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2 **BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS**  
3 **FOR THE STATE OF ARIZONA**  
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6 In the Matter of

7 John W. DenBoer, Ph.D.

8 Holder of License No. PSY-004026  
9 For the Practice of Psychology  
10 in the State of Arizona  
11

Case Nos.: 16-39, 16-53, and 17-23

**CONSENT AGREEMENT AND  
ORDER FOR PROBATION,  
SUPERVISION AND CONTINUING  
EDUCATION**

12  
13 On August 3, 2018, the Arizona Board of Psychologist Examiners ("Board") met in  
14 open session to discuss the above-referenced cases. John W. DenBoer, Ph.D. ("Respondent")  
15 was present with his legal counsel, J. Arthur Eaves. After discussion, consideration, and  
16 deliberation, the Board voted to enter into a Consent Agreement in lieu of commencing an  
17 Informal Interview in Complaint Nos. 16-39, 16-53, and 17-23.

18 **JURISDICTION**

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

23 2. Respondent is the holder of license number PSY-004026 for the practice of  
24 psychology in the State of Arizona

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

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

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

## FINDINGS OF FACT

12. On October 14, 2016, the Board received Complaint No. 16-39 that alleged acts of unprofessional conduct that, if found by the Board to be factually supported, could justify the Board taking action against Respondent.

13. On December 22, 2016, the Board received Complaint No. 16-53 that alleged acts of unprofessional conduct that, if found by the Board to be factually supported, could justify the Board taking action against Respondent.

14. On August 31, 2017, the Board received Complaint No. 17-23 that alleged acts of unprofessional conduct that, if found by the Board to be factually supported, could justify the Board taking action against Respondent.

15. Respondent is confident that he could demonstrate that some of the allegations in these Complaints are not supported by the facts, but Respondent concedes that the Board could find that other allegations are supported by the facts.

16. The allegations in Complaint No. 16-39 raise issues concerning Respondent's evaluation of an examinee referred by Arizona Adult Protective Services; billing practices; communication with examinee; lack of proper informed consent; incomplete assessments; and

1 lack of treatment contracts regarding the Respondent's roles and purpose of treatment both with  
2 examinee and Arizona Adult Protective Services.

3 17. The allegations in Complaint No. 16-53 raise issues concerning Respondent's  
4 evaluation of an examinee referred for medicolegal purposes; inadequate business or professional  
5 records; lack of informed consent to release personal or otherwise confidential information to a  
6 third party; inadequate evaluation documentation; and inadequate communication regarding  
7 release of evaluation to examinee.

8 18. The allegations in Complaint No. 17-23 raise issues concerning Respondent's  
9 evaluation of an examinee/resident of an assisted living facility following Respondent's  
10 presentation at the facility regarding a cognitive rehabilitation program; inappropriate solicitation  
11 of clients; potential exploitation of clients; inadequate procedures for obtaining information  
12 regarding a client's designated representative; failing to make available an examinee's evaluation  
13 or record to an examinee's designated representative; inadequate evaluation documentation; and  
14 bases for assessments.

15 19. Respondent has indicated that, since the events that gave rise to the allegations in  
16 these complaints, Respondent has taken steps to implement new practices that directly address the  
17 concerns implicated in these matters. Among other measures, Respondent revised his Informed  
18 Consent forms for neuropsychological evaluations, which were previously submitted to this  
19 Board. Specifically, these consent forms identify Respondent's role in evaluating the examinee,  
20 the scope of the evaluation, and circumstances dictating delivery of the evaluation to a client's  
21 health care provider, personal representative, or third party authorized to receive such report.  
22 Respondent also instituted additional safeguards to receive consent for services for clients  
23 presenting to Respondent following presentations at facilities, such as those described in  
24 Complaint No. 17-23. In addition to Informed Consent, Respondent also requires clients to  
25 consent to Respondent's communication with a facility to ensure that the client has authority to  
26 make treatment decisions for themselves. With respect to record keeping and client

1 communication in-office, Respondent has restructured his staff to better serve client questions  
2 regarding their evaluations and their access to medical records.

### 3 CONCLUSIONS OF LAW

4 20. The conduct and circumstances described above in Complaint 16-39, if supported  
5 by the facts alleged, would constitute unprofessional conduct pursuant to: 1) A.R.S. § 32-  
6 2061(16)(o), for possibly providing services that are unnecessary or unsafe or otherwise engaging  
7 in activities as a psychologist that are unprofessional by current standards of practice; 2) A.R.S.  
8 § 32-2061(16)(x), for possibly engaging in false, deceptive or misleading advertising; and 3)  
9 A.R.S. § 32-2061(16)(dd), for possibly violating an ethical standard adopted by the Board, as it  
10 pertains to the American Psychological Association's 2002 Ethical Standards of Psychologists  
11 and Code of Conduct, Standards 3.06 (Conflict of Interest); 3.08 (Exploitative Relationships),  
12 3.10 (Informed Consent), 4.01 (Maintaining Confidentiality), 5.01 (Avoidance of False or  
13 Deceptive Statements), 5.06 (In-Person Solicitation), 9.02 (b) and (c) (Use of Assessments), and  
14 9.06 (Interpreting Assessment Results).

15 21. The conduct and circumstances described above in Complaint No. 16-53, if  
16 supported by the facts alleged, would constitute unprofessional conduct pursuant to: 1) A.R.S. §  
17 32-2061(16)(h), for possibly failing or refusing to maintain and retain adequate business,  
18 financial or professional records pertaining to the psychological services provided to a client or  
19 patient; A.R.S. § 32-2061(16)(o), for possibly providing services that are unnecessary or unsafe  
20 or otherwise engaging in activities as a psychologist that are unprofessional by current standards  
21 of practice; A.R.S. § 32-2061(16)(r), for possibly failing to obtain a client's or patient's informed  
22 and written consent to release personal or otherwise confidential information to another party  
23 unless the release is otherwise authorized by law; and A.R.S. § 32-2061(16)(dd), for possibly  
24 violating an ethical standard adopted by the Board, as it pertains to the American Psychological  
25 Association's 2002 Ethical Standards of Psychologists and Code of Conduct, Standards 6.01  
26 (Documentation of Professional and Scientific Work and Maintenance of Records); 6.03



1 (Withholding Records for Nonpayment), and 9.10 (Explaining Assessment Results) and A.A.C.  
2 R4-26-106, for possibly conditioning the release of a client or patient record on payment for  
3 services by the client, patient, or a third party.

4 22. The conduct and circumstances described above in Complaint No. 17-23, if  
5 supported by the facts alleged, would constitute unprofessional conduct pursuant to: 1) A.R.S. §  
6 32-2061(16)(o) for possibly providing services that are unnecessary or unsafe or otherwise  
7 engaging in activities as a psychologist that are unprofessional by current standards of practice;  
8 2) A.R.S. § 32-2061(16)(w) for possibly engaging in direct or indirect personal solicitation of  
9 clients or patients through the use of coercion, duress, undue influence, compulsion or  
10 intimidation practices; 3) A.R.S. § 32-2061(16)(y) for possibly exploiting a client or patient, a  
11 student or a supervisee; 4) A.R.S. § 32-2061(cc) for possibly failing to make available to a client  
12 or patient or to the client's or patient's designated representative, on written request, a copy of the  
13 client's or patient's record, including raw test data, psychometric testing materials and other  
14 information as provided by law, and 5) A.R.S. § 32-2061 (dd) for possibly violating an ethical  
15 standard adopted by the Board as it pertains to the American Psychological Association Ethical  
16 Principles of Psychologists and Code of Conduct; 3.10 Informed Consent; 5.06 In-Person  
17 Solicitation; 6.01(4) Documentation of Professional and Scientific Work and Maintenance of  
18 Records and 9.01(a)(b) Bases for Assessments.

#### 19 **ORDER FOR PROBATION AND SUPERVISION**

20 23. Pursuant to A.R.S. § 32-2081(S) the Board has determined that the Respondent's  
21 conduct in Complaint Nos. 16-39, 16-53, and 17-23 warrants disciplinary action. Based on the  
22 foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED THAT:

23 24. **PROBATION:** Respondent's license as a psychologist is placed on probation for  
24 a minimum period of one year from the effective date of this Consent Agreement, unless  
25 otherwise ordered by the Board. The effective date of this Consent Agreement is the date that it  
26 is signed by the Board's Executive Director, or her designee, on behalf of the Board.

1        25.    **CONTINUING EDUCATION:** Prior to the end of the term of probation and, in  
2 addition to the continuing education requirements that are required by rule for license renewal,  
3 Respondent shall complete an additional eighteen (18) hours of continuing education to address  
4 the issues raised in the Complaints. Six (6) hours of continuing education shall be in record  
5 keeping and/or maintaining business records; six (6) hours of continuing education shall be in  
6 informed consent; and six (6) hours of continuing education shall be in the areas of ethics/ billing  
7 practices. Within fourteen (14) days of completing this continuing education, Respondent shall  
8 submit to the Board's Executive Director the certificates of completion.

9        26.    **PRACTICE MONITOR:** While on probation, Respondent shall work with a  
10 Practice Monitor pre-approved by the Board's Executive Director and who will provide  
11 professional guidance and input to Respondent with respect to his practice in performing  
12 evaluations, Informed Consent, record keeping and billing practices.

13        27.    Within twenty (20) business days of the effective date of this Consent Agreement,  
14 Respondent shall enter into agreement with the following psychologist to serve as his Practice  
15 Monitor, or Respondent may self-select a psychologist who is approved by the Board's Executive  
16 Director. Respondent shall submit the name of the psychologist to the Board's Executive Director  
17 for approval within ten (10) days of the effective date of this agreement. The Practice Monitor  
18 shall have no familial or business relationship with Respondent:

19                    John Toma, Ph.D.

20                    207 East Monterey Way

21                    Phoenix, AZ 85012

22                    602-957-8822

23        28.    Respondent shall meet with the Practice Monitor at least twice per month for a  
24 minimum of two hours each session during the first sixth months of the probationary period.  
25 Thereafter, the Respondent shall meet with the Practice Monitor once per month for a minimum  
26 of two hours. The Practice Monitor shall review a minimum of three of Respondent's recent

1 patient records during the course of the first six months of the probationary period and discuss  
2 with Respondent the Monitor's findings, conclusions, and recommendations for improvement.  
3 The Practice Monitor shall also discuss Respondent's informed consent policies and forms,  
4 procedures for presenting clients with such forms, and business record keeping. Thereafter, the  
5 Practice Monitor shall review at least two of Respondent's patient records during the course of  
6 the second sixth-month probationary period. The Practice Monitor shall submit to the Board  
7 quarterly written reports of the meetings, to include topics covered and any modifications made  
8 to Respondent's practice. The Practice Monitor shall provide written reports to the Board 30  
9 days after the end of each quarter. The first quarter shall begin on the date of the first session  
10 between Respondent and the Practice Monitor. Before the conclusion of the probationary period,  
11 the Practice Monitor is to complete a final written report to the Board summarizing his or her  
12 interaction with Respondent, topics discussed, areas of progress, matters of remaining concern,  
13 and overall impressions. The final report shall be submitted to the Board within 30 days of the  
14 end of the probation. Respondent shall present this Consent Agreement to the Board-approved  
15 Practice Monitor before the first meeting. The first meeting between Respondent and the Practice  
16 Monitor shall occur within 45 days of the effective date of this Consent Agreement.

17 29. If, during the probationary period, the Practice Monitor is unable or unwilling to  
18 continue to act as Respondent's Practice Monitor, within 10 business days of the Practice  
19 Monitor's termination of the practice monitor relationship, Respondent shall contact the Board  
20 in writing and request additional names of other potential Practice Monitors approved by the  
21 Board. Respondent shall notify the Board of his new Practice Monitor within 20 business days  
22 after the names of additional Practice Monitor(s) are provided.

23 30. **TERMINATION OF PROBATION:** At the end of one year, unless otherwise  
24 ordered by the Board, Respondent may petition the Board, in writing, and request termination  
25 from probation. Respondent may request termination of probation after six months of probation  
26 and with the Practice Monitor's recommendation. If the Board determines that Respondent has



1 not complied with the requirements of this Consent Agreement, the Board may either (a) continue  
2 the probation, or (b) institute proceedings for noncompliance with this Consent Agreement,  
3 which may result in the suspension, revocation, or other disciplinary or remedial action.

4 31. **CONTINUED APPLICATION OF TERMS:** If, between the effective date of  
5 this Consent Agreement and the termination of Respondent's probation by the Board, Respondent  
6 fails to renew his license while under this Consent Agreement and subsequently applies for a  
7 license, the remaining terms of this Consent Agreement, including probation and monitoring,  
8 shall be imposed if the application for licensure is granted.

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

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

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

23 35. **TIME:** Time is of the essence with regard to this Consent Agreement.

24 36. **COSTS:** The Respondent shall be responsible for all costs incurred as a result of  
25 his compliance with this Consent Agreement.  
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1        37. **NON-COMPLIANCE:** If Respondent fails to comply with the terms of this  
2 Consent Agreement, the Board may properly institute proceedings for noncompliance, which  
3 may result in suspension, revocation, or other disciplinary or remedial actions. Violation of this  
4 Consent Agreement is a violation of A.R.S. § 32-2061(15)(aa) (“violating a formal board order,  
5 consent agreement, term of probation or stipulated agreement”).

6        38. **PUBLIC RECORD:** This Consent Agreement is a public record that may be  
7 publicly disseminated as a formal action of the Board and reported to the National Practitioner  
8 Data Bank.

9  
10 DATED THIS 9<sup>th</sup> day of October ~~September~~, 2018.

11  
12 ARIZONA BOARD OF  
13 PSYCHOLOGIST EXAMINERS

14  
15  
16   
17 John W. DenBoer, Ph.D.  
Respondent

18  
19   
Jenna Jones  
Executive Director

20 ORIGINAL of the foregoing filed this  
21 9<sup>th</sup> day of October ~~September~~, 2018, with:

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

23 COPY mailed by US postal service and certified mail # 670162140000069594589  
24 this 9<sup>th</sup> day of October ~~September~~, 2018, to:

25 John DenBoer, Ph.D.  
Address on Record

26 COPY mailed by US postal service

1 this 9<sup>th</sup> day of ~~September~~<sup>October</sup>, 2018 to:

2 J. Arthur Eaves, Esq.  
3 Sanders & Parks, P.C.  
4 3030 North Third Street, Ste. 1300  
5 Phoenix, AZ 85012

6 COPY of the foregoing emailed  
7 this 9<sup>th</sup> day of Oct, 2018, to:

8 Jeanne M. Galvin, AAG  
9 Arizona Attorney General's Office  
10 SGD/LES  
11 2005 North Central Ave.  
12 Phoenix, Arizona 85004

13 By: Howell Braddice