

Psychologist barred from evaluating traumatic brain injuries

Eric Newhouse 10:20 p.m. MDT September 16, 2014



(Photo: TRIBUNE FILE
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In a landmark ruling with national implications, a state licensing board has barred a psychologist working for the VA at Fort Harrison from evaluating veterans for traumatic brain injuries.

The Montana Board of Psychologists ruled this month that Robert Bateen was not qualified to provide a neuropsychological assessment of Charles Gatlin, a University of Montana graduate student, and that he failed to provide an adequate standard of care.

And it rejected Bateen's contention that he was merely following VA policy.

"Licensee has an independent professional obligation to ensure his work as a psychologist complies with the statutes and rules governing his license," the state licensing board said.

"The implications of this ruling are enormous," Gatlin's wife, Ariana Del Negro, said Tuesday. "Not only does it establish a pathway for VA accountability, it also serves to protect the interests of veterans and their families going forward and provides just cause to re-examine the hundreds of other veterans who may have also been wronged by Bateen's unlawful practice, including from years ago.

"Given that the board pointed to obvious shortcomings in the VA's own procedures, I would hope that this ruling also serves as a catalyst for VA reform across the country," Del Negro added.

The VA at Fort Harrison did not return several calls seeking comment.

Gatlin, a former infantry captain, suffered head injuries when a truck bomb exploded near him in Iraq on Sept. 28, 2006.

"He was exposed to three concussive forces: first the explosion; then the engine block from the vehicle, which struck him in the back of the head as he was thrown into the air; and finally when he hit his head again after falling to the ground on his back, where he remained unconscious for at least 10 minutes," Del Negro testified before the Senate Committee on Veterans Affairs.

After undergoing extensive batteries of neuropsychological testing in 2006, 2007 and 2009, Gatlin was discharged from the Army with a 70 percent rating for TBI.

But the VA basically ignored the Department of Defense tests. Bateen, who received a doctorate degree in clinical psychology from the University of North Dakota in 1975, administered a brief screening assessment called RBANS (Repeatable Battery for the Assessment of Neuropsychological Status).

Based on that assessment tool, Bateen dropped Gatlin's TBI rating from 70 to 10 percent, then added another 30 percent disability for post-traumatic stress disorder. Gatlin challenged that ruling before the VA Board of Appeals in Washington, D.C., last year, but there's been no ruling yet.

However, the Montana Board of Psychologists ruled Sept. 4 that using RBANS was improper because it does not test executive function or motor skills.

"Because complainant's medical history established that he had a TBI and had significant deficits three years post injury, it was improper for licensee to use RBANS as the testing instrument to determine complainant's cognitive functioning and to use it for the basis to formulate his evaluation conclusions," it said.

Furthermore, Bateen mischaracterized Gatlin's assessment score, saying it was in the average range when it actually was in the low average range, the state board said.

"Licensee is not a clinical neuropsychologist and is not qualified to provide neuropsychological services," the state hearing board said. Although Bateen has completed the Traumatic Brain Injury Course and the CPEP Traumatic Brain Injury Examination TBI Combo, "none of the foregoing is sufficient education, training, or experience to qualify a clinical psychologist for the practice of neuropsychology. Licensee is not trained in neuropsychological assessment."

As a result, Bateen's assessment of Gatlin violated five state administrative rules, it said.

In a stipulation signed by Montana Labor and Industry Department Counsel Tyler Moss, Bateen and his attorney, Assistant U.S. Attorney Victoria L.

Francis of Billings, the parties agreed that release of the agreement would serve as a public reprimand of Bateen. Francis did not return a call seeking comment Tuesday.

"Licensee is hereby prohibited from engaging in psychological evaluations involving or affecting TBI assessment without first obtaining additional training as approved by the board," the stipulation said.

"Licensee shall recommend to the VA that based upon these proceedings and the findings and conclusions entered pursuant to this stipulation, licensee's former opinions with regard to Charles Gatlin be refused and that Charles Gatlin be reassessed for residual effects of TBI by a neuropsychologist having qualifications consistent with the criteria set forth by the National Academy of Neuropsychology," the stipulation concluded.

That final recommendation was the most significant of the entire stipulation, Del Negro said.

"With that recommendation, the state asserts its rights over the VA, thus establishing a working pathway for VA oversight that can be duplicated throughout the country," she said. "In short, this ruling emphasizes that clinicians working within the VA system must uphold standards of care independent of whether the VA tells them not to."

Del Negro noted that this ruling sets a precedent for any federal employee, including doctors, licensed by the state.

The Montana Board of Psychologists accepted the stipulation, saying: "The board, giving primary consideration to the sanctions that are necessary to protect and compensate the public and secondary consideration to any sanctions designed to rehabilitate Robert J. Bateen, approves, adopts and incorporates the stipulation into the final order."

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