

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

In the Matter of
Leroy Rogers, Temporary Permit Holder
(suspended)
Permit Number: 2214

**STIPULATION AND
CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by Leroy Rogers ("Permittee"), and the Minnesota Board of Behavioral Health and Therapy ("Board") as follows:

1. During all times herein, Permittee has been and now is subject to the jurisdiction of the Board from which he holds a permit to practice alcohol and drug counseling in the State of Minnesota.

FACTS

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

a. On December 21, 2017, the Board granted Permittee a temporary permit to practice alcohol and drug counseling in the State of Minnesota.

b. On October 23, 2020, the Board issued a Findings of Fact, Conclusions, and Final Order ("2020 Order") to Permittee, based on Permittee's failure to demonstrate an ability to practice alcohol and drug counseling with reasonable skill and safety as a result of use of alcohol, drugs or chemicals.

c. The 2020 Order suspended Permittee's temporary permit to practice alcohol and drug counseling in the State of Minnesota.

d. The 2020 Order states that Permittee may petition to have the suspended status removed from his temporary permit when he has, at minimum, complied with the

requirements of the 2020 Order and is willing to respond to each separate fact set forth in the Findings of Fact in the 2020 Order. The Order states that Permittee has the burden of proof 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.

e. On August 16, 2021, Permittee submitted a Petition for Reinstatement of Temporary Permit to the Board's Complaint Resolution Committee ("Committee") for its consideration.

f. In the Petition, Permittee indicated that he has not used any mood-altering substances for at least 49 days and is ready to start the petition process to reinstate his temporary permit.

g. On October 27, 2021, Permittee met with the Committee pursuant to a Notice of Conference to discuss his Petition.

h. During the conference, Permittee shared he had not used any mood-altering substances since submitting his Petition and expressed his commitment to his health and well-being.

REGULATIONS

3. The Board views Permittee's practices as described in paragraph 2 above to be in violation of statutes and rules enforced by the Board. Permittee agrees that the conduct cited above constitutes a violation of Minn. Stat. § 148F.09, subd. 1(8) (failure to cooperate with an investigation by the board), 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), and Minn. Stat. § 214.355 (discharge from the HPSP program), and constitutes a reasonable basis in law and fact to justify the disciplinary action provided for in this order.

REMEDY

4. 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:

5. The 2020 Order is hereby **RESCINDED** and shall have no future force or effect.

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

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

7. Upon HPSP's written notification to the Board of Permittee's successful completion of the Participation Agreement, Permittee may petition the Board for removal of the stayed suspension. Permittee 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 Permittee 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. Permittee'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 Permittee's petition for removal of the stayed suspension; continue the conditions or limitations imposed upon Permittee's permit by this Stipulation and Consent Order; or impose additional conditions and limitations upon Permittee's permit.

CONSEQUENCES FOR NONCOMPLIANCE OR ADDITIONAL VIOLATIONS

8. It is Permittee'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 by their due dates is a violation of this Order.

Noncompliance With Requirements for Stayed Suspension

9. If the Committee has probable cause to believe Permittee has failed to comply with or has violated any of the requirements for staying the suspension as outlined in paragraph 6 above, the Committee may remove the stayed suspension pursuant to the procedures outlined in paragraph 10 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"). Permittee 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 10 below. The Order of Removal shall confirm the Committee has probable cause to believe Permittee has failed to comply with or has violated one or more of the requirements for staying the suspension of Permittee's permit. Permittee further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document

under the Minnesota Government Data Practice Act. Permittee 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 10.a below to be held within 60 days of the notice.

Noncompliance With Stipulation and Consent Order

10. If Permittee 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 Permittee 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, Permittee will submit a written response to the allegations. If Permittee does not submit a timely response to the Committee, the allegations may be deemed admitted.

b. The Committee, in its discretion, may schedule a conference with Permittee 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 Permittee may submit affidavits and written argument in support of their positions. At the hearing, the Committee and Permittee 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 Permittee has failed to submit a timely response to the allegations, Permittee may not contest the allegations, but may present argument concerning the appropriateness of additional discipline. Permittee 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. Permittee'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 Permittee's permit 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 Permittee's practice, an additional period of suspension, additional conditions of reinstatement, or revocation of Permittee's permit.

f. Nothing herein will limit the Committee's or the Board's right to temporarily suspend Permittee's permit pursuant to Minnesota Statutes section 214.077, based on a violation of this Stipulation and Consent Order or based on conduct of Permittee 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

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

12. Permittee 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 Permittee.

13. Permittee has been advised that he may choose to be represented by an attorney in this matter. Permittee knowingly and voluntarily waives representation. The Committee is represented by Rebecca Huting, Assistant Attorney General

14. 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.

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

16. Permittee has read, understands, and agrees to this Stipulation and Consent Order and has voluntarily signed the Stipulation and Consent Order. Permittee 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 Permittee, the Stipulation and Consent Order will take effect and the order as modified will be issued. If the changes are unacceptable to Permittee or the

Board rejects the Stipulation and Consent Order, it will be of no effect except as specified in the following paragraph.

17. Permittee 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, Permittee 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

18. 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.

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

PERMITTEE:

COMPLAINT RESOLUTION

COMMITTEE:


LEROY ROGERS, PERMITTEE


BOARD MEMBER

Dated: 12/31/21

Dated: 1-31-2022

ORDER

Upon consideration of the Stipulation, the Board hereby **SUSPENDS** Permittee's permit to practice licensed alcohol and drug counseling. The Board **STAYS** the suspension upon Permittee's compliance with the requirements outlined in the Stipulation and adopts all of the terms described above on this 28th day of January, 2022.

MINNESOTA BOARD OF BEHAVIORAL
HEALTH AND THERAPY


KARI RECHTZIGEL
Executive Director