

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

3  
4           IN THE MATTER OF:

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

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

                    Respondent.

Case No: 22-11

**INTERIM CONSENT AGREEMENT  
FOR THE SUSPENSION OF  
LICENSE AS A BEHAVIOR  
ANALYST**

10           This matter came before the Arizona State Board of Psychologist Examiners  
11           (“Board,”) on, at the Board’s virtual meeting on November 2, 2021, at which time the  
12           Board convened and considered the possible summary suspension of Brian Schaffer’s  
13           (“Respondent,”) license to practice as a behavior analyst in the State of Arizona.  
14           Respondent was properly noticed and did/~~did not~~ appear. He was represented by counsel,  
15           Flynn Carey.

16           At the conclusion of the matter, the Board voted to offer Respondent this Interim  
17           Consent Agreement for the Suspension of License as a Behavior Analyst (“Interim  
18           Consent Agreement,,).  
19

20           In the interest of a prompt and judicious settlement of the above-captioned matter  
21           before the Board and consistent with public interest, statutory requirements and  
22           responsibilities of the Board, and pursuant to A.R.S. § 32-2091 *et seq.* and A.R.S. §41-  
23           1092.07(F)(5), Respondent and the Board enter into this Interim Consent Agreement as  
24           an interim resolution of this matter until such time a final order is entered by the Board.

**JURISDICTION**

25           1.     The Board is the state agency authorized pursuant to Arizona Revised  
26           Statute (“A.R.S.,”) § 32-2091 *et. seq.*, and the rules promulgated thereunder in the

1 Arizona Administrative Code (“A.A.C.,, or “rules,,) at R4-26-401 *et seq.*, to regulate and  
2 control the licensing of behavior analysts in the State of Arizona.

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

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

7 **INTERIM CONSENT AGREEMENT**

8 Respondent understands and agrees that:

9 1. The Board has jurisdiction over Respondent and the subject matter pursuant  
10 to A.R.S. § 32-2091 *et seq.*

11 2. Respondent has the right to consult with an attorney prior to entering into  
12 this Interim Consent Agreement.

13 3. Respondent has a right to a public hearing concerning this case. He further  
14 acknowledges that at such formal hearing he could present evidence and cross-examine  
15 witnesses. Respondent irrevocably waives his right to such a hearing as it relates to  
16 matters concerning the Interim Consent Agreement.

17 4. Respondent further does not relinquish Respondent’s rights to an  
18 administrative hearing, rehearing, review, reconsideration, judicial review or any other  
19 administrative and/or judicial action, concerning the matters related to a final disposition  
20 of this matter, unless Respondent affirmatively does so as part of the final resolution of  
21 this matter.

22 5. This Interim Consent Agreement shall be subject to the approval of the  
23 Board and shall be effective only when signed by the Executive Director. In the event  
24 that the Board does not approve this Interim Consent Agreement, it is withdrawn and  
25 shall be of no evidentiary value and shall not be relied upon nor introduced in any action  
26 by any party, except that the parties agree that should the Board reject this Interim

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

4 6. The Interim Consent Agreement, once approved by the Board and signed  
5 by the Respondent, shall constitute a public record which may be disseminated as a  
6 formal action of the Board and shall be reported to the National Practitioner Data Bank.

7 7. The following Interim Findings of Fact are no more and no less than  
8 allegations which have not been proven. By signing this Interim Consent Agreement,  
9 Respondent has not admitted to the allegations but does acknowledge that if this matter  
10 were to proceed to a formal hearing the Board would offer evidence to the trier of fact in  
11 support of the allegations.

12 **INTERIM FINDINGS OF FACT**

13 1. Respondent is a licensed behavior analyst in the State of Arizona, license number  
14 BEH-00440. He has been licensed in Arizona since March 12, 2019.

15 2. On November 20, 2020, the Board and Respondent entered into a Consent  
16 Agreement (21-01) to address findings of unprofessional conduct. As a result,  
17 Respondent was censured. The Agreement also noted that because Respondent was  
18 moving out of State for a job opportunity, he would be required to notify the Board of his  
19 intention to return to Arizona to practice under his behavioral analysis license as he  
20 would be subject to supervision or practice monitoring.

21 3. On August 31, 2021, Respondent contacted Board staff and informed them of his  
22 intent to return to Arizona and practice under his behavior analyst license. On October 1,  
23 2021, the Board considered Respondent's request at a public meeting, which Respondent  
24 attended. At the conclusion of its consideration of the matter, the Board offered  
25 Respondent an amendment to the November 2020, Consent Agreement and Order.  
26 Pursuant to the Amended Agreement and Order, Respondent's license was placed on

1 probation for twelve (12) months, and he was required to work under a Practice Monitor.  
2 The Amended Consent Agreement was effective on October 22, 2021.

3 4. On October 26, 2021, the Board staff received an email from the mother of E.S.,  
4 who is a nine-year-old boy with Autism and ADHD. E.S. and his family live near  
5 Colorado Springs, CO.

6 5. According to Mother, there was an arrest warrant issued for Respondent by the  
7 Colorado Springs Police Department for Respondent's alleged assault of E.S. According  
8 to mother, Respondent is accused of "attacking and choking,, E.S.

9 6. At all relevant times, E.S. attended Rehab For All LLC where he received applied  
10 behavior analysis services from Respondent. Rehab For All is located in Colorado  
11 Springs, CO.

12 7. According to an Incident Report filed by Rehab For All, on August 26, 2021,  
13 Respondent and a Registered Behavior Therapist ("RBT,,) were engaged in activities  
14 with E.S. At some point, E.S. engaged in refusal behavior and Respondent was observed  
15 to use aggressive tactics with him. Specifically, Respondent attempted to roll E.S off the  
16 surface of a table by lifting the table off of the floor with the intent for E.S. to fall off of  
17 the surface onto the ground. Respondent also was observed to lift E.S. from the floor  
18 under his armpits and into a nearby chair and was observed to grab the child on the arm  
19 with pushing/pulling motions. When Respondent and the RBT transitioned E.S. to a de-  
20 escalation room, Respondent had his hand on the back of E.S.'s neck.

21 8. Respondent told the RBT to leave the de-escalation room, leaving Respondent and  
22 E.S. alone in the de-escalation room for 3 to 5 minutes. While the RBT was outside of the  
23 room, she heard Respondent say to E.S. in a "low, deep tone,, "You need to stop,, and  
24 "Stop,, Respondent opened the door to the de-escalation room and told the RBT to come  
25 inside. The RBT found E.S. "screaming and crying with tears and making a wretching  
26 (sic) noise,, Soon after, other personnel entered the room to assist E.S. Red marks were

1 observed on E.S.'s neck and arms as well as scratches on his lower neck and shoulder.

2 9. E.S. reported that Respondent directed the "F" word to him on multiple occasions.  
3 E.S. also reported that Respondent had his hands around his neck, pinned him to the floor  
4 with his (Respondent's) body on top of E.S. and that "Brian strangled me.,,

5 10. A police report was filed. E.S. was taken to an emergency department for  
6 examination after the incident.

7 11. Mother submitted photos of E.S.'s injuries to Board staff that showed a large  
8 scratch across the child's left shoulder and lower neck and abrasions and contusions on  
9 his neck.

10 12. On October 26, 2021, the Board staff also received an email from a detective at  
11 the Colorado Springs Police Department, who indicated that he recently began  
12 investigating a case involving Respondent and that he recently applied for, and was  
13 granted, a felony arrest warrant for Respondent regarding his conduct against a child at a  
14 facility in Colorado Springs.

15 13. On October 28, 2021, Respondent was arrested in the Phoenix area for the assault  
16 of E.S. in Colorado. He was released on bail on October 29, 2021.

17 14. Upon information and belief, the Behavior Analyst Certification Board  
18 ("BACB,") has summarily suspended Respondent's certification.

19 15. The charges against Respondent are currently pending.

#### 20 **INTERIM CONCLUSIONS OF LAW**

21 The Board has personal and subject matter jurisdiction in this case under A.R.S. §  
22 32-2091 *et seq.*, and is authorized pursuant to A.R.S. §32-2091.09(E) to summarily  
23 suspend any license based on emergent conditions and circumstances.

24 The conduct and circumstances alleged in the Interim Findings of Fact constitute a  
25 violation of A.R.S. § 32-2091(12)(e), which is gross negligence in the practice of a  
26 behavior analyst.

1 The conduct and circumstances alleged in the Interim Findings of Fact constitute a  
2 violation of A.R.S. § 32-2091(12)(o), which is providing services that are unnecessary or  
3 unsafe or otherwise engaging in activities as a behavior analyst that are unprofessional by  
4 current standards of practice.

5 The conduct and circumstances alleged in the Interim Findings of Fact constitute a  
6 violation of A.R.S. § 32-2091(12)(dd), which is violating an ethical standard adopted by  
7 the board as it relates to the Professional and Ethical Compliance Code for Behavior  
8 Analysts, specifically 1.04(d) Integrity; 2.0 Behavior Analysts' Responsibilities to  
9 Clients; and 2.05(a) Rights and Prerogatives of Clients.

10 **ORDER FOR VOLUNTARY SUSPENSION OF LICENSE**

11 Based on the Interim Findings of Fact and the Interim Conclusions of Law as set  
12 forth above, the parties agree to the following Order:

13 1. During the pendency of this Interim Consent Agreement, Respondent's License to  
14 practice behavior analysis, license no. BEH-00440 **IS SUSPENDED**. Because this is an  
15 Interim Consent Agreement and not a final decision by the Board regarding the pending  
16 investigation, it is subject to further consideration by the Board. **The license shall**  
17 **remain suspended for a minimum period of six (6) months at which time the Board**  
18 **shall consider the status of Respondent's pending criminal charges and review the**  
19 **suspension. The Board shall review the suspension at intervals it deems appropriate**  
20 **and determine whether (1) the suspension shall continue; (2) be lifted; (3) the matter**  
21 **referred to formal hearing or (4) the matter be resolved in an alternative manner.**

22 2. At each public meeting this matter is considered by the Board, Respondent and/or  
23 his attorney shall appear in person or virtually to answer questions posed by Board  
24 members.

25 3. During the period of suspension, Respondent shall not provide behavior analysis  
26 services as defined in A.R.S. §32-2091(4) or hold himself out as a practicing behavior



analyst or in any way convey to the public that he holds an active license to practice behavior analysis.

4. The suspension of Respondent's license shall continue until such time the Board enters a final order with respect to this matter after a formal hearing or acceptance of a Consent Agreement and Order as a final resolution of the matter.


5. It is further ordered that, during the pendency of the suspension, Respondent's compliance with the Amended Consent Agreement, effective October 22, 2021, is stayed.

DATED this 1st <sup>2nd</sup> day of November, 2021.

ARIZONA STATE BOARD OF  
PSYCHOLOGIST EXAMINERS



Brian H. Schaffer  
Respondent



Heidi Herbst Paakkonen  
Executive Director  
Arizona State Board of  
Psychologist Examiners

**ORIGINAL** filed electronically  
this 2 day of November, 2021 to:

Arizona State Board of  
Psychologist Examiners  
1740 West Adams Street, Suite 3403  
Phoenix, Arizona 85007

**COPY** of the foregoing mailed by Certified Mail No. 9489009000276155201732  
this 2 day of November, 2021 to:

Brian Schaffer, M.S., BCBA  
Address on file  
Respondent

**COPY** mailed by regular mail  
this 2 day of November, 2021, to:

Flynn Carey, Esq.  
MITCHELL | STEIN | CAREY | CHAPMAN, PC

1 One Renaissance Square  
2 2 North Central Avenue, Suite 1450  
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4 Attorney for Respondent

5 **COPY** of the foregoing sent via email to ([jeanne.galvin@azag.gov](mailto:jeanne.galvin@azag.gov))  
6 this 2 day of November, 2021 to:

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13 By: Jennifer Michaelson  
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