

**BEFORE THE MINNESOTA
BOARD OF MARRIAGE AND FAMILY THERAPY**

In the Matter of
Robert Wark, LMFT
License No. 2097

**STIPULATION AND
CONSENT ORDER**

STIPULATION

Robert Wark, LMFT (“Licensee”), and the Minnesota Board of Marriage and Family Therapy Complaint Panel (“Complaint Panel”) agree the above-referenced matter may be resolved without trial of any issue or fact as follows:

I.

JURISDICTION

1. The Minnesota Board of Marriage and Family Therapy (“Board”) is authorized pursuant to Minnesota Statutes sections 148B.07 to 148B.48 to license and regulate marriage and family therapists and to take disciplinary action as appropriate.

2. Licensee holds a license from the Board to practice marriage and family therapy and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Consent Order.

II.

BACKGROUND

3. Following a thorough review of all available information, the Complaint Panel, composed of Board members Herb Grant, Ph.D., LMFT, and Dennis Morrow, Ph.D., determined that the matter could be resolved by mail with a Stipulation and Consent Order. Caitlin M. Micko, Assistant Attorney General, represents the Complaint Panel. Licensee was advised that he may choose to be represented by legal counsel in this matter. Licensee knowingly waived legal representation.

III.
FACTS

4. The parties agree this Stipulation and Consent Order is based upon the following facts:

a. On December 18, 2009, Licensee was licensed by the Board to practice marriage and family therapy in the State of Minnesota.

b. In approximately 2007, Licensee began employment as a therapist at a mental health clinic.

c. In September 2012, Licensee agreed to become an intern's immediate supervisor at the clinic.

d. In or around October 2012, Licensee engaged in a sexual relationship with the supervisee intern. The relationship continued until approximately May 2013.

e. On or about January 10, 2016, Licensee reported his sexual relationship with the intern to the owner of the clinic. Licensee thereafter resigned from his employment and self-reported the inappropriate sexual relationship to the Board.

IV.
LAWS

5. Licensee acknowledges the conduct described in section III. above constitutes a violation of Minn. Stat. § 148B.37, Subd. 1(3) and Minn. R. 5300.0350 Subp. 4, 4(C), 4(D), 4(E), 4(S), and justifies the disciplinary action described in section V. below.

V.
DISCIPLINARY ACTION

The parties agree the Board may take the following disciplinary action and require compliance with the following terms:

A. Suspension

6. The Board **SUSPENDS** Licensee's license to practice marriage and family therapy for an indefinite period of time. Licensee shall not practice marriage and family therapy

in any manner, shall neither offer nor provide marriage and family therapy services of any kind within Minnesota, and shall not use the designation “licensed marriage and family therapist,” “LMFT,” or any other designation that implies that Licensee is eligible to practice marriage and family therapy in the State of Minnesota.

B. Reinstatement of License

7. Licensee may petition for reinstatement of his license following 12 months from the date of this Order. The burden of proof shall be upon Licensee to demonstrate by a preponderance of the evidence that he is capable of practicing marriage and family therapy in a fit and competent manner. At the time of Licensee's request, Licensee shall meet with a Complaint Panel and comply with, at a minimum, the following:

a. Successful Completion of Boundaries Course. Licensee shall arrange to enroll in a pre-approved, individualized professional boundaries training course and comply with the following:

1) The course must be approved in advance by the Complaint Panel. Licensee shall submit for approval to the Complaint Panel a proposed instructor's curriculum vitae, and a syllabus that includes goals, objectives, assignments, projects, methods, and frequency of evaluation.

2) Licensee must complete the course prior to petitioning for reinstatement of his license. All fees for the course shall be paid by the Licensee and successful completion of the boundaries course shall be determined by the Complaint Panel.

b. Successful Completion of Ethics Course. Licensee shall arrange to enroll in a pre-approved professional ethics course and comply with the following:

1) The course must be approved in advance by the Complaint Panel. Licensee shall submit for approval to the Complaint Panel a proposed instructor's curriculum vitae, and a syllabus that includes goals, objectives, assignments, projects, methods, and frequency of evaluation.

2) Licensee must complete the course prior to petitioning for reinstatement of his license. All fees for the course shall be paid by the Licensee and successful completion of the boundaries course shall be determined by the Complaint Panel.

c. Report on Courses from Licensee. Within 30 days of completing each course described in paragraph 7.a. and 7.b., Licensee shall submit a written report to the Complaint Panel which provides and/or addresses the following:

1) The dates Licensee began and completed the course;

2) A brief statement of the topics covered in the course;

3) A detailed discussion of what Licensee learned from the course, including Licensee's comprehension and knowledge of professional boundaries and professional ethics, and how this course will affect his practice in the future.

4) A detailed discussion of the violations that occurred, including 1) how Licensee came to violate professional boundaries; 2) the manner in which Licensee violated professional boundaries; 3) the specific harm to each individual that resulted and/or the potential harm to other individuals that could have resulted from Licensee's conduct; 4) how Licensee now believes the violation could have been averted; 5) a detailed discussion of the specific ways this course may affect Licensee's practice if his license is reinstated; 6) Licensee's reasons for believing he is capable of conducting himself in a fit, competent, and ethical manner in the practice of marriage and family therapy; and 7) any other information Licensee believes would assist the Board in its ultimate review of the matter.

c. Report on Course from Instructors. Licensee shall cause to be submitted to the Complaint Panel a report from the instructor of the courses described in paragraph 7.a. and 7.b. Each report shall address:

1) The extent of Licensee's participation in the course; and

2) The instructor's assessment of Licensee's knowledge obtained from the course, comprehension of the material issues, and opinion as to Licensee's ability to engage in the practice of marriage and family therapy.

b. Self Report. Licensee shall submit to the Board a report from Licensee himself. The report shall be submitted at the time Licensee petitions for reinstatement of his license. The report shall provide and address:

1) Licensee's employment history and work schedule from the date of this Order to the time he petitions for license reinstatement;

2) Licensee's future work plans in marriage and family therapy and the steps he has taken to prepare himself to return to the practice of marriage and family therapy; and

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

b. Report from Employer. During the petition process, if requested by Board staff, Licensee must cause to be submitted to the Board a report from any employer who has employed Licensee while this Order is in effect. The report(s) are due within one month of any such request from the Board. The report(s) must provide and address:

1) Licensee's ability to perform assigned tasks, and if any performance deficiencies are identified, the actions taken to address them;

2) Licensee's attendance and reliability;

3) Licensee's typical work schedule;

4) Any other information reasonably requested by the Board; and

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

c. Additional Information. Licensee shall provide any additional information reasonably requested by the Complaint Panel.

d. Licensure Requirements. Licensee shall meet all licensure requirements in effect at the time of his petition for reinstatement, including but not limited to completing the appropriate application, paying requisite fees, and completing any necessary continuing education requirements.

8. The Board may, at any regularly scheduled meeting following Licensee's petition for reinstatement pursuant to paragraph 7 above, take any of the following actions:

- a. Issue an Order reinstating Licensee's marriage and family therapy license;
- b. Issue an Order reinstating Licensee's marriage and family therapy license with limitations upon the scope of Licensee's practice and/or with conditions for Licensee's practice; or
- c. Issue an Order to continue the suspension of Licensee's license upon his failure to meet the burden of proof; or
- d. Any other action the Board deems appropriate.

VI.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

9. It is Licensee's responsibility to ensure all payments, reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Consent Order are timely filed by those making the payment or preparing the report, evaluation, or documentation. Failure to make payments or file reports on or before their due date is a violation of this Stipulation and Consent Order. The information contained in the reports, evaluations, and documentation is confidential and shall be submitted to the Board by United States Mail, courier, or personal delivery only.

10. If Licensee fails to comply with or violates this Stipulation and Consent Order the Complaint Panel 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 Complaint Panel shall schedule a hearing before the Board. At least 20 days before the hearing, the Review Panel shall mail Licensee a notice of the violation(s) alleged by the Complaint Panel. 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 Complaint Panel, 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 Complaint Panel and Licensee may submit affidavits and written argument in support of their positions. At the hearing, the Complaint Panel 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 Complaint Panel 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. Licensee waives a hearing before an administrative law judge, discovery, cross-examination of adverse witnesses, and other procedures governing hearings pursuant to Minnesota Statutes chapter 14.

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 Complaint Panel not to seek discipline when it first learns of a violation shall not waive the Complaint Panel'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, suspension, or revocation of Licensee's license.

f. Nothing herein shall limit the Complaint Panel's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 148B.175,

subdivision 7, based on a violation of this Stipulation and Consent Order or based on conduct of Licensee not specifically referred to herein. Similarly, nothing herein shall limit the Complaint Panel's or the Board's right to automatically suspend Licensee's license pursuant to Minnesota Statutes section 148B.175, subdivision 8.

VII.

ADDITIONAL REQUIREMENTS

11. In the event Licensee should leave Minnesota to reside or to seek employment outside of the state, Licensee shall give the Board written notification of the new location, as well as dates of departure and return. If Licensee leaves the state, the terms of this Order continue to apply unless waived in writing.

OTHER INFORMATION

12. Licensee waives the contested case hearing and all other procedures before the Board to which Licensee may be entitled under the Minnesota and United States constitutions, statutes, or rules.

13. Licensee waives any claims against the Board, the Minnesota Attorney General's Office, the State of Minnesota, and their agents, employees, and representatives related to the investigation of the conduct herein, or the negotiation or execution of this Stipulation and Consent Order, which may otherwise be available to Licensee.

14. This Stipulation and Consent Order, the files, records, and proceedings associated with this matter shall constitute the entire record and may be reviewed by the Board in its consideration of this matter.

15. Either party may seek enforcement of this Stipulation and Consent Order in any appropriate civil court.

16. Licensee has read, understands, and agrees to this Stipulation and Consent Order and has voluntarily signed the Stipulation and Consent Order. Licensee is aware this Stipulation and Consent Order must be approved by the Board before it goes into effect. The Board may approve the Stipulation and Consent Order as proposed, approve it subject to specified change,

or reject it. If the changes are acceptable to Licensee, the Stipulation and Consent Order will take effect and the order as modified will be issued. If the changes are unacceptable to Licensee or the Board rejects the Stipulation and Consent Order, it will be of no effect except as specified in the following paragraph.

17. Licensee agrees that if the Board rejects this Stipulation and Consent Order or a lesser remedy than indicated in this settlement, and this case comes again before the Board, Licensee will assert no claim that the Board was prejudiced by its review and discussion of this Stipulation and Consent Order or of any records relating to it.

18. This Stipulation and Consent Order shall not limit the Board's authority to proceed against Licensee by initiating a contested case hearing or by other appropriate action on the basis of any act, conduct, or admission of Licensee which constitutes grounds for disciplinary action and which is not directly related to the specific facts and circumstances set forth in this document.

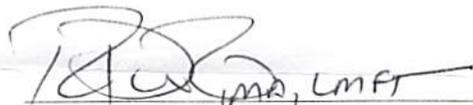
VIII.

DATA PRACTICES NOTICES

19. This Stipulation and Consent Order constitutes disciplinary action by the Board and is classified as public data pursuant to Minnesota Statutes section 13.41, subdivision 5. Therefore, employers and other individuals will be able to see this entire Stipulation and Consent Order by searching Licensee's name on the Board's website, or by requesting a copy of this Stipulation and Consent Order from the Board. Data regarding this action will be provided to data banks as required by Federal law and consistent with Board policy. While this Stipulation and Consent Order is in effect, information obtained by the Board pursuant to this Stipulation and Consent Order is considered active investigative data on a licensed health professional, and as such, is classified as confidential data pursuant to Minnesota Statutes section 13.41, subdivision 4.

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

CONSENT:


ROBERT WARK, LMFT
Licensee

Dated: 5-12, 2016

FOR THE COMPLAINT PANEL:


Board Member
DENNIS R MORROW
Printed Name

Dated: 18 MAY, 2016

ORDER

Upon consideration of the Stipulation, the Board indefinitely **SUSPENDS** Licensee's license and adopts all of the terms described on this 20 day of May, 2016.

MINNESOTA BOARD OF
MARRIAGE AND FAMILY THERAPY


JENNIFER MOHLENHOFF
Executive Director