

**BEFORE THE MINNESOTA  
BOARD OF PSYCHOLOGY**

In the Matter of  
Roxanna L. Rutter, Ph.D., L.P.  
License No. LP3040

**STIPULATION AND  
CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by Roxanna L. Rutter, 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 she holds a license to practice psychology in the State of Minnesota.

**FACTS**

2. For the purpose of this stipulation only, the Board may consider the following facts as true: It is the intent of the parties that this Stipulation and Consent Order is a settlement of a disputed claim, and the facts set forth herein shall have no collateral estoppel effect, res judicata effect, or other preclusive effect; and no evidentiary value in any action or proceeding in any forum or process other than proceedings before the Minnesota Board of Psychology.

a. Licensee was licensed by the Board as a licensed psychologist on January 14, 1994.

b. Licensee provided psychological services to Patient #1 (adult male) from early 2002 through December 2010.

c. Licensee failed to refer Patient #1 in 2005, when Licensee moved to California. Licensee instead provided psychological services to Patient #1 by telephone and in person from 2005 through 2010, in violation of Minnesota Rules 7200.4600, subpart 4 (2011).

d. Licensee failed to safeguard Patient #1's records when they were destroyed in a flood in 2003, destroyed by mold on a later date, and were lost during a move in

2011, in violation of Minnesota Rules 7200.4700, subpart 1 (2011). Specifically, there are 347 billing claims that had no corresponding session notes.

e. Licensee misrepresented to third parties billed for services for Patient #1 the nature of her services and the extent to which she provided the services in violation of Minnesota Rules 7200.5200, subpart 3 (2011) as follows::

1) Licensee used incorrect billing codes and codes that misrepresented certain therapy sessions. Specifically, Licensee used CPT Codes 90806 and 90808 for sessions that were conducted by telephone. Between October 24, 2005, and December 13, 2010, 171 of the 370 billed visits for which Licensee submitted procedure codes of 90806 or 90808 were conducted over the telephone, as evidenced by Licensee's telephone records. These codes, however, are not indicated for telephonic sessions.

f. Licensee failed to terminate the professional relationship with Patient #1 in violation of Minnesota Rules 7200.4810, subpart 3 (2011), when she moved out of Minnesota.

g. Licensee failed to provide Patient #1 his medical records upon his request in violation of Minnesota Rules 7200.4900, subpart 1a (2011) because the records had been destroyed or lost.

### **REGULATIONS**

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 Minnesota Statutes section 148.941, subdivision 2(a)(1) (2010) (violation of a statute, rule, or order enforced by the Board); Minnesota Statutes section 148.941, subdivision 2(a)(3) (2010) and Minnesota Rules 7200.5700 (2011) (unprofessional conduct); Minnesota Rules 7200.4600, subpart 4 (2011) (failure to refer); Minnesota Rules 7200.4700, subpart 1 (2011) (failure to safeguard private information); Minnesota Rules 7200.5200,

subpart 3 (2011) (misrepresentation of services provided); Minnesota Rules 7200.4810, subpart 3 (2011) (failure to terminate services); and, Minnesota Rules 7200.4900, subpart 1a (2011) (failure to make client records accessible); and constitutes a reasonable basis in law and fact to justify the disciplinary action provided for in the order.

#### **REMEDY**

4. The Board accepts Licensee's **VOLUNTARY SURRENDER** of her license to practice psychology in the State of Minnesota. Within 30 days of the date this Stipulation and Consent Order is adopted by the Board, Licensee shall surrender her license to the Board by delivering it personally or by first-class mail to Angelina Barnes, Executive Director, Minnesota Board of Psychology, Suite 320, 2829 University Avenue SE, Minneapolis, Minnesota 55414.

5. Licensee shall not practice, attempt to practice, offer to practice, or advertise or hold out as authorized to practice psychology in a setting in Minnesota for which licensure is required. Licensee shall not use the title psychologist or any designation which indicates she is licensed to practice psychology.

6. Licensee shall not reapply for licensure for a period of twelve (12) months from the date of this Stipulation and Consent Order. Should Licensee reapply for licensure, Licensee must meet with the Board's Complaint Review Committee. Further, should Licensee reapply for licensure as a psychologist in Minnesota, she must meet the requirements for licensure in effect at the time of application. The burden of proof shall be on Licensee to show by a preponderance of the evidence that she is fit to practice psychology in a safe, competent, and ethical manner. Prior to applying for licensure, Licensee shall comply with, at a minimum, the following:

a. **Civil Penalty.** Licensee shall pay a civil penalty to the Board in the amount of five thousand (\$5,000.00) for engaging in the conduct and violations described in paragraphs 2 and 3 above. Payment of \$5,000.00 shall be remitted in full and may be paid by

cashier's check or money order made payable to the Minnesota Board of Psychology, Suite 320, 2829 University Avenue SE, Minneapolis, MN 55414.

b. ***Ethics and Boundaries Assessment Services Test.*** Licensee shall arrange to take the Ethics and Boundaries Assessment Services Test. Information regarding this test can be found at: <http://www.pearsonvue.com/cbas/>. All fees for the test shall be paid by Licensee. Successful passage of the test shall be determined by the Committee. Failure to obtain a passing score will be considered a violation of this order.

c. ***Report on Proper Billing and Coding Procedures From Licensee.*** Licensee shall submit a three to five page report, double-spaced, using 12-point font, to the Committee which provides and addresses:

1) A detailed discussion of each type of billing and coding violation that occurred regarding the circumstances described in the Facts section of this Stipulation and Consent Order, including (a) how Licensee came to violate these billing and coding procedures; (b) the manner in which Licensee violated these billing and coding procedures; (c) the specific harm to specific individuals that resulted or could have resulted from the violations; and (d) how Licensee now believes the violations could have been averted;

2) Licensee's reasons for believing she is capable of conducting herself in a fit, competent, and ethical manner in the practice of psychology; and

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

8. If any due date required by this Stipulation and Consent Order 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 Minnesota Statutes section 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.

9. Licensee is responsible for all costs incurred as a result of compliance with this Stipulation and Consent Order.

10. If Licensee shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the Committee shall schedule a hearing before the Board. The Committee shall mail Licensee a notice of the violation alleged by the Committee and of the time and place of the hearing. Licensee shall submit a response to the allegations at least three days prior to the hearing. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Licensee may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Licensee waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Licensee's practice, or suspension, or revocation of Licensee's license.

11. 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.

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

13. Licensee has been advised by Board representatives that she may choose to be represented by legal counsel in this matter. Licensee is represented by Gregory E. Karpenko, Esq. The Committee is represented by Sara Boeshans, Assistant Attorney General.

14. 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.

15. 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 psychology under this stipulation.

16. Licensee hereby acknowledges that she 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 she is fully aware the stipulation is not binding unless and until it is approved by the Board. The Board may either approve the Stipulation and Consent Order as proposed, approve the Stipulation and Consent 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.

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

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

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.

BOARD OF PSYCHOLOGY

COMPLAINT RESOLUTION  
COMMITTEE

Roxanna L. Rutter, PhD  
ROXANNA L. RUTTER, Ph.D., L.P.  
Licensee

Dated: 6-19-2014

Patricia Hankovitch, PsyD, LP  
Committee Chair

Dated: 6/27/2014

RASA M. DAVID, PHD, LP  
Committee Member

Dated: 6/27/14

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Committee Member

~~Dated: \_\_\_\_\_~~

**ORDER**

Upon consideration of this stipulation and all the files, records, and proceedings herein, the Board approves and adopts the terms of this stipulation, orders the actions set forth herein, and accepts the **VOLUNTARY SURRENDER** of Licensee's license to practice psychology in the State of Minnesota this 5<sup>th</sup> day of June, 2014.

MINNESOTA BOARD  
OF PSYCHOLOGY

  
ANGELINA M. BARNES  
Executive Director