

**BEFORE THE MINNESOTA
BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS**

In the Matter of
James Blum, LNHA
License No. 1741

**STIPULATION AND
CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by James Blum ("Licensee"), and the Minnesota Board of Examiners for Nursing Home Administrators Standards of Practice Committee ("Committee") as follows:

I.

JURISDICTION

1. The Minnesota Board of Examiners for Nursing Home Administrators ("Board") is authorized pursuant to Minn. Stat. Ch. 144A to license and regulate nursing home administrators and to take disciplinary action as appropriate.

2. Licensee holds a license from the Board to practice as a licensed nursing home administrator in the State of Minnesota and is subject to the jurisdiction of the Board with respect to the matters referred to in this Stipulation and Order.

II.

FACTS

3. For the purpose of this stipulation, the Board may consider the following facts as true:

a. On September 29, 1981, Licensee was licensed to practice as Licensed Nursing Home Administrator in the State of Minnesota. Licensee holds Minnesota License #1741.

b. Licensee was the Administrator of Record for Bigfork Valley Communities, Big Fork, Minnesota, beginning October 9, 2014 through April 22, 2015.

c. On March 27, 2015, the Minnesota Department of Health (“MDH”) completed a Licensing and Certification Survey and determined Bigfork Valley Communities - Bigfork (“Bigfork Valley Communities”) provided substandard quality of care in the prior two successive MDH compliance surveys. In both surveys, Bigfork Valley Communities was cited for Code of Federal Regulation violations (F 323, S/S=J—Code of Federal Regulations (42CFR 483.25)) and a substantiated Office of Health Facility Complaints report. The surveys established a pattern of failure to address safe environments and to administratively assess and develop policies to ensure residents were safe and free from accidents, abuse, and neglect.

d. Licensee failed to adequately oversee and monitor care and services related to the development, implementation, and evaluation of the elopement policies and procedures and to ensure that residents were free from accidents, specifically related to elopements. MDH and Licensee’s staff identified a resident with prior rehearsal wandering patterns with the potential to leave the community. Policies or procedures were not effective in minimizing the resident’s behavior, and the resident eloped from the facility on multiple occasions.

e. Licensee acknowledged that he was unaware of the aforementioned resident’s elopements, despite the fact that he was required to be notified.

f. Licensee’s policies to provide a safe environment for residents during the completion of the construction phase at the community were determined by MDH to be ineffective. MDH indicated the lack of Licensee’s involvement in the potential of a deficient safety assessment, involvement in a personal review of the physical plant issues related to safety,

and knowledge of the resident's care which would have been outlined in the incident and accident reports, if procedures were followed.

g. The Committee acknowledges the Administrative Law Judge and Commissioner of Health recommendation dated September 25, 2015, that reduced the F490 Administration citation to an "E" yet maintained the F 323 immediate jeopardy finding at the time of the survey. The facility returned to substantial compliance on May 15, 2015.

III.

REGULATIONS

4. The Board views Licensee's practices as described in paragraph 3 above to be in violation of statutes and rules enforced by the Board and constitutes a reasonable basis in law and fact to justify the disciplinary action provided for in this Stipulation and Consent Order. Licensee accepts that the Committee finds the conduct cited above constitutes the following violations:

a. Incurring within the preceding two-year period two or more uncorrected violations which created an imminent risk of harm to a nursing home resident, which violations were in the jurisdiction and control of the administrator and for which a fine was assessed and allowed to be recovered, in violation of Minnesota Statutes sections 144A.04 subdivision 6 and 144A.251.

b. Ineligibility to be employed as a nursing home administrator under Minnesota Statutes, section 144A.04, subdivision 6, in violation of Minnesota Rules 6400.6900 subpart 1(C).

c. Failure to comply with Minnesota Statutes, section 626.557, the Vulnerable Adult Act, in violation of Minnesota Rules 6400.6900 subpart 1(D).

d. Violation of a statute, rule, or order that the board issued or is empowered to enforce or that pertains to administration of a nursing facility or to the responsibilities of a nursing home administrator, in violation of Minnesota Rules 6400.6900 subpart 1(E).

e. Engaging in unprofessional conduct or any other conduct with potential for causing harm to the public or facility residents including any departure from or failure to conform to the minimum standard of acceptable and prevailing practice, as specified in state and federal statutes and rules covering administration of nursing home facilities, without actual injury having to be established, in violation of Minnesota Rules 6400.6900 subpart 1 (I).

f. Failure to exercise true regard for the safety, health, or life of a resident, in violation of Minnesota Rules 6400.6900 subpart 1(J).

IV.

REMEDY

5. Upon this stipulation and all the files, records, and proceedings herein, and without further notice or hearing, the Board enters an order as follows:

a. The Board **CONDITIONS** Licensee's license as follows:

1) Within six months of the date of this order, Licensee must take eight credits of continuing education classes on the topics of leadership and management and eight credits of continuing education classes on the topics of customer care/safety or the Vulnerable Adult Act. The continuing education must be in-person and preapproved by the Committee. In order to obtain preapproval, Licensee must submit written documentation to the Committee, such as measurable learning objectives and qualifications of the instructor. These hours of continuing education may not be applied to the continuing education requirements for license renewal.

b. The Board **LIMITS** Licensee's license as follows:

1) Licensee may not work in an interim LNHA position until the education set forth in paragraph 5.a.1. is completed.

2) After completing the education set forth in paragraph 5.a.1. and upon obtaining his first position as a LNHA thereafter, Licensee must submit to the Committee for approval a risk assessment report within 30 to 60 days after starting employment as a LNHA. For the risk assessment report, Licensee shall follow the NAB Professional Practice Analysis - Knowledge, Skills, and Abilities for Physical Environment and assess each. Approval of the report is at the sole discretion of the Committee.

6. In the event that *In the Matter of the Independent Informal Dispute Resolution Bigfork Valley Communities* is resolved in favor of Bigfork Valley Communities such that the deficiencies are not affirmed or the determination of immediate jeopardy is reversed in favor of a lesser level of severity, the Board shall issue an Order vacating the violations set forth in III.4.a and III.4.b.

7. Upon completing the requirements set forth in paragraph 5, the conditions and limitations on Licensee's license will be administratively lifted.

8. In the event the Board at its discretion does not approve this settlement, 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.

9. In the event Licensee resides or practices outside the State of Minnesota, Licensee must promptly notify the Board in writing of the location of his residence and all work sites. Periods of residency or practice outside of Minnesota will not be credited toward any period of Licensee's suspended, limited, or conditioned license in Minnesota unless Licensee demonstrates that practice in another state conforms completely with Licensee's Minnesota license to practice as a licensed nursing home administrator.

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 Cynthia B. Jahnke, Esq., Monarch Legal of Minnesota. The Standards of Practice Committee is represented by Jennifer C. Middleton, 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 as a licensed nursing home administrator 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.

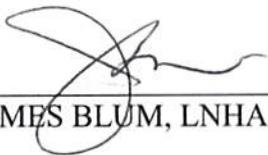
15. This Stipulation and Consent Order constitutes a disciplinary action against Licensee.

16. This Stipulation and Consent Order is a public document and will be sent to all appropriate data banks and 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

**FOR THE STANDARDS OF
PRACTICE COMMITTEE**



JAMES BLUM, LNHA



BOARD MEMBER

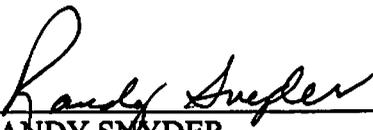
Dated: 12/15/2015

Dated: 1/27/16

ORDER

Upon consideration of the Stipulation and all the files, records and proceedings herein, the terms of the Stipulation are approved and adopted, and the recommended remedy set forth in the Stipulation is hereby issued as an Order of this Board effective this 27th day of January, 2016.

MINNESOTA BOARD
OF EXAMINERS FOR
NURSING HOME ADMINISTRATORS



RANDY SMYDER
Executive Director