

**BEFORE THE MINNESOTA
BOARD OF PSYCHOLOGY**

In the Matter of the License of
Gerald M. Schmidt, M.A., L.P.
License Number: LP1560

**STIPULATION AND
CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by Gerald M. Schmidt, M.A., L.P. (“Licensee”), and the Minnesota Board of Psychology (“Board”) as follows:

1. During all times herein, Licensee has been and now is subject to the jurisdiction of the Board from which he holds a license to practice psychology in the State of Minnesota.

FACTS

2. The Board finds the following:
- a. In 2000, Licensee was diagnosed with post-traumatic stress disorder (“PTSD”), which had been triggered by comments made to Licensee by a former supervisor, which Licensee believed were demeaning, in front of Licensee’s coworkers at a facility in which Licensee was providing administrative services as a mental health program manager.
 - b. Once in 2012 and twice in 2013, Licensee again experienced PTSD symptoms triggered by comments made to him by a supervisor, which Licensee believed to be abusive, at his most recent place of employment where he was providing supervision to ten case managers for a community support program. Licensee’s employer requested that Licensee perform diagnostic assessments. Licensee completed some of his diagnostic assessments in a timely manner but did not complete all of his diagnostic assessments within the one week time period proscribed by his employer.

c. In March 2014, Licensee participated in a performance evaluation. The evaluator, who had previously rated Licensee as “meets expectations,” noted a concern with the timeliness of Licensee’s diagnostic assessments. Some of Licensee’s diagnostic assessments were not completed within the one week time period proscribed by his employer. Licensee attributes the untimeliness of his diagnostic assessments to himself and to issues with a backlog in transcriptions services.

d. On April 21, 2014, Licensee requested and was approved for medical leave.

e. Anxiety related to PTSD symptoms, such as Licensee’s, commonly causes temporary interference with cognitive functions. When Licensee experienced these symptoms in April 2014, he applied for medical leave and remained on medical leave until his treating health professionals cleared him to return to work in December 2014.

REGULATIONS

3. The Board views Licensee's conduct as described in paragraph 2 above to constitute an impairment warranting the imposition of disciplinary action under the following statutory grounds: Minn. Stat. § 148.941, subd. 2(a)(1) (violation of Board statutes and rules); Minn. Stat. § 148.941, subd. 2(a)(3) and Minn. R. 7200.5700 (unprofessional conduct); Minn. Stat. § 148.941, subd. 2(a)(10) (inability to practice with reasonable skill and safety); and Minn. R. 7200.4850 (offering psychological services to clients when a psychologist is unable to offer such services with reasonable skill and safety as a result of a physical or mental illness or condition). Licensee recognizes the Board’s authority to make findings of fact and to determine whether disciplinary action is appropriate. The parties have agreed to resolve this matter under the remedy described below.

REMEDY

4. Upon this stipulation and without any further notice or proceedings, the Board hereby places Licensee's license in a **CONDITIONAL** status. Licensee's license to practice psychology in the State of Minnesota is conditioned upon Licensee's compliance with the following requirements:

a. **Health Professionals Services Program.** Within 14 days of the adoption of this Stipulation and Consent Order, Licensee must contact the Health Professionals Services Program ("HPSP") and initiate enrollment. Licensee must comply with all HPSP monitoring requirements and be satisfactorily discharged from the HPSP. Licensee's discharge from the HPSP for any reason other than successful completion of the program may be considered a violation of this Stipulation and Consent Order.

5. Licensee may petition the Board for an unconditional license upon successful completion of the HPSP. Licensee's petition for an unconditional license may be granted, if at all, as the evidence dictates and based upon the need to protect the public. The burden of proof shall be upon Licensee to demonstrate by a preponderance of the evidence that he is capable of conducting himself in a fit and competent manner in the practice of psychology. In petitioning for removal of the suspension, Licensee shall comply with or provide the Committee with, at a minimum, the following:

a. **Self-Report.** Licensee shall submit to the Committee a report from Licensee himself. The report shall be submitted at the time Licensee petitions for an unconditional license. The report shall provide and address:

1) Licensee's physical and mental health status, treatment plans, medications, and compliance with any treatment;

2) Licensee's ability to practice psychology with reasonable skill and safety;

3) Licensee's future plans in the practice of psychology and the steps he has taken to prepare himself to return to practice; and

4) Any other information Licensee believes would assist the Board in its ultimate review of this matter.

b. Report From Mental Health Treatment Professionals. Licensee shall cause to be submitted to the Committee a report from any mental health treatment professional whom Licensee consults while this Order is in effect. The report(s) shall be submitted to the Committee at the time Licensee petitions for an unconditional license. The report(s) shall provide and address:

1) Verification the mental health professional has reviewed this Order;

2) Identification of a plan of treatment, including any medications, devised for Licensee;

3) A statement regarding the mental health professional's opinion as to Licensee's fitness to practice psychology in a fit and competent manner;

4) Licensee's progress with any therapy and compliance with any treatment plans;

5) The mental health treatment professional's conclusion as to the need for continuing therapy; and

6) Any other information the mental health treatment professional believes would assist the Committee in its ultimate review of this matter.

c. Additional Information. Licensee shall provide the Committee with any additional information relevant to Licensee's petition reasonably requested by the Committee.

6. At the time of Licensee's petition, Licensee may be required to meet with the Committee to discuss his petition. Upon hearing the petition, the Board may continue, modify, or remove the conditions set out herein.

7. If Licensee fails to comply with or violates this Stipulation and Consent Order, the Committee may, in its discretion, seek additional discipline either by initiating a contested case proceeding pursuant to Minnesota Statutes chapter 14 or by bringing the matter directly to the Board pursuant to the following procedure:

a. The Committee shall schedule a hearing before the Board. At least 20 days before the hearing, the Committee shall mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice shall designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee shall submit a written response to the allegations. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with Licensee prior to the hearing before the Board to discuss the allegations and to attempt to resolve the allegations through agreement.

c. Prior to the hearing before the Board, the Committee and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Licensee may present oral argument. Argument shall not refer to matters outside the record. The evidentiary record shall be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. The Committee shall have the burden of proving by a preponderance of the evidence that a violation has occurred. If Licensee has failed to submit a

timely response to the allegations, Licensee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline.

d. Licensee's correction of a violation before the conference, hearing, or meeting of the Board may be taken into account by the Board but shall not limit the Board's authority to impose discipline for the violation. A decision by the Committee not to seek discipline when it first learns of a violation shall not waive the Committee's right to later seek discipline for that violation, either alone or in combination with other violations, at any time while Licensee's license is in a conditional status.

e. Following the hearing, the Board will deliberate confidentially. If the allegations are not proved, the Board shall dismiss the allegations. If a violation is proved, the Board may impose additional discipline, including additional conditions or limitations on Licensee's practice, a period of suspension, or revocation of Licensee's license.

8. This stipulation shall not in any way limit or affect the authority of the Board to temporarily suspend Licensee's license under Minn. Stat. § 148.941, subd. 3, and/or Minn. Stat. § 214.077 or to initiate contested case proceedings against Licensee on the basis of any act, conduct, or omission of Licensee justifying disciplinary action occurring before or after the date of this Stipulation and Consent Order which is not related to the facts, circumstances or requirements referenced herein.

9. In the event the Board at its discretion does not approve this settlement or a lesser remedy than indicated in this settlement, then, and in that event, this stipulation is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced by either party to this stipulation, except that Licensee agrees that should the Board reject this stipulation and this case proceeds to hearing, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating to this matter.

10. Any appropriate court may, upon application of the Board, enter its decree enforcing the order of the Board.

11. Licensee has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Licensee is represented by Steve G. Heikens, Esq. The Committee is represented by Hans A. Anderson, Assistant Attorney General.

12. Licensee waives all formal hearings on this matter and all other procedures before the Board to which Licensee may be entitled under the Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein.

13. Licensee hereby knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota and their agents, employees and representatives which may otherwise be available to Licensee under the Americans With Disabilities Act or the Minnesota Human Rights Act relative to the action taken or authorized against Licensee's license to practice psychology under this stipulation.

14. Licensee hereby acknowledges that he has read, understands, and agrees to this stipulation and has freely and voluntarily signed the stipulation without threat or promise by the Board or any of its members, employees, or agents. When signing the stipulation, Licensee acknowledges he is fully aware the stipulation is not binding unless and until it is approved by the Board. The Board may either approve the Stipulation and Consent Order as proposed, approve the Stipulation and Consent Order subject to specified change, or reject it. If the changes are acceptable to Licensee, the stipulation will then take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the stipulation, it will be of no effect except as specified herein.

15. This Stipulation and Consent Order constitutes a disciplinary action against Licensee.

16. This Stipulation and Consent Order is a public document and will be sent to all appropriate data banks and other entities consistent with Board policy.

17. This stipulation contains the entire agreement between the parties there being no other agreement of any kind, verbal or otherwise, which varies this stipulation.

LICENSEE

COMPLAINT RESOLUTION COMMITTEE

Gerald M. Schmidt, M.A., L.P.
GERALD M. SCHMIDT, M.A., L.P.

Scott A. Fischer, Ph.D., L.P.
SCOTT FISCHER, PH.D., L.P.
Committee Chair

Dated: 5-6-2016

Dated: 5-20-16

ORDER

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the license of Licensee is placed in a CONDITIONAL status and that all other terms of this stipulation are adopted and implemented by the Board this

20th day of May, 2015.

MINNESOTA BOARD OF PSYCHOLOGY

Angelina M. Barnes
ANGELINA M. BARNES
Executive Director