

BEFORE THE MINNESOTA
BOARD OF PSYCHOLOGY

In the Matter of
Michael W. Millard, Ph.D., L.P.
License No. LP0036

STIPULATION AND
CONSENT ORDER

IT IS HEREBY STIPULATED AND AGREED by Michael W. Millard, Ph.D., 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. For the purpose of this stipulation, the Board may consider the following facts as true:

a. From October 1983 to October 1988, Licensee was the program director at Starlite Manor, a group home in Minneapolis for mentally ill persons. In addition to serving as the program director, Licensee provided individual and group psychological therapy to residents of Starlite Manor and billed the Minnesota Medical Assistance (MA) Program for treatment he provided.

b. From 1987 to 1989, Licensee was investigated by the Medicaid Fraud Control Unit of the Attorney General and the Surveillance and Utilization Review (SURS) Unit of the Minnesota Department of Human Services (DHS).

c. The SURS Unit conducted an investigation and audit of fifteen MA recipients who received psychological services from Licensee between 1984 and 1988. During an interview with a SURS Unit investigator on March 12, 1987, Licensee admitted he does not always document the services he performs. Licensee also admitted that at times he misrepresented the service dates and saw patients briefly on different days but billed cumulatively when the total reached an hour, as though he had seen the patient only on that date. Licensee denied he was double billing by serving as program director at Starlite Manor

in addition to billing MA for certain psychological services he performed, but Licensee admitted, "there is a lot of potential for conflict."

d. On July 6, 1988, when the SURS Unit investigator was at Starlite Manor to obtain copies of individual and group therapy records, Licensee again admitted to the SURS investigator at times he [Licensee] was not very good at documenting.

e. As part of the SURS Unit investigation, two psychology consultants reviewed five randomly selected client charts and group charts kept by Licensee regarding Starlite Manor clients. The consultants' findings were as follows:

1) In a group on the subject of drinking behavior, Licensee's notes do not fully identify the clients (first names only) and state only the amount they drank (usually considerable) that week. No substantive notes or progress notes exist and there is no evidence clients made any progress in limiting or eliminating drinking.

2) In a group devoted to "mistakes" there are few case notes. The case notes list only such items as "didn't clean room," "knee high socks," "[client's name] is a rat fink!" There is no indication of any goal setting or reduction of negative behaviors. In a note dated September 22, 1986, for Group II, Licensee states, "Get together and decide what group should accomplish." The consultants found this to be an example that the therapist appears unsure of what he is doing.

3) One note for Group III dated August 13 (no year given) states, "Let [staff member's name] take this group over for a time." There is no information on the identity of [staff member], whether he or she is a qualified professional, or the reason for his or her substitution for Licensee as group leader.

4) A file called "Wednesday Group" contained only three very brief notes dated June 27 and July 18, 1984, and August 8 (no year). The subject of this group was a check-in of activities and goal setting. An example of a goal found in the notes is "shaved once."

5) Client #1's chart contained no group or individual psychotherapy notes. Briefly mentioned were "money issues", "poor hygiene" (sic), and "poor socialization."

There was no further detail regarding these problems and the same phrases could be used for almost any client at Starlite Manor.

6) Case notes on client #2 were few. The year of treatment often was not recorded. Most of the notes were vague, sketchy phrases such as "does lots of hitchhiking" and "check list for cleaning room" (no list given).

7) Two psychology consultants at DHS reviewed five of Licensee's health care records and group therapy records. According to these consultants, Licensee's report on his interpretation of a Mooney Problem Check List for client #3 was "full of non sequiturs, misconceptions about psychological facts, and grammatical and spelling errors." Licensee "does not appear to know the content of Axis II or diagnostic criteria such as the nature of paranoid schizophrenia." The consultants further stated they "believe that this test is not designed to reveal the information he [Licensee] claims to derive from it."

8) DHS consultants also determined that Licensee's practice of "cumulative billing" (adding up brief passing contacts with a patient so as to make a therapy hour) "does not constitute psychotherapy, which involves an intensive, private encounter between patient and therapist in one comprehensive interval."

f. On February 13, 1989, DHS issued a Notice of Agency Action to Licensee. The Notice required Licensee to reimburse MA for improperly billing various mental health services provided to recipients which did not meet DHS requirements or community standards of care. The total amount overpaid by MA to Licensee was \$29,998.75. The Notice of Agency Action listed the following violations of Minn. Rules pt. 9505.1750, subp. 2 (requires accurate documentation for billing purposes) and Minn. Rules pt. 9505.1800 (requires accurate and complete documentation of health care records):

1) Cases were reviewed where no documentation was found for services that were billed and paid for by MA.

2) DHS consultants found neither the group therapy nor the individual therapy documentation met professional standards. Based on the DHS psychologists' review, \$4,470 was overpaid to Licensee for individual therapy.

3) Health records contained entries that were never signed or dated by the individual making the entry.

4) MA was billed for individual psychotherapy for 40 to 50 minutes where documentation reveals services were provided for only 10 to 20 minutes as demonstrated by the following chart:

<u>Patient</u>	<u>Date</u>	<u>Overpayment</u>
Client #4	January 30, 1985	\$55.00
	April 10, 1985	\$55.00 *
	January 28, 1986	\$70.00
Client #5	January 30, 1986	\$70.00
	February 24, 1986	\$70.00
Client #6	November 27, 1985	\$55.00
	January 14, 1986	\$70.00
	August 14, 1986	\$70.00
Client #7	January 20, 1988	\$66.50
Client #8	April 21, 1986	\$70.00
	May 8, 1986	\$70.00
	September 11, 1986	\$70.00
Client #9	November 28, 1984	\$55.00
	April 1, 1985	\$55.00
	December 26, 1985	\$55.00
	February 26, 1986	\$70.00
	July 3, 1986	\$70.00
	August 6, 1986	\$70.00
	September 11, 1986	\$70.00
	October 22, 1986	\$70.00
	February 4, 1988	\$66.50
Client #4	January 30, 1985	\$55.00
	April 10, 1985	\$55.00 *
	January 28, 1986	\$70.00
Client #10	December 17, 1984	\$55.00
	April 23, 1985	\$55.00
	January 23, 1986	\$70.00
	June 12, 1986	\$70.00
TOTAL		1,803.00

* Documentation shows only ten minutes and MA does not have a code for services under twenty minutes.

- 5) Client health care records did not contain a plan of treatment.
 - 6) Group therapy billings resulted in an overpayment of \$23,725.75.
- g. Licensee and DHS entered into settlement negotiations and in November 1989, executed a Stipulation of Settlement and Confession of Judgment in which Licensee agreed to repay DHS \$18,000.

STATUTES

3. 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. § 148.98 (code of ethics), Minn. R. 7200.5200, subp. 3 (billing misrepresentation), Minn. R. 7200.5500 (violation of law), Minn. R. 7200.5700 (unprofessional conduct), and Minn. R. 7200.4600, subp. 1 (competence) and constitutes a reasonable basis in law and fact to justify the disciplinary action provided for in the order.

REMEDY

4. Upon this stipulation and without any further notice of proceedings, Licensee is hereby **REPRIMANDED** for the conduct described in paragraph 2 above.

5. Upon this stipulation and without any further notice of proceedings, Licensee agrees to voluntarily **RESTRICT** his license. Licensee is restricted to performing only the following psychological services: Canonical Evaluations, Civil Commitment Evaluations, and Rule 20 Evaluations.

6. Licensee shall complete at least 20 continuing education units on assessment and evaluations, with an emphasis on MMPI assessment, during the current licensure renewal period. Thereafter, Licensee shall complete at least 30 continuing education units during each licensure renewal period which bear on his competencies in assessing and evaluating the client populations identified in paragraph 5 above. Licensee may apply these units to his continuing education requirement for licensure renewal.

7. If Licensee shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the license of Licensee to practice psychology in the State of Minnesota shall be suspended immediately upon written notice by the Board to Licensee, such a suspension to remain in full force and effect until Licensee petitions the Board to terminate the suspension after a hearing. Nothing contained herein shall prevent the Board from revoking or suspending Licensee's license to practice psychology in the State of Minnesota after any such hearing.

8. If Licensee's license has been suspended pursuant to paragraph 7 above, Licensee may petition to have the suspension lifted at any regularly-scheduled board meeting following Licensee's submission of a petition, provided that the petition is received by the Board at least twenty working days before the Board meeting. The Board shall grant the petition upon a clear showing by Licensee that he has corrected all violations of this Stipulation and Consent Order which were the basis for the suspension. Based on the evidence presented, the Board may impose additional conditions or limitations upon reinstating Licensee's license.

9. This stipulation shall not in any way or manner limit or affect the authority of the Board to proceed against Licensee by initiating a contested case hearing or by other appropriate means on the basis of any act, conduct, or omission of Licensee justifying disciplinary action which occurred before or after the date of this stipulation and which is not directly related to the specific facts and circumstances set forth herein.

10. 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.

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

12. Licensee has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Licensee has exercised this right and has chosen Robert Wilson as his attorney.

13. 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 except as provided herein.

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 that he is fully aware that the stipulation must be approved by the Board. The Board may either approve the Stipulation and Order as proposed, approve the Stipulation and 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 the Licensee.

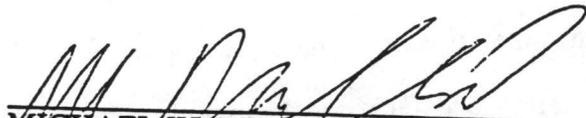
16. This Stipulation and Consent Order is a public document and will be sent to all appropriate data banks.

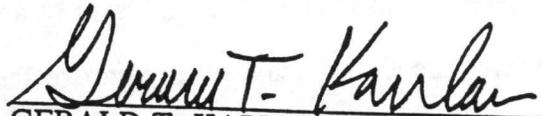
17. This stipulation resolves the complaints contained in the Notice of Conference dated August 23, 1993, the Board's attorney's letter to Licensee's attorney dated January 4, 1995, and the Notice of Conference dated April 9, 1996 and contains the entire agreement between the parties there being no other agreement of any kind, verbal or otherwise, which varies this stipulation.

BOARD OF PSYCHOLOGY
COMPLAINT RESOLUTION COMMITTEE


NORMAN L. JAMES, Ph.D., L.P.

Dated: 6/14/96, 1996


MICHAEL W. MILLARD, Ph.D., L.P.
Licensee
Dated: 6-13, 1996


GERALD T. KAPLAN, M.A., L.P.

Dated: June 14, 1996


SAMUEL ALBERT, Ph.D., L.P.

Dated: June 14, 1996


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Attorney for Licensee

Dated: 6-13, 1996


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St. Paul, MN 55103-2106
Telephone: (612) 297-1050

Attorney for Board

Dated: June 14, 1996

Upon consideration of this stipulation and all the files, records, and proceedings herein,
IT IS HEREBY ORDERED that Licensee is **REPRIMANDED**, that his license is
RESTRICTED, and that all other terms of this stipulation are adopted and implemented by
the Board this 14th day of June, 1996.

MINNESOTA BOARD

OF PSYCHOLOGY


PAULINE WALKER-SINGLETON
Executive Director

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