

1 **BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS**

2 **FOR THE STATE OF ARIZONA**

3  
4 In the Matter of:

Case No. 2003-039

5 **Marilyn Kieffer-Andrews, Ph.D.,**

**CONSENT AGREEMENT  
AND ORDER OF DISCIPLINE**

6 Holder of License No. 2066  
7 For the Practice of Psychology  
8 In the State of Arizona

Respondent.

9  
10 On August 5, 2005, the Arizona Board of Psychologist Examiners ("Board") discussed  
11 Case No. 2003-039 regarding Marilyn Kieffer-Andrews, Ph.D. ("Dr. Kieffer-Andrews" or  
12 "Respondent") who was present at the Board proceedings with her attorney, Larry J. Cohen. The  
13 Board voted to offer Licensee the opportunity to enter into the following Consent Agreement and  
14 Order of Discipline in lieu of further litigation, and in resolution of the case herein.

15 **JURISDICTION**

- 16 1. The Board is authorized to regulate the practice of psychology in Arizona pursuant to  
17 A.R.S. §§ 32-2061, *et seq.*
- 18 2. Dr. Kieffer-Andrews is the holder of license number 2066 for the practice of  
19 psychology in Arizona.
- 20 3. The Board has personal and subject matter jurisdiction over Respondent pursuant  
21 to §§ 32-2061 *et seq.*
- 22 ...  
23 ...  
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25  
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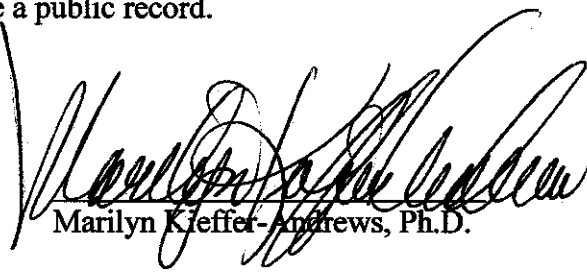
1 **CONSENT AGREEMENT**

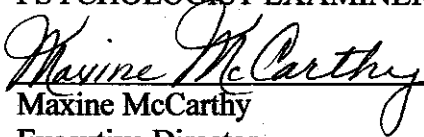
2 4. The Board and Respondent enter into this Consent Agreement in order to  
3 promptly and judiciously resolve this matter, consistent with the public interest and the statutory  
4 requirements of the Board.

5 5. Pursuant to §§ 32-2081(G) and 41-1092.07(F)(5), the Board will adopt the  
6 Findings of Fact, Conclusions of Law and Order set forth below.

7 6. Respondent has the right to consult with her attorney prior to entering  
8 into this Consent Agreement. She has read and understands the Consent Agreement, Findings of  
9 Fact, Conclusions of Law, and Order, and makes this agreement freely and voluntarily. She  
10 irrevocably waives her right to a hearing, rehearing, or judicial review.

11 7. The Consent Agreement and Order will be effective when signed by the Board's  
12 Executive Director. This Consent Agreement, Findings of Fact, Conclusions of Law, and Order  
13 are a public record.

14   
15  
16 Marilyn Kieffer-Andrews, Ph.D.

ARIZONA BOARD OF  
PSYCHOLOGIST EXAMINERS  
17   
18 Maxine McCarthy  
Executive Director

19 8-14-05  
20 Date

August 9, 2005  
Date

21 **FINDINGS OF FACT**

22 8. The Board received notices of settlement of a Superior Court malpractice action  
23 against Marilyn Kieffer-Andrews, Ph.D. and Frank Powers, Ph.D. brought by the surviving  
24 parents of M.C. The notice, required by A.R.S. § 12-570, stated that M.C., a minor, committed  
25 suicide on September 14, 2000, while under the care of Dr. Kieffer-Andrews and Dr. Powers.  
26

1 The Board opened investigations regarding Dr. Kieffer-Andrews and Dr. Powers, who is also a  
2 licensed psychologist.

3 9. Dr. Kieffer-Andrews, Ph.D. was told by M.C. that he had been arrested for  
4 shoplifting, had been to court, and had received community service. Dr. Kieffer-Andrews, Ph.D.  
5 acknowledged that children who act out are at risk for suicide.

6 10. From or about October 1992, Dr. Kieffer-Andrews has been self-employed as a  
7 clinical psychologist and a registered nurse licensed by the Arizona State Board of Nursing. In  
8 Arizona, a licensed or certified nurse practitioner is permitted to prescribe medication.

9 11. Dr. Kieffer-Andrews treated M.C. in both her capacities as a nurse practitioner  
10 and a psychologist.

11 12. According to Dr. Kieffer-Andrews, her specialty was treatment of "pregnancy  
12 and postpartum" at the time she provided services to M.C. In addition, she also treated adults  
13 and adolescents over the age of 13.

14 13. On or about July 21, 2000, Dr. Kieffer-Andrews evaluated M.C., a seventeen-  
15 year-old patient who was referred to Dr. Kieffer-Andrews by his treating psychologist, Dr.  
16 Powers, for evaluation for antidepressant medications.

17 14. At M.C.'s first visit with Dr. Kieffer-Andrews on July 21, 2000, she had him  
18 complete a Client History Form at her office. M.C. indicated on the form that his reason for  
19 seeking help was "Recommended by Dr. Powers."

20 15. When asked on the form whether he had ever attempted suicide, M.C.  
21 answered "yes," he had tried to hang himself during spring break in March 2000.

22 16. He also wrote that he had cut himself before "without intention of death," that he  
23 currently drinks alcohol and first drank at age 13. He indicated that he had a couple of periods in  
24 the last two years of heavier than usual alcohol intake and drank "past point of vomiting." He  
25 also indicated that he had in the past used downers, marijuana, sleeping pills, and uppers.

1           17.    When asked to mark items on Dr. Kieffer-Andrews' intake form that pertained to  
2 him at the present time, M.C. checked the following:

- 3           •       Age issues
- 4           •       Alcohol use
- 5           •       Anger
- 6           •       Body image
- 7           •       Career choices/concerns
- 8           •       Concentration-decreased/poor
- 9           •       Controlled outbursts
- 10          •       Decreased attention
- 11          •       Depression
- 12          •       Distractibility
- 13          •       Extended family concerns
- 14          •       Fatigue
- 15          •       Fears
- 16          •       Finances
- 17          •       Future
- 18          •       Generalized anxiety
- 19          •       Health worries
- 20          •       Hopelessness
- 21          •       Inferiority feelings
- 22          •       Legal problems
- 23          •       Loneliness
- 24          •       Low energy
- 25          •       Nervousness
- 26          •       Own parents
- Outbursts
- Pain
- Physical health concerns
- Physically violent
- Poor impulse control
- Relaxation – just can't
- Self-esteem – diminished/low
- Stressed
- Temper
- Thoughts of suicide
- Tired all day
- Tired in the morning
- Uncontrolled outbursts
- Under eating
- Unhappiness
- Workplace stress/concerns

- Worry all the time

18. M.C. was at particular risk for suicide because of his recent suicide attempt, depression, alcohol or substance abuse, family history of depression and alcohol abuse, and serious, stressful problems such as his arrest, Father's loss of job, and impending move from the family home. Dr. Kieffer-Andrews asserts that she did not know about the impending move at the time of her evaluation of M.C. or at any time thereafter.

19. On July 21, 2000, the day the father brought M.C. in for the initial evaluation with Dr. Kieffer-Andrews, the boy's father signed the Consent for Treatment form, consenting "to have Marilyn Kieffer-Andrews, Ph.D. provide counseling services" for M.C. The father dated the Consent Form "July 23, 2000." He dated the check for payment for the evaluation "July 20, 2000."

20. Neither M.C. nor his parents ever consented in writing to medication management from Dr. Kieffer-Andrews. Dr. Kieffer-Andrews asserts that the parents contacted her office for the purpose of medication management. Dr. Kieffer-Andrews acknowledges that her consent form at the time did not specify medication management, which has since been remedied.

21. In her Summary of Initial Evaluation, Dr. Kieffer-Andrews diagnosed M.C. using the diagnostic code 296.32, major depressive disorder, recurrent.

22. Based on her interaction with M.C. at the first session, Dr. Kieffer-Andrews prescribed the antidepressant Zoloft.

23. When Dr. Kieffer-Andrews gave M.C. the prescription for Zoloft on July 21, 2000, she told him to call her in a week.

24. On July 28, 2000, per Dr. Kieffer-Andrews' instructions, M.C. left a brief recorded message for Dr. Kieffer-Andrews, indicating that he was out of town, was feeling fine, and experienced no side effects from the medication. Dr. Kieffer-Andrews did not speak with M.C. on that date. On August 16, 2000, M.C. was seen for a second visit with Dr. Kieffer-

1 Andrews. He reported no side effects of the medication, and denied suicidal ideations. He was  
2 making plans for his senior year of high school and college. He was up beat and dressed in his  
3 soccer uniform as he had just come from soccer practice.

4 25. On August 22, 2000, M.C.'s father left a recorded message for Dr. Kieffer-  
5 Andrews, requesting that she call in a prescription order to the pharmacy because the boy had  
6 lost his prescription and receipt. When Dr. Kieffer-Andrews returned the call, she told the  
7 mother that it was not her practice to call in prescriptions, but she would do so in this case.

8 26. Mother told Dr. Kieffer-Andrews that M.C. had stopped taking his prescription  
9 for a few days, but that he had restarted it.

10 27. Mother also indicated in the phone conversation that she would call to make  
11 another appointment for M.C. after she learned of her son's sports schedule during the week of  
12 September 11 or 18.

13 28. Dr. Kieffer-Andrews never met M.C.'s parents before the boy died. Although she  
14 believed that the parents had a right to know of their son's previous suicide attempt, she did not  
15 speak to M.C. about informing them. She never told the parents that their son reported a recent  
16 suicide attempt by hanging, that he was cutting himself and using alcohol and illegal drugs, or  
17 any of the other suicide risk factors he revealed. The parents were unaware of the previous  
18 suicide attempt until after their son hanged himself in September.

19 29. According to Dr. Kieffer-Andrews, she believed M.C. was at risk for suicide on  
20 M.C.'s first visit on July 21, 2000 and on his last visit on August 16, 2000.

21 30. According to Dr. Kieffer-Andrews, M.C. told her that several times a week he  
22 thought about killing himself. Dr. Kieffer-Andrews was aware that adolescents who have  
23 suicidal ideation are at high risk for suicide because they tend to be more impulsive than adults;  
24 they often do not have the ability to think through the process and consider future consequences  
25 in the same way as a well-compensated adult. However, M.C. was in therapy with Dr. Powers,  
26

1 he was attending Phoenix Country Day School, and he was making plans for his senior year of  
2 high school and college.

3 31. According to Dr. Kieffer-Andrews, the purpose of her treatment of M.C. was to  
4 assist Dr. Powers in treating the boy, and they were working as a multi-disciplinary team.

5 32. Dr. Kieffer-Andrews did not inform Dr. Powers of her evaluation, her diagnosis,  
6 the medication and dosage prescribed, or the suicide risk factors reported by M.C. As M.C. was  
7 forthcoming with Dr. Kieffer-Andrews in providing this information, she assumed he had  
8 provided the same information to Dr. Powers.

9 33. Dr. Kieffer-Andrews sent Dr. Powers a letter dated July 24, 2000, thanking him  
10 for referring M.C. to her for evaluation and psychotropic medication management. Apart from  
11 that letter, while M.C. was alive, Dr. Kieffer-Andrews and Dr. Powers never communicated with  
12 each other about M.C.'s care or treatment, and they never obtained each others' medical records.

13 34. Sometime during the night of September 13-14, 2000, M.C. hanged himself in the  
14 closet of his bedroom. He was found dead on the morning of September 14, one week before his  
15 eighteenth birthday.

16 35. Dr. Kieffer-Andrews fell below current standards of practice as a psychologist by:

- 17 a. Failing to communicate with Dr. Powers, the referring and co-treating  
18 psychologist, and to collaborate or form a joint treatment plan with him;
- 19 b. Failing to follow up with Dr. Powers regarding the care of M.C.;
- 20 c. Failing to perform an adequate suicide assessment of M.C.;
- 21 d. Failing to follow up regarding M.C.'s suicidal ideation;
- 22 e. Failing to disclose her level of training and education to M.C.'s parents;
- 23 f. Using a consent form that covered only "counseling services" and failed  
24 to contain adequate information upon which to base consent for treatment;

1 g. Failing to obtain proper informed consent, which included medication  
2 management, from M.C.'s parent or parents before treating their son.

3 36. A reasonable and prudent psychologist in the circumstances would have  
4 communicated with the referring and co-treating psychologist, Dr. Powers, and formed a joint  
5 treatment plan; followed up with Dr. Powers regarding the care of M.C.; performed an adequate  
6 suicide assessment; followed-up regarding M.C.'s suicidal ideation; disclosed her level of  
7 training and education to M.C.'s parents; used a consent form that provided adequate  
8 information upon which to base consent; and obtained proper informed consent from the parents  
9 before treating their child.

10 **CONCLUSIONS OF LAW**

11 37. The Board of Psychologist Examiners of the State of Arizona possesses  
12 jurisdiction over the subject matter hereof and Marilyn Kieffer-Andrews, Ph.D.

13 38. The conduct and circumstances described above constitute unprofessional conduct  
14 pursuant to A.R.S. §§ 32-2061(A)(13)(r) (Failing to obtain a client's informed and written  
15 consent to release personal or otherwise confidential information to another party unless the  
16 release is otherwise authorized by law.)

17 39. The conduct and circumstances described above constitute unprofessional conduct  
18 pursuant to A.R.S. §§ 32-2061(A)(13)(u) (Failing to take reasonable steps to protect a client in  
19 circumstances where the psychologist becomes aware during the course of providing or  
20 supervising psychological services that a client intends or plans to inflict serious bodily harm to  
21 himself.)



1 **ORDER OF DISCIPLINE**

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

4 1. The parties agree that, as of the effective date of this Consent Agreement, Dr.  
5 Kieffer-Andrews' license shall be placed on inactive status. Dr. Kieffer-Andrews shall not  
6 practice psychology in Arizona, as defined in A.R.S. § 32-2061(A)(8), nor hold herself out as  
7 permitted to practice psychology in Arizona.

8 2. Dr. Kieffer-Andrews shall not use her Arizona license to practice psychology in  
9 any other jurisdiction.

10 3. Dr. Kieffer-Andrews shall not renew her current license to practice psychology in  
11 Arizona nor apply for reinstatement of her license to active status. If, after her current license  
12 expires, Dr. Kieffer-Andrews should ever reapply for licensure, this Order of Discipline may be  
13 considered by the Board in connection with that application.

14 DATED this 16<sup>th</sup> day of August, 2005.

15 ARIZONA BOARD OF  
16 PSYCHOLOGIST EXAMINERS

17 By: Maxine McCarthy  
18 Maxine McCarthy  
19 Executive Director  
20  
21  
22  
23  
24  
25  
26

1 **ORIGINAL** of the foregoing filed  
2 this 17<sup>th</sup> day of August 2005, with:

3 The Arizona State Board of Psychologist Examiners  
4 1400 West Washington, Suite 235  
5 Phoenix, Arizona 85007

6 **COPY** of the foregoing mailed this  
7 this 17<sup>th</sup> day of August 2005, to:

8 Larry J. Cohen, Esq.  
9 6725 N. 7<sup>th</sup> St.  
10 P.O. Box 10056  
11 Phoenix, AZ 85064-0056  
12 Attorney for Dr. Kieffer-Andrews

13 **COPY** of the foregoing mailed by  
14 Certified Mail No. 7000 1670 0009 3607 4884  
15 this 17<sup>th</sup> day of August 2005, to:

16 Marilyn Kieffer-Andrews, Ph.D.  
17 Address of Record  
18 Respondent

19 **COPY** of the foregoing mailed this  
20 this 17<sup>th</sup> day of August 2005, to:

21 Elizabeth A. Campbell, Esq.  
22 Office of the Attorney General  
23 1275 West Washington, CIV/LES  
24 Phoenix, Arizona 85007

25 By: Shari S. Courtney  
26

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