

**BEFORE THE MINNESOTA
BOARD OF BEHAVIORAL HEALTH AND THERAPY**

In the Matter of
Brian C. Ahlm, LADC
License Number: 305339

**STIPULATION AND
CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by Brian C. Ahlm, LADC ("Licensee"), and the Minnesota Board of Behavioral Health and Therapy ("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 alcohol and drug counseling in the State of Minnesota.

FACTS

For the purposes of this Stipulation, the Board finds the following:

a. On February 21, 2013, the Board issued Licensee a temporary permit to practice alcohol and drug counseling in the State of Minnesota. On December 21, 2018, the Board licensed Licensee to practice alcohol and drug counseling in the State of Minnesota.

b. In May 14, 2018, the Board's Complaint Resolution Committee ("Committee") referred Licensee to the Health Professionals Services Program ("HPSP") on a non-disciplinarily basis.

c. On August 17, 2018, Licensee signed and returned a 36-month Participation Agreement to the HPSP. The Participation Agreement required Licensee to comply with the HPSP's screening protocols, including submitting to random toxicology screens. The Participation Agreement also required Licensee to abstain from substances known to interfere with the toxicology screening process, including foods and products containing ethyl alcohol.

d. On June 14, 2019, the Board received notification from the HPSP regarding issues with Licensee's required toxicology screens. The problem screens were reported as follows:

1. On September 11, 2018, Licensee missed a toxicology screen.
2. On October 31, 2018, Licensee missed a toxicology screen.
3. On February 4, 2019, Licensee missed a toxicology screen.
4. On May 17, 2019, Licensee missed a toxicology screen.
5. On June 7, 2019, Licensee had a positive screen for Ethyl Glucuronide (EtG)/Ethyl Sulfate (EtS). Licensee advised his case worker that he took Nyquil and drank two or three Miller Sharps (low alcohol beer) the prior day.

6. On June 11, 2019, Licensee missed a toxicology screen.

e. During a conference with the Committee, Licensee acknowledged his substance use disorder and indicated that he understood the seriousness of the Committee's concerns. Licensee attributed his HPSP noncompliance to being unable to drive to his toxicology screens and the positive screens to drinking low alcohol beer and taking over the counter medications.

f. In or around February 2020, Licensee underwent and successfully completed substance use disorder treatment.

REGULATIONS

2. The Board views Licensee's practices as described in paragraph 2 above to be in violation of statutes and rules enforced by the Board. Licensee agrees that the conduct cited above constitutes a violation of Minn. Stat. § 148F.09 1(9) (inability to practice alcohol and drug counseling with reasonable skill and safety as a result of illness, use of alcohol, drugs), Minn. Stat. § 148F.09, subd. 1(3) (unprofessional conduct, including departure from the minimum standards of prevailing practice), and Minn. Stat. § 214.355 (violating the terms of an HPSP

agreement), and constitutes a reasonable basis in law and fact to justify the disciplinary action provided for in this order.

REMEDY

3. Upon the foregoing facts and all the files, records, and proceedings herein, the board determines that disciplinary action is warranted. Without further notice or hearing, the Board enters an order as follows:

4. Upon this stipulation and without any further notice or proceedings, the Board hereby **SUSPENDS** Licensee's license to practice alcohol and drug counseling in the State of Minnesota. The suspension is **STAYED** so long as Licensee complies with the following limitations and conditions:

a. **Participation in the Health Professionals Services Program.** Licensee shall successfully participate in the Health Professionals Services Program ("HPSP"). Licensee is required to contact the HPSP to initiate enrollment in the program within 14 days of this Order. Licensee is required to sign an amended Participation Agreement with the HPSP no later than 60 days following the date of this Order. Licensee must comply with all terms of his amended Participation Agreement and may not be discharged by the HPSP except upon successful completion of the Participation Agreement.

5. Upon HPSP's written notification to the Board of Licensee's successful completion of the Participation Agreement, Licensee may petition the Board for removal of the stayed suspension. Licensee may be required to meet with the Committee, at the Committee's discretion, to discuss his petition as well as his fitness to practice alcohol and drug counseling. The burden of proof shall be on 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 alcohol and

drug counseling. Licensee's stayed suspension may be removed, if at all, as the evidence dictates and based upon the need to protect the public. The Board will have discretion to decide whether to grant Licensee's petition for removal of the stayed suspension; continue the conditions or limitations imposed upon Licensee's license by this Stipulation and Consent Order; or impose additional conditions and limitations upon Licensee's license.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

6. It is Licensee's responsibility to ensure all reports, evaluations, and documentation required to be filed with the Board pursuant to this Stipulation and Consent Order are timely filed by those preparing the report, evaluation, or documentation. Failure to file, reports, evaluations, and documentation before their due date is a violation of this Order.

Noncompliance With Requirements for Stayed Suspension

7. If the Committee has probable cause to believe Licensee has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph 4 above, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 8 below, with the following additions and exceptions:

a. The removal of the stayed suspension shall take effect upon service of an Order of Removal of Stayed Suspension ("Order of Removal"). Licensee agrees that the Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final determination pursuant to the procedures outlined in paragraph 8 below. The Order of Removal shall confirm the Committee has probable cause to believe Licensee has failed to comply with or has violated one or more of the requirements for staying the suspension of Licensee's license. Licensee further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a

public document under the Minnesota Government Data Practice Act. Licensee waives any right to a conference or hearing before the removal of the stayed suspension.

b. The Committee shall schedule the hearing pursuant to paragraph 8.a below to be held within 60 days of the notice.

Noncompliance With Stipulation and Consent Order

8. 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 will schedule a hearing before the Board. At least 20 days before the hearing, the Committee will mail Licensee a notice of the violation(s) alleged by the Committee. In addition, the notice will designate the time and place of the hearing. Within ten days after the notice is mailed, Licensee will 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 will not refer to matters outside the record. The evidentiary record will be limited to the affidavits submitted prior to the hearing and this Stipulation and Consent Order. The Committee will 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 will 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 will 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 suspended status.

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

f. Nothing herein will limit the Committee's or the Board's right to temporarily suspend Licensee's license pursuant to Minnesota Statutes section 214.077, based on a violation of this Stipulation and Consent Order or based on conduct of Licensee not specifically referred to herein. Similarly, nothing herein will limit the Committee's or the Board's right to issue a cease and desist order pursuant to Minnesota Statutes section 148F.095, subdivision 1, or an automatic suspension pursuant to Minnesota Statutes section 148F.09, subdivision 5.

ADDITIONAL INFORMATION

9. 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.

10. 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.

11. Licensee has been advised that he may choose to be represented by an attorney in this matter. Licensee knowingly and voluntarily waives representation. The Committee is represented by Daniel S. Schueppert, Assistant Attorney General

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

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

14. 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 either 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.

15. 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.

DATA PRACTICES NOTICES

16. 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. Data regarding this action will be provided to data banks as required by Federal law or consistent with Board policy. While this Stipulation and Consent Order is in effect, information obtained by the Board pursuant to this 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.

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:

Brian C. Ahlm
BRIAN AHLM, LADC

Roy Kammer
ROY KAMMER, LADC

Dated: 07-01-2020

Dated: 8-9-2020

Jaehyun Shim
JAEHYUN SHIM, Public Member

Dated: 9/10/2020

ORDER

Upon consideration of the Stipulation, the Board hereby **SUSPENDS** Licensee's license to practice licensed alcohol and drug counseling. The Board **STAYS** the suspension upon Licensee's compliance with the requirements outlined in the Stipulation and adopts all of the terms described above on this 24th day of July, 2020.

MINNESOTA BOARD OF BEHAVIORAL
HEALTH AND THERAPY

Kari Rechtzigel
KARI RECHTZIGEL
Executive Director