

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
MICHAEL S. KOTKIN, PH.D., :
RESPONDENT. :

0004352

Division of Legal Services and Compliance Case No. 15 PSY 012

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Michael S. Kotkin, Ph.D.
W298 S2859 S Bethesda Ct
Waukesha, WI 53188

Wisconsin Psychology Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Psychology Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Michael S. Kotkin, Ph.D., (dob September 16, 1940) is licensed in the state of Wisconsin to practice psychology, having license number 964-57, first granted on April 23, 1982 and current through September 30, 2015. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W298 S2859 South Bethesda Court, Waukesha, Wisconsin 53188.

2. On March 27, 2015, Respondent went to Racine Youthful Offender Correctional Facility (RYOCF) to administer psychological tests to Inmate A.

3. Rather than administer the tests in person, Respondent left seven questionnaires with Inmate A along with a stamped, addressed envelope. Respondent instructed Inmate A to complete the questionnaires and return them in the envelope.

4. After staff at RYOFC became aware that Respondent had left evaluations with Inmate A, Respondent was interviewed and indicated that sometimes he left evaluations with inmates because he didn't have the time necessary to sit with the inmate throughout the process.

5. Leaving testing material with an inmate to complete is below the standard of care in that it poses the risk of the inmate for whom the evaluations are intended received input from other inmates on how to answer the questions, and also poses the risk of the specific questions becoming circulated among inmates who may be evaluated in the future.

6. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Psychology Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 455.09, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent engaged in unprofessional conduct as defined by Wis. Admin. Code § Psy 5.01(4), by performance of professional services inconsistent with training, education, or experience.

3. As a result of the above violations Michael S. Kotkin, Ph.D., is subject to discipline pursuant to Wis. Stat. § 455.09(1)(g).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Michael S. Kotkin, Ph.D., is REPRIMANDED.

3. Within ninety (90) days from the date of this Order, Michael S. Kotkin, Ph.D., shall pay COSTS of this matter in the amount of \$350.00.

4. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of costs as ordered, Respondent's license (no. 964-57) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of costs.

6. This Order is effective on the date of its signing.

WISCONSIN PSYCHOLOGY EXAMINING BOARD

by: *Daniel E. Schaefer*
A Member of the Board

11.11.15
Date

STATE OF WISCONSIN
BEFORE THE PSYCHOLOGY EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL S. KOTKIN, PH.D.,
RESPONDENT.

:
:
:
:
:

STIPULATION

0004352

Division of Legal Services and Compliance Case No. 15 PSY 012

Respondent Michael S. Kotkin, Ph.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Martin Kohler.

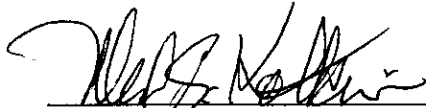
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Psychology Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

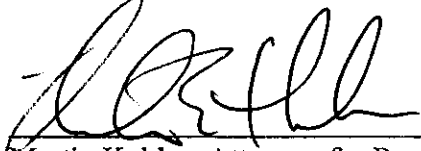
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Michael S. Kotkin, Ph.D., Respondent
W298 S2859 S Bethesda Ct
Waukesha, WI 53188
License no. 964-57

8/28/15

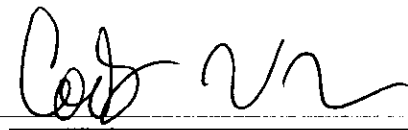
Date



Martin Kohler, Attorney for Respondent
Kohler & Hart SC
735 N Water St # 1212
Milwaukee WI 53202-4105

8/28/15

Date



Cody Wagner, Attorney
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

9/1/15

Date