

**BEFORE THE MINNESOTA
BOARD OF PSYCHOLOGY
COMPLAINT RESOLUTION COMMITTEE**

In the Matter of the License
of Mary Hess, M.A., L.P.
License Number: LP3185

**AGREEMENT FOR
CORRECTIVE ACTION**

This agreement is entered into by and between Mary Hess, M.A., L.P. ("Licensee") and the Complaint Resolution Committee of the Minnesota Board of Psychology ("Committee") pursuant to the authority of Minn. Stat. § 214.103, subd. 6(a) (2014). Licensee and the Committee hereby agree as follows:

FACTS

1. For the purpose of this agreement, the parties agree to the following facts:
 - a. Between approximately December 21, 2012 and June 11, 2013, Licensee provided couples psychotherapy to Client #1 and Client #2, who were in a relationship at the time of therapy.
 - b. From approximately October 15, 2013 through April 15, 2014, Licensee provided individual therapy to Client #1.
 - c. On, or about, February 9, 2014, Licensee sent an email to Client #1 providing information regarding the dates and general topics of Licensee's psychotherapy with the couple and describing an incident reported to Licensee in a joint therapy session. Licensee knew that the information in the email was to be used as part of a court case between Client #1 and Client #2.
 - d. Between December 2013 and December 2014, Client #2 repeatedly attempted to contact Licensee, requesting copies of Client #2's records related to the couple's

therapy. Licensee did not respond to Client #2's messages promptly, and informed Client #2 that Licensee could not release Client #2's records related to couple's therapy without Client #1's consent.

2. Licensee agrees that the conduct cited above constitutes a violation of Minn. Stat. § 148.941, subd. 2(a)(1) (2014) (violated a statute or rule the Board is empowered to enforce); Minn. Stat. § 148.941, subd. 2(a)(3) and Minn. R. 7200.5700 (unprofessional conduct); Minn. R. 7200.4700 (failure to safeguard private information obtained in the course of the practice of psychology); and Minn. R. 7200.4710, subp. 3 (failure to honor a client's right to access the part of the client's records that include information provided directly by the client, in a situation in which psychological services are provided to multiple psychotherapy clients); and constitutes a reasonable basis in law and fact to justify the corrective action provided for in the order.

CORRECTIVE ACTION

3. Licensee agrees to address the conduct referenced in paragraphs 1 and 2 by taking the following corrective actions:

a. **Professional Consultation.** Licensee shall obtain one-on-one professional consultation from a Minnesota licensed psychologist to address the administrative rules and statutory obligations related to client confidentiality and informed consent when providing psychological services to multiple clients as delineated in Minnesota Rules 7200.4700 (Protecting the Privacy of Clients), Minnesota Rule 7200.4710 (Accessing and Releasing Private Information), and Minnesota Rules 7200.4720 (Informed Consent), Minnesota Statutes sections 144.292-294 (Minnesota Health Records Act: Patient Rights, Release and Disclosure of Health Records, and Records Relating to Mental Health), and how to apply knowledge of these topics to her practice.

Licensee shall submit the *curriculum vitae* of her proposed professional consultant for pre-approval by the Committee within 30 days of the date this Agreement becomes effective. Licensee shall select a consultant with whom she has had no previous personal or professional relationship. The Committee reserves the right to reject the consultant proposed by Licensee. If the Committee rejects the consultant proposed by Licensee, the Committee may require that Licensee submit additional names, or the Committee may provide Licensee with the name of a consultant.

For a period of six (6) months, beginning on the date the Committee approves Licensee's consultant, Licensee shall meet with the consultant at least two (2) times per month.

Within 30 days of the date the Committee approves Licensee's consultant, Licensee shall cause to be submitted to the Committee a sample informed consent document, drafted by Licensee, using knowledge gained from Licensee's sessions with her consultant.

b. ***Consultant's Report.*** At the conclusion of the consultations, Licensee shall have the consultant submit a report to the Board no later than 60 days from the date of the last consultation. The report shall provide and/or address:

- 1) A statement that the consultant has reviewed this Agreement and any other data deemed relevant by the Committee;
- 2) The dates on which consultations were held with Licensee;
- 3) Licensee's active participation in each consultation;
- 4) The issues discussed in each consultation;
- 5) The consultant's assessment of Licensee's understanding and ability to deal with issues that may arise in her practice that relate to client confidentiality and release of client records when providing psychological services to multiple clients;

6) The consultant's opinion as to whether Licensee has demonstrated a satisfactory understanding of the issues that gave rise to this Agreement, and whether additional consultations or education is required; and

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

c. **Licensee's Report.** At the conclusion of the consultations, Licensee shall have 30 days to submit a report to the Board herself. The report shall provide and/or address:

1) A brief statement of the topics discussed at each consultation session;

2) What Licensee has learned from the consultations, including her own statement as to her comprehension and knowledge of the issues that gave rise to this Agreement;

3) A statement as to how Licensee has changed or will change her practice as a result of the knowledge and skills obtained or honed through the consultation; and

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

4. Licensee shall be responsible for all costs incurred as a result of compliance with this agreement.

5. If any due date required by the Agreement for Corrective Action is not met, the Committee may fine Licensee \$100 per violation. Licensee shall pay the fine and correct the violation within five days after service on Licensee of a demand for payment and correction. If Licensee fails to do so, the Committee may impose additional fines not to exceed \$500 per violation. The total of all fines may not exceed \$5,000. Licensee waives the right to seek review

of the imposition of these fines under the Administrative Procedure Act, by *writ of certiorari* under Minn. Stat. § 480A.06, by application to the Board, or otherwise. Neither the imposition of fines nor correction of the violation will deprive the Board of the right to impose additional discipline based on the violation.

6. No condition imposed as a remedy by this Agreement for Corrective Action shall be used as a continuing education activity for the purpose of renewal of Licensee's license to practice psychology, unless it is specifically stated in this Agreement for Corrective Action that the condition may be used for this purpose.

OTHER INFORMATION

7. Licensee understands that this agreement does not constitute disciplinary action.

8. Upon Licensee's satisfactory completion of the corrective action referenced in paragraph 3, the Committee agrees to dismiss the complaint(s) referenced in paragraph 1. Licensee agrees that the Committee shall be the sole judge of satisfactory completion. Licensee understands and further agrees that if, after dismissal, the Committee receives additional complaints similar to the facts in paragraph 1, the Committee may reopen the dismissed complaint(s).

9. If Licensee fails to complete the corrective action satisfactorily, or if the Committee receives additional complaints similar to the facts described in paragraph 1, the Committee may, at its discretion, reopen the investigation and proceed according to the Board's practice act and Minn. Stat. chs. 214 and 14. Licensee agrees that the Committee will be the sole judge of satisfactory completion. In any subsequent proceeding, the Committee may use as proof of the facts of paragraph 1 Licensee's agreements herein. Licensee agrees that failure to

complete corrective action satisfactorily constitutes failure to cooperate under Minn. Stat. § 148.941, subd. 4, and may subject Licensee to disciplinary action by the Board.

10. Licensee is represented by Pat Elliott, Esq., Elliott Law Offices, P.A. The Committee is represented by Nicholas Lienesch, Assistant Attorney General.

11. This agreement shall become effective upon execution by the Committee and shall remain in effect until the Committee dismisses the complaint, unless the Committee receives additional information that renders corrective action inappropriate. Upon receipt of such information, the Committee may, at its discretion, proceed according to the Board's practice act and Minn. Stat. chs. 214 and 14.

12. Licensee understands and acknowledges that this agreement and any letter of dismissal are classified as public data.

13. Licensee hereby acknowledges having read and understood this agreement and having voluntarily entered into it. This agreement contains the entire agreement between the Committee and Licensee, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this agreement.

LICENSEE

MINNESOTA BOARD OF PSYCHOLOGY
COMPLAINT RESOLUTION COMMITTEE

Mary J. Hess, MA LP
MARY HESS, M.A., L.P.

Dated: 12 / 10 '15

Patrick A. Stankovick, PsyD, LP
For the Committee

Dated: 1/15/16