19 Practice Monitor shall submit to the Executive Director a detailed monitoring program  
20 outlining the monitoring goals and objectives and how achievement of them will be measured,  
21 and the activities Respondent will be required to complete. The written monitoring program  
22 shall be provided to the Executive Director within ten (10) days of contracting with Respondent  
23 to serve as Practice Monitor.  
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25           4.    Respondent shall submit the name of the psychologist who shall serve as the  
26 Practice Monitor to the Board’s Executive Director for approval within ten (10) business days  
27 of the effective date of this Order. Within twenty (20) business days of the effective date of this  
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1 Order, Respondent shall enter into the Practice Monitor agreement. The Practice Monitor shall  
2 have no familial or business relationship with Respondent.

3 5. Respondent shall meet with the Practice Monitor in-person at least twice per  
4 month for a minimum of two hours each session during the probationary period. The Practice  
5 Monitor shall review a minimum of five of Respondent's recent patient records each quarter  
6 and discuss with Respondent the Monitor's findings, conclusions, and recommendations for  
7 improvement. The Practice Monitor shall submit to the Board quarterly written reports of the  
8 meetings, to include topics covered, any concerns, and any modifications made to  
9 Respondent's practice. The Practice Monitor shall provide written reports to the Board within  
10 30 days after the end of each quarter. The first quarter shall begin on the date of the first  
11 session between the Respondent and the Practice Monitor. Before the conclusion of the  
12 probationary period, the Practice Monitor is to complete a final written report to the Board  
13 summarizing their interaction with Respondent, topics discussed, areas of progress, matters of  
14 remaining concern, and overall impressions. The final report shall be submitted to the Board  
15 within 30 days prior to the date of the meeting at which the Board considers Respondent's  
16 written request to terminate probation as set forth in paragraph 7. Respondent shall present this  
17 Consent Agreement to the Board-approved Practice Monitor before the first meeting. The first  
18 meeting between Respondent and the Practice Monitor shall occur within 30 days of the  
19 effective date of this Consent Agreement.  
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22 6. If, during the probationary period, the Practice Monitor is unable or unwilling to  
23 continue to act as Respondent's Practice Monitor, within 10 business days of the Practice  
24 Monitor's termination of the practice monitor relationship, Respondent shall contact the  
25 Executive Director in writing and present another potential Practice Monitor for approval.  
26 Respondent shall notify the Board of his new Practice Monitor within 20 business days of  
27 receiving approval. The sessions between Respondent and the Practice Monitor that occurred  
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1 prior to the effective date of this Consent Agreement shall not count toward those sessions  
2 required under this Order.

3 7. **TERMINATION OF PROBATION:** At the end of six (6) months and upon the  
4 Practice Monitor's recommendation, Respondent may petition the Board, in writing, and request  
5 termination from probation, unless otherwise ordered by the Board. 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

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

15 9. **CONSIDERATION IN FUTURE ACTIONS:** Respondent understands that  
16 this Consent Agreement, or any part thereof, may be considered in any future disciplinary action  
17 against him.  
18

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

26 11. **TIME:** Time is of the essence with regard to this Consent Agreement.

27 12. **COSTS:** Respondent shall be responsible for all costs incurred as a result of  
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1 his compliance with this Consent Agreement.

2 13. **NON-COMPLIANCE:** If Respondent fails to comply with the terms of this  
3 Consent Agreement, the Board may promptly institute proceedings for noncompliance, which  
4 may result in suspension, revocation, or other disciplinary or remedial actions. Violation of this  
5 Consent Agreement is a violation of A.R.S. § 32-2061(16)(aa) (“violating a formal board order,  
6 consent agreement, term of probation or stipulated agreement”).

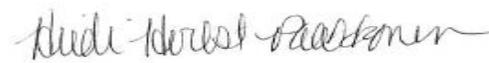
7  
8 14. **NON-RENEWAL OR LATE RENEWAL:** If Respondent fails to renew his  
9 license while under the terms of this Consent Agreement and subsequently applies for late  
10 renewal of license or a new license, the remaining terms of this Consent Agreement shall be  
11 imposed if the late renewal or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

12 15. **TOLLING:** If Respondent for any reason stops practicing psychology in  
13 Arizona for more than 30 consecutive days or leaves Arizona to reside or practice psychology  
14 outside of Arizona, the periods of temporary or permanent residency or practice outside Arizona  
15 or the non-practice within Arizona do not reduce the duration of the terms under this Order.  
16 Respondent shall notify the Board in writing within five (5) business days of the dates of  
17 departure or the dates of non-practice in Arizona.

18  
19 16. **PUBLIC RECORD:** This Consent Agreement is a public record that may be  
20 publicly disseminated as a formal action of the Board and reported to the National Practitioner  
21 Data Bank.

22  
23 DATED this 27 day of October, 2020.

24  
25 ARIZONA BOARD OF  
26 PSYCHOLOGIST EXAMINERS

27 

28 Heidi Herbst Paakkonen  
Executive Director

1 **ORIGINAL** of the foregoing filed  
2 This 27 day of October, 2020, with:

3 The Arizona State Board of Psychologist Examiners  
4 1740 W. Adams St., Suite 3403  
5 Phoenix, Arizona 85007

6 **COPY** mailed by US and certified postal service no. 9489009000276155201886  
7 This 27 day of October, 2020, to:

8 Neal Olshan, Ph.D.  
9 Address on Record  
10 Respondent

11 **COPY** of the foregoing via email (jeanne.galvin@azag.gov)  
12 This 27 day of October, 2020 to:

13 Jeanne M. Galvin  
14 Assistant Attorney General  
15 2005 North Central Ave. SGD/LES  
16 Phoenix, Arizona 85004  
17 Jeanne.galvin@azag.gov  
18 Attorney for the State of Arizona

19 **COPY** of the foregoing via email (Marc.Harris@azag.gov)  
20 This 27 day of October, 2020 to:

21 Marc Harris  
22 Assistant Attorney General  
23 2005 North Central Ave. SGD/LES  
24 Phoenix, Arizona 85004  
25 Marc.Harris@azag.gov  
26 Independent Advisor

27  
28  
By: 