

**TRUE AND EXACT
COPY OF ORIGINAL**

BEFORE THE MINNESOTA
BOARD OF MEDICAL PRACTICE

COMPLAINT REVIEW COMMITTEE

In the Matter of the
Medical License of
Scott M. Yarosh, M.D.
Date of Birth: 4/20/1959
License Number: 32,260

**AGREEMENT FOR
CORRECTIVE ACTION**

This agreement is entered into by and between Scott M. Yarosh, M.D. ("Respondent"), and the Complaint Review Committee of the Minnesota Board of Medical Practice ("Committee") pursuant to the authority of Minn. Stat. § 214.103, subd. 6(a) (2002). Respondent has been advised by Board representatives that Respondent may choose to be represented by legal counsel in this matter. Respondent has chosen to be represented by Anthony J. Gleekel, Siegel, Brill, Greupner, Duffy & Foster, P.A., 1300 Washington Square, 100 Washington Avenue South, Minneapolis, Minnesota 55401, (612) 337-6100. The Board was represented by Assistant Attorney General, Steven M. Gunn, 1400 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, (651) 296-7575. Respondent and the Committee hereby agree as follows:

FACTS

1. This agreement is based upon the following facts:
 - a. Respondent is the medical director for Behavioral Management, Inc. ("BMI"), Minneapolis, Minnesota. BMI is a consulting firm that provides claim consultations; external review; peer-to-peer consultation; telephone and on-site case management; neuropsychological file review; and neuropsychological evaluations to clients. BMI's clients include companies that provide disability insurance to policyholders.

b. The majority of Respondent's work for BMI consists of reviewing medical records of disability claimants and rendering an opinion whether, or the extent to which, those records support a claimed disability or impairment. Respondent's opinions assist the disability insurance company's decision whether to continue, reduce or discontinue payments under the claimant's disability insurance policy, or to refer the claimant for further assessment, such as an independent medical/psychological examination. This work does not involve medical examinations of the policyholders.

c. Respondent's compensation for his services to BMI is a combination of fees for services and non-equity or "phantom" stock. The amount of non-equity stock Respondent receives is tied to the amount of annual revenue Respondent generates for BMI, and the value of Respondent's non-equity stock is tied to the success of BMI because Respondent's stock value mirrors the value of BMI's stocks.

d. Respondent has prepared numerous reports of claim reviews he conducted for BMI clients. However, Respondent's reports fail to disclose Respondent's financial interest in BMI through the "phantom" stock he holds, or to otherwise disclose this financial interest to those who receive his opinions.

2. On July 15, 2004, Respondent met with the Committee to discuss the information set forth in paragraph 1, above. After considering that discussion, the Committee views Respondent's conduct as possibly creating an appearance of unethical conduct, and therefore inappropriate under Minn. Stat. § 147.091, subd. 1(g) (2002), and a reasonable basis in law and fact to justify corrective action under these statutes.

3. Respondent does not admit that his actions violate Minn. Stat. § 147.091, subd. 1(g) (2002). But Respondent wants to work cooperatively with the Committee to address the

Committee's concerns, and therefore agrees, for purposes of this Agreement For Corrective Action only, that the Board may consider the allegations set forth herein as true.

CORRECTIVE ACTION

4. Accordingly, Respondent agrees to address the Committee's concerns referred to in paragraph 1 by taking the following corrective action:

a. On all reports Respondent prepares for BMI, or any entity in which he has a substantially similar financial interest, Respondent shall add the following language to his standard disclosure language:

The author of this report received a fee from Behavioral Management, Inc. (BMI) for services rendered in preparing this report. The author also may receive additional compensation from BMI based on a non-equity stock incentive agreement between the author and BMI.

5. The Agreement for Corrective Action shall become effective upon execution by the Committee and shall remain in effect until Respondent demonstrates to the Committee that he has implemented the disclosure statement required by this agreement. Successful completion shall be determined by the Committee. Upon Respondent's signature and the Committee's execution of the Agreement for Corrective Action, the Committee agrees to close the complaint(s) resulting in the information referred to in paragraph 1 and to so notify the Respondent in writing. Respondent understands and further agrees that if, after the matter has been closed, the Committee receives additional complaints similar to the information in paragraph 1, the Committee may reopen the closed complaint(s).

6. If Respondent fails to complete the corrective action satisfactorily or if the Committee receives additional complaints similar to the allegations described in paragraph 1, the Committee may, in its discretion, reopen the investigation and proceed according to Minn. Stat. chs. 147, 214, and 14. Failure to complete corrective action satisfactorily constitutes failure to

t. Respondent shall meet on a quarterly basis with a designated Board member or other Board designee. Such meetings shall take place at a time mutually convenient to Respondent and the designated Board member. It shall be Respondent's obligation to contact the designated Board member to arrange each of the meetings. The purpose of such meetings shall be to review Respondent's progress under the terms and conditions of this Stipulation and Order.

u. Respondent may petition, in writing, for reduced monitoring, no sooner than one year from the date of this Order. Upon reviewing Respondent's petition, the Committee, at its discretion and by its own order, may reduce the frequency of required meetings, reports, and/or biological fluid screens required by the terms and conditions of this Order.

v. Respondent may petition for reinstatement of an unconditional license no sooner than three years from the date of this Order and upon proof, satisfactory to the Board, of at least three years of documented, uninterrupted recovery. Upon petitioning for reinstatement, Respondent shall appear before the Committee to discuss his petition and his progress in recovery. Upon hearing Respondent's petition, the Committee may recommend that the Board continue, modify, or remove the suspension or impose conditions and restrictions as deemed necessary.

6. Within ten days of signing the Stipulation to this Order, Respondent shall provide the Board with a list of all hospitals and skilled nursing facilities at which Respondent currently has medical privileges, a list of all states in which Respondent is licensed or has applied for licensure, and the addresses and telephone numbers of Respondent's residences and all work sites. Within seven days of any change, Respondent shall provide the Board with the new

AFFIDAVIT OF SERVICE BY MAIL

**Re: In the Matter of the License of Scott M. Yarosh, M.D.
License No. 32,260**

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

PATRICIA L. BRUNELLE, being first duly sworn, deposes and says:

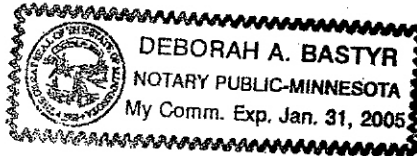
That at the City of St. Paul, County of Ramsey and State of Minnesota, on October 11, 2004, she served the attached AGREEMENT FOR CORRECTIVE ACTION by depositing in the United States mail at said city and state, a true and correct copy thereof, properly enveloped, with first class postage prepaid, and addressed to:

Anthony L. Gleekel
Siegel, Brill, Greupner, Duffy & Foster, P.A.
1300 Washington Square
100 Washington Avenue South
Minneapolis, MN 55401

Patricia L. Brunelle
PATRICIA L. BRUNELLE

Subscribed and sworn to before me
this 11th day of October, 2004.

Deborah A. Bastyr
Notary Public





MINNESOTA BOARD OF MEDICAL PRACTICE

University Park Plaza • 2829 University Avenue SE Suite 400 • Minneapolis, MN 55414-3246

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MN Relay Service for Hearing Impaired (800) 627-3529

PUBLIC DOCUMENT

November 23, 2004

**TRUE AND EXACT
COPY OF ORIGINAL**

Scott M. Yarosh, M.D.
Court International Building
2550 University Avenue West, #229N
St. Paul, MN 55114

RE: Agreement for Corrective Action, Dated October 7, 2004

Dear Dr. Yarosh:

The Complaint Review Committee of the Minnesota Board of Medical Practice has reviewed your Corrective Action Agreement and documentation in support of satisfaction of the terms contained therein. The Committee concluded that the Agreement has been satisfied.

Thank you for your cooperation.

Sincerely,

Robert A. Leach
Executive Director

C-8C