

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE) FILE NOS. 02-98-202,02-99-695
STATEMENT OF CHARGES AGAINST) DIA NO. 02DPHMB019
)
DEBRA K. RAINEY, M.D.) FINAL ORDER OF THE BOARD
)
Respondent)

TO: DEBRA K. RAINEY, M.D.

DATE: June 10, 2004.

I. Procedural History

On November 24, 2003, a panel of the Iowa Board of Medical Examiners (Board) issued a Proposed Decision in this disciplinary proceeding, following an evidentiary hearing. Debra K. Rainey, M.D. (Respondent) filed a timely appeal from the panel's Proposed Decision, pursuant to 653 IAC 12.32(2)(b)(2). A schedule was established for the parties to file briefs and present oral arguments to the full board. Both the Respondent and the state filed written briefs. Oral arguments were heard on May 12, 2004, by the following members of the Board: Bruce Hughes, M.D., Chairperson; Carole Frier, D.O., Vice-Chairperson; Yasyn Lee, M.D.; Russell Lee, M.D.; Blaine Houmes, M.D.; Janece Valentine, Sally Schroeder, and Paul Thurlow, public members. Following oral arguments, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate their final decision. The Board fully considered the evidentiary record, the panel's Proposed Decision, and the briefs and arguments of the parties. Following deliberations, the Board voted to affirm the decision of the panel in its entirety. Administrative Law Judge Margaret LaMarche was directed to prepare this Order, in conformance with their deliberations.

II. Discussion

A. Civil Penalty

The Respondent first argues that the \$5000 civil penalty for failure to comply with the Board's Order for Evaluation was too severe under the circumstances. The Respondent further argues that the civil penalty has a chilling effect on the Respondent's exercise of her due process rights because the amount in the Panel's Proposed Decision is substantially higher than a

settlement offer made to her by Board staff prior to the hearing. The Board has reviewed the amount of the civil penalty in light of the evidentiary record and concludes that the amount is proportionate and reasonable. The record reveals that the Respondent was deceptive when she claimed to have recent psychiatric evaluations for Board consideration and she was uncooperative when she failed to comply with the evaluation order until after the Board filed formal disciplinary charges. The Respondent's second argument is without merit because the Board is not involved in settlement negotiations prior to a contested case hearing, therefore, the panel members were not aware of the settlement offer that had been extended to the Respondent. The only time that the Board sees a settlement offer is after the licensee has agreed to the terms of the settlement and the Board is asked to approve it before it becomes final. The panel's decision on the civil penalty was made independently based solely on the evidence in the record at hearing. The Respondent was not penalized for exercising her due process right to a hearing.

B. Sufficiency of Evidence of Mental Condition

The Respondent urges the Board to reverse the panel's finding that the Respondent is currently unable to practice medicine with reasonable skill and safety by reason of a mental condition. The Respondent argues that the panel inappropriately "discounted" Respondent's evaluation by Dr. Logan and inappropriately credited the PRN evaluation. The Board reviewed both evaluations and agrees with the panel's conclusion that the evaluation at PRN was entitled to greater weight and was more persuasive.

C. Evidentiary Support for Panel's Factual Findings

In her brief, the Respondent asserts that several of the panel's factual findings are inaccurate. The Board reviewed the record and finds that the factual findings challenged by the Respondent are all supported by a preponderance of evidence in the record. The findings with respect to the Respondent's medications are supported by the records of Dr. Vuolo, which were submitted by the Respondent. (Respondent Exhibits L, M).

ORDER

IT IS THEREFORE ORDERED that the Proposed Decision of the Panel, issued on November 24, 2003, is hereby **AFFIRMED** in its entirety.

Dated this 10th day of June, 2004.



Bruce Hughes, M.D., Chairperson
Iowa Board of Medical Examiners

cc: Theresa O'Connell Weeg
Office of the Attorney General
Hoover Building
Des Moines, Iowa 50319

Matthew M. Boles
2910 Grand Avenue
Des Moines, Iowa 50312

This final order of the Board may be appealed to the district court in accordance with the provisions of the Iowa Administrative Procedures Act.

Administrative Law Judge, assisted the panel in conducting the hearing and was instructed to prepare a written decision for their review, in accordance with their deliberations.

THE RECORD

The record includes the Statement of Charges, Notice of Hearing, Motion to Amend Statement of Charges and Order Granting Motion to Amend, Motions for Continuance, Resistance, Orders Granting Continuance, the testimony of the witnesses, State Exhibits 1-21 and Respondent Exhibits A-VVV (see indexed exhibit lists for description).

FINDINGS OF FACT

Respondent's Licensure, Practice, and Disciplinary History

1. The Respondent graduated from Creighton Medical School in 1986. She was issued license number 27315 to practice medicine and surgery in Iowa on October 3, 1989. License number 27315 is currently valid and will next expire on June 1, 2004.

The Respondent has had a long history of depression. During a psychiatric residency at Creighton Medical School (1987-1989), the Respondent diagnosed herself with Bipolar II disorder and began self-prescribing Lithium and Prozac. She continued to self-prescribe medications until 1993. (Testimony of Respondent; Respondent Exhibit A; State Exhibits 1; 14; 18)

2. The Respondent practiced psychiatry in Casper, Wyoming from 1991-1993. In 1993, the Wyoming Board of Medical Examiners filed a Complaint alleging that the Respondent had a physical or mental disability that could render her practice unsafe. Numerous allegations had been made concerning the Respondent's psychiatric practice in Wyoming, including delinquent charting, falsification of a medical record and lack of coverage; violation of patient boundaries, receiving Prozac for her own use in the name of a former employee, and writing prescriptions for persons who were not patients. On December 16, 1993, the Respondent signed a Consent Decree and Order and agreed to the suspension of her Wyoming medical license. (Testimony of Respondent; State Exhibits 3, 4, 8, Attachment G; Respondent Exhibit A)

On June 16, 1994, the Iowa Board filed formal disciplinary charges against the Respondent, based upon the disciplinary action taken in Wyoming. (State Exhibit 3) On May 1, 1995, the

Respondent entered into an Informal Settlement with the Iowa Board, which placed her Iowa medical license on probation for an indefinite period. The conditions of probation included, but were not limited to: compliance with all the terms and conditions of the Order for Reinstatement issued by the Wyoming Board, supervision of the Respondent's practice in Iowa, and continued treatment with a Board approved psychiatrist or psychologist. (State Exhibit 4) The Wyoming Board discharged the Respondent from its probation on December 4, 1997. (State Exhibit 6, Attachment A-1, A-2)

3. The Respondent was employed as a staff psychiatrist at the Mental Health Institute (MHI) in Cherokee, Iowa from April 1995 through January 31, 1998. Her contract was terminated after she repeatedly failed to comply with standards for medical record keeping. (Exhibit 8, Attachment G, pp. 13,45-51,55,62)

4. The Iowa Board discharged the Respondent from probation on March 12, 1998. (State Exhibit 5) The Respondent currently has unrestricted licenses to practice medicine in Iowa, Wyoming, Idaho, and Maine. (Testimony of Respondent; Respondent Exhibit A)

5. After leaving the Cherokee MHI early in 1998, the Respondent held several different locum tenens positions, including a six-month locum tenens position at the Mental Health Institute (MHI) in Independence, Iowa. In June 1999, the Respondent began working at the Black Hawk/Grundy Mental Health Center in Waterloo, Iowa. The Respondent continued her employment at Black Hawk/Grundy Mental Health Center through January 2002, when she moved back to Wyoming. The Respondent then worked for Correctional Medical Services at Wyoming State Penitentiary in Rawlins, Wyoming from January 2002 through October 2002. She is currently residing in Wyoming and is unemployed. (Testimony of Respondent; Respondent Exhibit A)

The Current Charges

6. After the Respondent left the Cherokee MHI, its Clinical Director filed a complaint with the Iowa Board concerning a possibly inappropriate relationship between the Respondent and one of her former MHI outpatients, JC. (State Exhibit 7)

a. The Cherokee MHI's Clinical Director enclosed a February 21, 1998 newspaper article concerning a new business venture (Risk Management Systems) involving JC, the Respondent, and the Respondent's ex-husband, Steven

Nurse. [The Respondent and Steven Nurse divorced in 1990 but later reconciled and were living together in Cherokee with their two children.] In addition, an MHI staff member reported that JC had been house sitting for the Respondent and that JC still had an open outpatient file at MHI. (State Exhibit 7; Testimony of Respondent; Steven Nurse)

b. A Board investigator interviewed the Respondent after this complaint was filed. The Respondent told the investigator that JC had been a patient 8-9 months earlier and that Steven Nurse started talking to JC about setting up a business in November 1997, before he knew that JC had been the Respondent's patient. The Respondent also admitted that JC babysat for their two children when she and Steven Nurse took a trip to Montana in January 1998. (State Exhibit 7)

c. At the hearing, Steven Nurse explained that he attempted to set up a limited liability corporation between JC's company (Cummins & Associates) and his wife's corporation (Agrimed, Inc.) with the purpose of developing a business to help employers reduce their exposure to worker's compensation claims. The Respondent admitted investing approximately \$6,000 in the new business through her corporation and admitted writing checks to JC for start-up capital. (Testimony of Respondent; Steven Nurse)

7. On May 4, 1998, the Board received a second complaint about the Respondent's practice at Cherokee Mental Health Institute (MHI) from its superintendent, Tom Deiker, Ph.D. Upon receipt of the second complaint, the Board opened a new investigation. (State Exhibit 8)

a. According to the second complaint, another one of the Respondent's patients, VL, complained that the Respondent asked her to go into business with her; that the Respondent deposited money in VL's business account without her knowledge; and that the Respondent hugged her after one of her outpatient visits and invited her for dinner. (State Exhibit 8-A)

b. During the investigation, the Board investigator discovered that the Respondent also took a third patient, RM, and RM's children on a vacation to Colorado. (State Exhibit 8) RM was interviewed by the Board investigator and made a number of serious and disturbing allegations of boundary violations by the Respondent.

c. On April 4, 2000, Dr. Deiker responded to a Board subpoena for documentation relevant to its investigation. Dr. Deiker provided correspondence and a copy of a patient's check which reveal that the staff had concerns that the Respondent may have been separately billing outpatients while she was employed by MHI. In May 1998, the Cherokee MHI received a check for \$717.50 payable to Cherokee MHI and the Respondent, however the patient only had a balance of \$236.59. Upon inquiry, the patient's wife told Cherokee MHI that he had received a separate billing from the Respondent which accounted for the discrepancy in the amount. Cherokee MHI returned the check to the patient and asked that it be rewritten for the amount owed. (State Exhibit 8, Attachment B)

8. The Board's investigator gathered documents, interviewed witnesses, provided the Respondent with an opportunity to respond to the allegations, and prepared an investigative report, which is dated July 31, 2001. (State Exhibit 8)

a. The Respondent admitted to the Board's investigator and to the panel that she had a personal relationship with three former patients, JC, VL, and RM. All three patients were plaintiffs in a lawsuit against their former employer and had been referred to the Respondent by their attorney for psychiatric evaluation and treatment. RM was also a waitress at a restaurant frequented by the Respondent and her family.

The Respondent testified that she did not feel these were boundary violations because they were former patients and because she does not feel that she had done anything that was harmful to them. When asked what she has learned from this experience, the Respondent replied that she would never have any interaction with former patients, no matter how small the town is in which she is practicing. (Testimony of Respondent; Steven Nourse)

b. According to the MHI records, JC had 52 therapy sessions with the Respondent from June 22, 1995 through April 24, 1997. (State Exhibit 8-C) VL had 52 therapy sessions with the Respondent from June 21, 1995 through January 19, 1998. (State Exhibit 8-D) RM had 26 therapy sessions with the Respondent from September 5, 1995 through June 23, 1997. (State Exhibit 8-E)

c. The Respondent admitted giving VL and other patients "therapeutic hugs" even though she knew the policy at MHI was "zero patient contact." (Exhibit 8-J; Testimony of Respondent)

d. The Respondent admitted giving JC and VL unsecured loans for their business, Cummins and Associates, and admitted investing \$6000 in start-up costs for the new business venture. The new business venture never got off the ground, and the Respondent was never repaid. (Exhibit 8, Attachment 8-J; Testimony of Respondent)

e. The Respondent admitted exchanging Christmas gifts with JC and RM at a Christmas dinner at Respondent's home in 1997. She specifically admitted giving JC a ring with an approximate value of \$50. (Exhibit 8-J; Testimony of Respondent)

f. The Respondent admitted loaning RM \$300 to purchase propane for her home; she was never repaid. (Exhibit 8-J; Testimony of Respondent)

g. The Respondent admitted inviting RM and her children to share a condo in Colorado with the Respondent and her family. The Respondent paid for the condo, but denied paying any other expenses of RM's vacation, except for a kayaking and biking activity for RM's children. (Exhibit 8-J; Testimony of Respondent)

h. The Respondent denied moonlighting or separately billing outpatients, denied any breaches of patient confidentiality, denied withholding any patient records, denied any sexual overtures to RM, denied encouraging patients to drink alcohol, and denied soliciting any patient to enter into a business. (Exhibit 8-J; Testimony of Respondent) The panel makes no findings with respect to these allegations.

9. The Board reviewed the investigative report and supporting documentation and referred the file to two board-certified psychiatrists for peer review. James L. Gallagher, M.D., a board-certified psychiatrist and neurologist, authored the December 20, 2001 peer review report.

The peer review report noted that the allegations against the Respondent included serious ethical and boundary violations in addition to allegations of organizational problems and

inappropriate billing and that the Respondent's history of mental health problems may include Bipolar Disorder and/or Depressive Disorder NOS. Based on the information provided, the peer review committee was unable to determine whether the Respondent's numerous professional difficulties were related to her mental illness. Therefore, the committee recommended that the Board require the Respondent to undergo an independent psychiatric medical examination. (State Exhibit 10)

10. On February 12, 2002, the Board issued an Order requiring the Respondent to undergo a comprehensive physical, neuropsychological, and substance abuse evaluation within seven (7) days at Professional Recovery Network, Addictive Disease Medical Consultants, in Waukesha, Wisconsin. PRN is one of four or five providers of evaluation services regularly used by the Board. The multidisciplinary team approach at PRN has an interior component that specializes in evaluating physicians. (Testimony of Deb Anglin; State Exhibit 11)

a. The PRN evaluation was initially scheduled for March 17, 2002, but the Respondent called the Board asking to delay the evaluation so that the Iowa Board could review prior evaluations of the Respondent to determine if they might substitute for an evaluation at PRN. The Board agreed to an extension so that the Respondent could submit documentation from a recent evaluation. (Testimony of Deb Anglin; State Exhibits 19, 19A)

b. As of April 16, 2002, the Respondent had not submitted any information to the Board. On April 16, 2002, the Board notified the Respondent that she must complete the PRN evaluation no later than May 10, 2002. The Respondent had not scheduled the evaluation as of May 10, 2002 and had not provided the Board with any documentation from a recent evaluation. (Testimony of Deb Anglin; State Exhibits 13, 15)

11. On June 26, 2002, the Respondent submitted the following documentation of prior treatment/evaluations, none of which were recent. It appears that the evaluations had been previously submitted to the Montana Board of Medical Examiners.

a. In an undated letter to the Montana Board of Medical Examiners, Dale R. Wassmuth, M.D. briefly summarizes his three-year treatment of the Respondent. Dr. Wassmuth initially evaluated the Respondent on June 28, 1995 at the request of the Cherokee MHI. He notes that his working

diagnosis was Bipolar II disorder and had not changed. In January 1996, Dr. Wassmuth changed the Respondent's medication to Prozac, 60 mg twice a week, at her request. She was also prescribed Inderal for mild anxiety. In February 1996, the Respondent reported that for the first time in many years she did not feel depressed. Dr. Wassmuth never found or suspected that the Respondent was significantly depressed or displaying manic symptoms or other psychiatric symptoms or disorders. He noted no hint of chemical dependency issues. (State Exhibit 14)

b. On January 14, 1999, Robert Caldwell, M.D. assessed the Respondent at the request of the Montana Board and prepared a three page written evaluation. Dr. Caldwell's Axis I diagnosis for the Respondent was Dysthymic disorder, in remission. There was no Axis II diagnosis. He concluded that there was no evidence that the Respondent was impaired due to a mental disorder or chemical dependence and further concluded that there was no evidence of an active diagnosable psychiatric condition at that time. (State Exhibit 14)

c. On January 22, 1999, Paul J. Bach, Ph.D. reported the findings from his psychological testing of the Respondent to the Montana Board. He concluded that the Respondent did not have a diagnosable psychopathological condition at that time and predicted no impact upon her future ability to practice medicine with reasonable safety in Montana. Dr. Bach noted that given the Respondent's past difficulties, it would be prudent for her to continue to seek treatment by a board certified psychiatrist or if judged appropriate, an endocrinologist, rather than a family practice physician. (State Exhibit 14)

The Board did not accept the prior evaluations in lieu of the Board ordered comprehensive evaluation at PRN. Nevertheless, the Respondent did not report to PRN for her evaluation until October 28, 2002, approximately one month after the Board filed a Statement of Charges against her for failure to comply with the Board's Evaluation Order. At the hearing, the Respondent could not provide any satisfactory explanation for her failure to timely comply with the Board's evaluation order. She testified that she was "really busy" and that she did not feel an evaluation was necessary. The Respondent conceded that she should have complied with the Board evaluation order in a timely manner. (Testimony of Respondent; Deb Anglin; States Exhibit 1, 15)

12. The Respondent was evaluated at Professional Recovery Network (PRN) in Waukesha, Wisconsin for five days from October 28 through November 1, 2002. Her diagnoses at discharge were: Axis I: Bipolar Disorder, Type II; Probable Dysthymia; Adjustment Disorder with Anxiety; Rule Out Alcohol Abuse; and Axis II: Borderline Personality Disorder; Histrionic Personality Features.

While at PRN, the Respondent had an addiction evaluation by Michael Goldstone, M.D.; a psychiatric evaluation by Timothy Levenhagen, M.D.; a neuropsychological evaluation by Robert Dries, Ph.D.; and a psychosocial evaluation and milieu monitoring by Charlie Schrauth, CADC III. The multidisciplinary team considered records and information provided by the Board, by the Respondent, and by Jack Coyle, D.O., the medical director at the Wyoming prison where the Respondent had most recently been employed. (State Exhibits 16-18; Respondent Exhibits AA-EEE)

a. Dr. Coyle reported that the Respondent's one-year contract with the Wyoming State Penitentiary was terminated early for a number of reasons, including that she was easily manipulated by inmates and seemed to have boundary issues. Prison security staff and nursing staff had reported physical contact between the Respondent and inmates on several occasions. The Respondent disputed this and testified that the only reason she was given for her contract being terminated at the prison was that the treatment she was providing was too expensive. She felt that Dr. Goldstone's consideration of this information was unfair to her because he did not contact other employees at the prison, he did not give her a chance to respond to the allegations until the last day of her evaluation, and then he told her that she was in denial. The Respondent later denied that she was easily manipulated by inmates and denies putting her arm around them, although she admits that she may have patted their hand. (See Exhibit A, pp. 20-21; YY)

b. In his report, Dr. Levenhagen indicated that he believed that the Respondent was not completely forthcoming during his evaluation. He further noted that the Respondent had an "astounding lack of appreciation for the types of boundary violations that she has done." He concluded that he would have "grave reservations" about the Respondent practicing psychiatry and that if she continues

to practice she should be supervised very closely. (State Exhibit 18)

c. Dr. Goldstone made the following recommendations: use of a psychiatric mentor to help the Respondent develop a practice style that meets current psychiatric standard of care; that the Respondent receive psychotherapy as it pertains to her underlying psychological issues and specifically tying the psychotherapy to her behavior and practice as a psychiatrist; and that the Respondent's psychiatric practice be closely monitored by the Board. While Dr. Goldstone had some concern that the Respondent may have a problem with alcohol, he was not prepared to make a diagnosis regarding alcohol. He recommended abstinence from alcohol, random weekly urine drug screening for 2-5 years, and no self-prescribing of medications. (State Exhibit 16)

13. On March 10, 2003, the Respondent was referred by her attorney for an evaluation by psychiatrist William S. Logan, M.D. in Kansas City, Missouri. Dr. Logan reviewed numerous records that were provided to him and submitted a lengthy report of evaluation, which describes the Respondent's treatment history and which is critical of the PRN evaluation. Dr. Logan provided the following diagnoses for the Respondent: Axis I: Depressive Disorder NOS by History and Axis II: Avoidant Personality Traits. In contrast to the PRN evaluation, Dr. Logan concluded that the Respondent suffers from no psychiatric condition impairing her ability to practice medicine with reasonable skill and safety. (Respondent Exhibit A)

14. At the hearing, the Respondent provided additional records from prior evaluations and treatment.

a. The Respondent was treated by psychiatrist Mark D. Vuolo, M.D. in 1993 and 1994 at the request of the Wyoming Medical Board. Prior to her treatment by Dr. Vuolo, the Respondent had self-diagnosed and self-prescribed medications. After his initial evaluation on May 11, 1993, Dr. Vuolo diagnosed the Respondent with Bipolar Disorder, depressed, in remission, along with probable underlying Dysthemia. He recommended continuation of the regimen of daily Lithium Carbonate, 1500 mg., Prozac, 40 mg. and Synthroid, 0.1 mg. The Lithium and Prozac were discontinued in December 1993 because the Respondent was pregnant, but Lithium was restarted late in her pregnancy

after a recurrence of depression. (Respondent Exhibits B-P)

The Respondent returned to Dr. Vuolo for further treatment on April 1, 2003 and related her treatment history in the interval since 1994 and provided Dr. Logan's evaluation to Dr. Vuolo for his review. On May 24, 2003, Dr. Vuolo revised his diagnosis to Mood Disorder NOS, considering the most likely specific diagnoses of Cyclothymic or Dysthymic Disorder. Dr. Vuolo agreed with Dr. Logan's diagnosis and his assessment of Avoidant Personality Traits. Dr. Vuolo's plan for psychiatric management is Prozac, 60 mg, twice weekly, and supportive psychotherapy in half hour visits, every six to eight weeks. It was his understanding that the Respondent had also initiated weekly counseling with therapist Barb France in January 2003. (Respondent Exhibits B-O; TTT)

b. The Respondent also submitted additional records from her evaluations by Paul Bach, PhD, Clinical Psychologist/Neuropsychologist. Dr. Bach evaluated the Respondent at the request of the Montana Professional Assistance Program on December 18, 1998 and January 12, 1999. His conclusions are summarized at Finding of Fact 9(c). (Respondent Exhibits Q, R, S; State Exhibit 14)

c. Psychiatrist Elaine Nicola, M.D. evaluated the Respondent on December 22, 1999 at the request of Covenant Hospital. Dr. Nicola concluded that the Respondent's depression appeared well compensated by her 60 mg dose of Prozac. Dr. Nicola did not feel that therapy should be required since the Respondent was practicing successfully and had dealt with the issues that got her into trouble. Her diagnosis was Depression, NOS and possible Dysthymia mild. (Respondent Exhibit W; Testimony of Respondent)

15. The Respondent submitted a letter dated May 22, 2003 from Thomas C. Eachus, ACSW, LISW, BCD, the Executive Director of Black Hawk-Grundy Mental Health Center, Inc. concerning her employment as a staff psychiatrist from June 7, 1999 until January 7, 2002. Mr. Eachus described the Respondent's duties at the Mental Health Center and further stated that she got along well with clients, staff members and agency representatives. He further noted that the needs of her clients were a priority for her but that she experienced problems with completing paperwork according to prescribed standards. (Respondent Exhibit VVV)

16. The Respondent submitted a letter dated May 23, 2003 from H. Frederick Morelock, MS/MSW/LCSW, Mental Health Department, Wyoming State Penitentiary. Mr. Morelock worked with the Respondent at the state penitentiary in 2002. He stated that he witnessed immense improvement in many of their shared patients while the Respondent was on staff and some decompensation of these patients since she left the state penitentiary. Mr. Morelock found the Respondent to be approachable, consistently empathic, and cooperative. He would refer patients to the Respondent if he was in private practice. (Respondent Exhibit UUU)

CONCLUSIONS OF LAW

COUNT I

Iowa Code section 148.6(2)(i)(2001) provides, in relevant part:

148.6 Revocation

1. The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

...

i. ...violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing...

653 IAC 12.3(7) provides:

12.3(7) Failure to submit. Failure of a physician to submit to a board-ordered mental or physical examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

Accord, 653 IAC 12.4(34).

The Board is authorized to order physical and mental examinations of a licensee upon probable cause. Iowa Code section 148.6(2)(h)(2001); 653 IAC 12.3. The Respondent admits and the preponderance of the evidence established that the Respondent failed to submit, in a timely manner, to the Board-ordered comprehensive physical, psychiatric and substance abuse evaluation under the direction of Professional Recovery Network. The Respondent has violated Iowa Code section 148.6(2)(i) and 653 IAC 12.3(7).

COUNT II

Iowa Code section 148.6(2)(h)(2001) provides, in relevant part:

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

...

h. Inability to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy with reasonable skill and safety by reason of illness, ...or as a result of a mental or physical condition.

653 IAC 12.4(5) provides that a physician can be disciplined by the board for the inability of the physician to practice medicine and surgery with reasonable skill and safety as a result of a mental or physical condition.

The Respondent now asserts that her initial self-diagnosis of Bipolar Disorder, Type II, was in error, even though the diagnosis was confirmed by several subsequent evaluating psychiatrists. The Respondent denies that she has ever had an episode of hypomania, even though she has previously admitted periods of hypomania alternating with deep depression in a letter to the Board. (State Exhibit 8, Attachment G134) She now believes that what she previously believed to be hypomania was only extreme irritability, caused by her depression. Dr. Logan accepted the Respondent's own assessment and has diagnosed her with Depressive Disorder NOS by History.

Regardless of whether the Respondent's correct diagnosis is in fact Bipolar Disorder, Type II, or Depressive Disorder, the preponderance of the evidence in this record established that the Respondent suffers from a mental condition that has interfered with her ability to practice medicine with reasonable skill and safety. The panel was particularly concerned about the Respondent's lack of remorse and apparent inability to

appreciate the seriousness of her boundary violations. The panel is convinced that the five-day multidisciplinary evaluation at PRN is a more objective and reliable indicator of the Respondent's mental condition and its effect on her ability to practice medicine than the evaluation performed by Dr. Logan. The panel believes that the greater weight of the evidence supports the conclusion that the Respondent's current mental condition has either caused or has significantly contributed to many of the serious problems she has encountered in the practice of psychiatry, including her repeated boundary violations. The panel is convinced that it is necessary to require monitoring of the Respondent's psychiatric practice and to monitor her ongoing psychiatric treatment in order to ensure that she complies with the appropriate standard of care and in order to protect the public.

ORDER

IT IS THEREFORE ORDERED that for the failure to timely comply with the Board-ordered evaluation, the Respondent shall be issued a **CITATION AND WARNING** and shall pay a civil penalty of \$5,000. The civil penalty shall be paid to the Board office within thirty (30) days of the Board's final decision.

IT IS FURTHER ORDERED that the Respondent's Iowa medical license shall be **INDEFINATELY SUSPENDED**, effective immediately when the proposed decision becomes final. The Respondent may seek reinstatement of her Iowa Medical license only upon successful completion of the following terms and conditions. Respondent must:

A. Provide written verification of her successful completion of board-approved professional boundary training.

B. Submit for Board approval the name of a physician who regularly observes and/or supervises Respondent in the practice of medicine to serve as a worksite monitor. The Respondent shall also submit a written practice monitoring plan for Board approval. The worksite monitor shall provide a written statement indicating that he/she has read and understands all Board orders relating to this matter and agrees to serve as the worksite monitor under the terms of this agreement. The worksite monitor shall agree to inform the Board immediately if there is evidence of boundary violations, deficient record keeping, unethical or unprofessional conduct or a violation of the terms of this

Order. The practice monitor(s) shall agree to submit quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

C. Submit to the Board for approval, the name and curriculum vitae of a psychiatrist who will provide Respondent's continued treatment. The Respondent will be required to continue treatment with the Board approved psychiatrist until discharged and approval for discharge is received from the Board. The Respondent shall comply with any recommendations made by the psychiatrist. The Respondent shall meet with the psychiatrist as frequently as recommended by the psychiatrist and approved by the Board. The Respondent shall ensure that the psychiatrist submits quarterly reports to the Board detailing Respondent's attendance and progress in treatment on 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

D. Submit to the Board for approval, the name and curriculum vitae of a therapist who will provide Respondent's continued treatment. The Respondent will continue treatment with the Board approved therapist until discharged and approval for discharge is received from the Board. The Respondent shall comply with any recommendations made by the therapist. The Respondent shall meet with the therapist as frequently as recommended by the therapist and approved by the Board. The Respondent shall ensure that the therapist submits quarterly reports to the Board detailing Respondent's attendance and progress in treatment on 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

Should the Board elect to reinstate Respondent's Iowa medical license after the Respondent has completed the Board approved professional boundary training and has obtained Board approval of her practice monitor, practice monitoring plan, psychiatrist, and therapist, her Iowa medical license will be reinstated and placed on **INDEFINITE PROBATION**, subject to the following terms and conditions:

1. The Respondent shall comply with all of the terms of the Board approved practice monitoring plan and shall ensure that her practice monitor files reports with the

Board on 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

2. The Respondent shall continue in treatment with the Board approved psychiatrist and the Board approved therapist until discharged from treatment with Board approval. The Respondent shall ensure that both her psychiatrist and her therapist file reports with the Board detailing Respondent's attendance and progress in treatment on 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

3. The Respondent is permanently prohibited from self prescribing any medications.

4. The Respondent shall submit quarterly written reports under penalty of perjury to the Board, no later than 1/10, 4/10, 7/10, and 10/10 of each year of probation, verifying her compliance with all of the terms of probation.

5. The Respondent shall make an appearance before the Board annually or upon request. Respondent shall be given notice of the date, time, and location for the appearances.

6. The Respondent shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Iowa.


7. If the Respondent leaves Iowa to reside or practice outside the state, Respondent shall notify the Board in writing of the dates of departure and return.

8. If the Respondent violates or fails to comply with any of the terms or conditions of this Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code chapters 148, 272C, and 653 IAC 12.4.


IT IS FURTHER ORDERED, in accordance with 653 IAC 12.43, that the Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, the Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 12.43(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

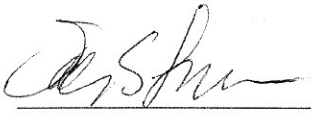
Dated this 24th day of November, 2003.

THE PANEL:


Bruce Hughes, M.D.


Susan Johnson, M.D.


Michael Byrne, Public Member


Sally Schroeder, Public Member

cc: Theresa O'Connell Weeg
Office of the Attorney General
Hoover Building
Des Moines, Iowa 50319

Matthew M. Boles
2910 Grand Avenue
Des Moines, Iowa 50312

The proposed decision of a panel becomes a final decision unless, within 30 days of the date the proposed decision is issued, a notice of appeal is served on the parties by the board itself or a notice of appeal is served, by certified mail or personal service, on the Board's executive director by either party. 653 IAC 12.32(2).

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE) FILE NOS. 02-98-202,02-98-695
STATEMENT OF CHARGES AGAINST) DIA NO. 02DPHMB019
)
)
DEBRA K. RAINEY, M.D.) PROPOSED DECISION
) OF THE PANEL
Respondent)
)

TO: DEBRA K. RAINEY, M.D.

On September 27, 2002, the Iowa Board of Medical Examiners (Board) filed a Statement of Charges against Debra K. Rainey, M.D. (Respondent), charging her with two counts:

COUNT I: Violating a lawful order of the Board, in violation of Iowa Code section 148.6(2)(i) (2001) and 653 IAC 12.3(7) and 12.4(34).

COUNT II: Inability to practice medicine and surgery with reasonable skill and safety as a result of a mental or physical condition, in violation of Iowa Code section 148.6(2)(h) (2001) and 653 IAC 12.4(5).

A Notice of Hearing was issued scheduling a hearing for November 13, 2002. The hearing was continued three times, twice at the Respondent's request. On January 10, 2003, the state filed a Motion to Amend the Statement of Charges. The motion was not resisted and was granted on May 6, 2003. The amendment added two additional factual circumstances to the Statement of Charges.

The hearing was held on August 26, 2003 at 8:30 a.m. in the conference room at the offices of the Board of Medical Examiners, 400 SW 8th Street, Des Moines, Iowa. The hearing was held before a panel of the Board, which included: Bruce Hughes, M.D.; Susan Johnson, M.D.; Michael Byrne and Sally Schroeder, public members. The Respondent appeared for the hearing and was represented by her counsel, Matthew Boles. The state was represented by Theresa O'Connell Weeg, Assistant Attorney General. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1) and 653 IAC 12.26(12). The hearing was recorded by a certified court reporter. Margaret LaMarche,

Administrative Law Judge, assisted the panel in conducting the hearing and was instructed to prepare a written decision for their review, in accordance with their deliberations.

THE RECORD

The record includes the Statement of Charges, Notice of Hearing, Motion to Amend Statement of Charges and Order Granting Motion to Amend, Motions for Continuance, Resistance, Orders Granting Continuance, the testimony of the witnesses, State Exhibits 1-21 and Respondent Exhibits A-VVV (see indexed exhibit lists for description).

FINDINGS OF FACT

Respondent's Licensure, Practice, and Disciplinary History

1. The Respondent graduated from Creighton Medical School in 1986. She was issued license number 27315 to practice medicine and surgery in Iowa on October 3, 1989. License number 27315 is currently valid and will next expire on June 1, 2004.

The Respondent has had a long history of depression. During a psychiatric residency at Creighton Medical School (1987-1989), the Respondent diagnosed herself with Bipolar II disorder and began self-prescribing Lithium and Prozac. She continued to self-prescribe medications until 1993. (Testimony of Respondent; Respondent Exhibit A; State Exhibits 1; 14; 18)

2. The Respondent practiced psychiatry in Casper, Wyoming from 1991-1993. In 1993, the Wyoming Board of Medical Examiners filed a Complaint alleging that the Respondent had a physical or mental disability that could render her practice unsafe. Numerous allegations had been made concerning the Respondent's psychiatric practice in Wyoming, including delinquent charting, falsification of a medical record and lack of coverage; violation of patient boundaries, receiving Prozac for her own use in the name of a former employee, and writing prescriptions for persons who were not patients. On December 16, 1993, the Respondent signed a Consent Decree and Order and agreed to the suspension of her Wyoming medical license. (Testimony of Respondent; State Exhibits 3, 4, 8, Attachment G; Respondent Exhibit A)

On June 16, 1994, the Iowa Board filed formal disciplinary charges against the Respondent, based upon the disciplinary action taken in Wyoming. (State Exhibit 3) On May 1, 1995, the

Respondent entered into an Informal Settlement with the Iowa Board, which placed her Iowa medical license on probation for an indefinite period. The conditions of probation included, but were not limited to: compliance with all the terms and conditions of the Order for Reinstatement issued by the Wyoming Board, supervision of the Respondent's practice in Iowa, and continued treatment with a Board approved psychiatrist or psychologist. (State Exhibit 4) The Wyoming Board discharged the Respondent from its probation on December 4, 1997. (State Exhibit 6, Attachment A-1, A-2)

3. The Respondent was employed as a staff psychiatrist at the Mental Health Institute (MHI) in Cherokee, Iowa from April 1995 through January 31, 1998. Her contract was terminated after she repeatedly failed to comply with standards for medical record keeping. (Exhibit 8, Attachment G, pp. 13,45-51,55,62)

4. The Iowa Board discharged the Respondent from probation on March 12, 1998. (State Exhibit 5) The Respondent currently has unrestricted licenses to practice medicine in Iowa, Wyoming, Idaho, and Maine. (Testimony of Respondent; Respondent Exhibit A)

5. After leaving the Cherokee MHI early in 1998, the Respondent held several different locum tenens positions, including a six-month locum tenens position at the Mental Health Institute (MHI) in Independence, Iowa. In June 1999, the Respondent began working at the Black Hawk/Grundy Mental Health Center in Waterloo, Iowa. The Respondent continued her employment at Black Hawk/Grundy Mental Health Center through January 2002, when she moved back to Wyoming. The Respondent then worked for Correctional Medical Services at Wyoming State Penitentiary in Rawlins, Wyoming from January 2002 through October 2002. She is currently residing in Wyoming and is unemployed. (Testimony of Respondent; Respondent Exhibit A)

The Current Charges

6. After the Respondent left the Cherokee MHI, its Clinical Director filed a complaint with the Iowa Board concerning a possibly inappropriate relationship between the Respondent and one of her former MHI outpatients, JC. (State Exhibit 7)

a. The Cherokee MHI's Clinical Director enclosed a February 21, 1998 newspaper article concerning a new business venture (Risk Management Systems) involving JC, the Respondent, and the Respondent's ex-husband, Steven

Nurse. [The Respondent and Steven Nurse divorced in 1990 but later reconciled and were living together in Cherokee with their two children.] In addition, an MHI staff member reported that JC had been house sitting for the Respondent and that JC still had an open outpatient file at MHI. (State Exhibit 7; Testimony of Respondent; Steven Nurse)

b. A Board investigator interviewed the Respondent after this complaint was filed. The Respondent told the investigator that JC had been a patient 8-9 months earlier and that Steven Nurse started talking to JC about setting up a business in November 1997, before he knew that JC had been the Respondent's patient. The Respondent also admitted that JC babysat for their two children when she and Steven Nurse took a trip to Montana in January 1998. (State Exhibit 7)

c. At the hearing, Steven Nurse explained that he attempted to set up a limited liability corporation between JC's company (Cummins & Associates) and his wife's corporation (Agrimed, Inc.) with the purpose of developing a business to help employers reduce their exposure to worker's compensation claims. The Respondent admitted investing approximately \$6,000 in the new business through her corporation and admitted writing checks to JC for start-up capital. (Testimony of Respondent; Steven Nurse)

7. On May 4, 1998, the Board received a second complaint about the Respondent's practice at Cherokee Mental Health Institute (MHI) from its superintendent, Tom Deiker, Ph.D. Upon receipt of the second complaint, the Board opened a new investigation. (State Exhibit 8)

a. According to the second complaint, another one of the Respondent's patients, VL, complained that the Respondent asked her to go into business with her; that the Respondent deposited money in VL's business account without her knowledge; and that the Respondent hugged her after one of her outpatient visits and invited her for dinner. (State Exhibit 8-A)

b. During the investigation, the Board investigator discovered that the Respondent also took a third patient, RM, and RM's children on a vacation to Colorado. (State Exhibit 8) RM was interviewed by the Board investigator and made a number of serious and disturbing allegations of boundary violations by the Respondent.

c. On April 4, 2000, Dr. Deiker responded to a Board subpoena for documentation relevant to its investigation. Dr. Deiker provided correspondence and a copy of a patient's check which reveal that the staff had concerns that the Respondent may have been separately billing outpatients while she was employed by MHI. In May 1998, the Cherokee MHI received a check for \$717.50 payable to Cherokee MHI and the Respondent, however the patient only had a balance of \$236.59. Upon inquiry, the patient's wife told Cherokee MHI that he had received a separate billing from the Respondent which accounted for the discrepancy in the amount. Cherokee MHI returned the check to the patient and asked that it be rewritten for the amount owed. (State Exhibit 8, Attachment B)

8. The Board's investigator gathered documents, interviewed witnesses, provided the Respondent with an opportunity to respond to the allegations, and prepared an investigative report, which is dated July 31, 2001. (State Exhibit 8)

a. The Respondent admitted to the Board's investigator and to the panel that she had a personal relationship with three former patients, JC, VL, and RM. All three patients were plaintiffs in a lawsuit against their former employer and had been referred to the Respondent by their attorney for psychiatric evaluation and treatment. RM was also a waitress at a restaurant frequented by the Respondent and her family.

The Respondent testified that she did not feel these were boundary violations because they were former patients and because she does not feel that she had done anything that was harmful to them. When asked what she has learned from this experience, the Respondent replied that she would never have any interaction with former patients, no matter how small the town is in which she is practicing. (Testimony of Respondent; Steven Nourse)

b. According to the MHI records, JC had 52 therapy sessions with the Respondent from June 22, 1995 through April 24, 1997. (State Exhibit 8-C) VL had 52 therapy sessions with the Respondent from June 21, 1995 through January 19, 1998. (State Exhibit 8-D) RM had 26 therapy sessions with the Respondent from September 5, 1995 through June 23, 1997. (State Exhibit 8-E)

c. The Respondent admitted giving VL and other patients "therapeutic hugs" even though she knew the policy at MHI was "zero patient contact." (Exhibit 8-J; Testimony of Respondent)

d. The Respondent admitted giving JC and VL unsecured loans for their business, Cummins and Associates, and admitted investing \$6000 in start-up costs for the new business venture. The new business venture never got off the ground, and the Respondent was never repaid. (Exhibit 8, Attachment 8-J; Testimony of Respondent)

e. The Respondent admitted exchanging Christmas gifts with JC and RM at a Christmas dinner at Respondent's home in 1997. She specifically admitted giving JC a ring with an approximate value of \$50. (Exhibit 8-J; Testimony of Respondent)

f. The Respondent admitted loaning RM \$300 to purchase propane for her home; she was never repaid. (Exhibit 8-J; Testimony of Respondent)

g. The Respondent admitted inviting RM and her children to share a condo in Colorado with the Respondent and her family. The Respondent paid for the condo, but denied paying any other expenses of RM's vacation, except for a kayaking and biking activity for RM's children. (Exhibit 8-J; Testimony of Respondent)

h. The Respondent denied moonlighting or separately billing outpatients, denied any breaches of patient confidentiality, denied withholding any patient records, denied any sexual overtures to RM, denied encouraging patients to drink alcohol, and denied soliciting any patient to enter into a business. (Exhibit 8-J; Testimony of Respondent) The panel makes no findings with respect to these allegations.

9. The Board reviewed the investigative report and supporting documentation and referred the file to two board-certified psychiatrists for peer review. James L. Gallagher, M.D., a board-certified psychiatrist and neurologist, authored the December 20, 2001 peer review report.

The peer review report noted that the allegations against the Respondent included serious ethical and boundary violations in addition to allegations of organizational problems and

inappropriate billing and that the Respondent's history of mental health problems may include Bipolar Disorder and/or Depressive Disorder NOS. Based on the information provided, the peer review committee was unable to determine whether the Respondent's numerous professional difficulties were related to her mental illness. Therefore, the committee recommended that the Board require the Respondent to undergo an independent psychiatric medical examination. (State Exhibit 10)

10. On February 12, 2002, the Board issued an Order requiring the Respondent to undergo a comprehensive physical, neuropsychological, and substance abuse evaluation within seven (7) days at Professional Recovery Network, Addictive Disease Medical Consultants, in Waukesha, Wisconsin. PRN is one of four or five providers of evaluation services regularly used by the Board. The multidisciplinary team approach at PRN has an interior component that specializes in evaluating physicians. (Testimony of Deb Anglin; State Exhibit 11)

a. The PRN evaluation was initially scheduled for March 17, 2002, but the Respondent called the Board asking to delay the evaluation so that the Iowa Board could review prior evaluations of the Respondent to determine if they might substitute for an evaluation at PRN. The Board agreed to an extension so that the Respondent could submit documentation from a recent evaluation. (Testimony of Deb Anglin; State Exhibits 19, 19A)

b. As of April 16, 2002, the Respondent had not submitted any information to the Board. On April 16, 2002, the Board notified the Respondent that she must complete the PRN evaluation no later than May 10, 2002. The Respondent had not scheduled the evaluation as of May 10, 2002 and had not provided the Board with any documentation from a recent evaluation. (Testimony of Deb Anglin; State Exhibits 13, 15)

11. On June 26, 2002, the Respondent submitted the following documentation of prior treatment/evaluations, none of which were recent. It appears that the evaluations had been previously submitted to the Montana Board of Medical Examiners.

a. In an undated letter to the Montana Board of Medical Examiners, Dale R. Wassmuth, M.D. briefly summarizes his three-year treatment of the Respondent. Dr. Wassmuth initially evaluated the Respondent on June 28, 1995 at the request of the Cherokee MHI. He notes that his working

diagnosis was Bipolar II disorder and had not changed. In January 1996, Dr. Wassmuth changed the Respondent's medication to Prozac, 60 mg twice a week, at her request. She was also prescribed Inderal for mild anxiety. In February 1996, the Respondent reported that for the first time in many years she did not feel depressed. Dr. Wassmuth never found or suspected that the Respondent was significantly depressed or displaying manic symptoms or other psychiatric symptoms or disorders. He noted no hint of chemical dependency issues. (State Exhibit 14)

b. On January 14, 1999, Robert Caldwell, M.D. assessed the Respondent at the request of the Montana Board and prepared a three page written evaluation. Dr. Caldwell's Axis I diagnosis for the Respondent was Dysthymic disorder, in remission. There was no Axis II diagnosis. He concluded that there was no evidence that the Respondent was impaired due to a mental disorder or chemical dependence and further concluded that there was no evidence of an active diagnosable psychiatric condition at that time. (State Exhibit 14)

c. On January 22, 1999, Paul J. Bach, Ph.D. reported the findings from his psychological testing of the Respondent to the Montana Board. He concluded that the Respondent did not have a diagnosable psychopathological condition at that time and predicted no impact upon her future ability to practice medicine with reasonable safety in Montana. Dr. Bach noted that given the Respondent's past difficulties, it would be prudent for her to continue to seek treatment by a board certified psychiatrist or if judged appropriate, an endocrinologist, rather than a family practice physician. (State Exhibit 14)

The Board did not accept the prior evaluations in lieu of the Board ordered comprehensive evaluation at PRN. Nevertheless, the Respondent did not report to PRN for her evaluation until October 28, 2002, approximately one month after the Board filed a Statement of Charges against her for failure to comply with the Board's Evaluation Order. At the hearing, the Respondent could not provide any satisfactory explanation for her failure to timely comply with the Board's evaluation order. She testified that she was "really busy" and that she did not feel an evaluation was necessary. The Respondent conceded that she should have complied with the Board evaluation order in a timely manner. (Testimony of Respondent; Deb Anglin; States Exhibit 1, 15)

12. The Respondent was evaluated at Professional Recovery Network (PRN) in Waukesha, Wisconsin for five days from October 28 through November 1, 2002. Her diagnoses at discharge were: Axis I: Bipolar Disorder, Type II; Probable Dysthymia; Adjustment Disorder with Anxiety; Rule Out Alcohol Abuse; and Axis II: Borderline Personality Disorder; Histrionic Personality Features.

While at PRN, the Respondent had an addiction evaluation by Michael Goldstone, M.D.; a psychiatric evaluation by Timothy Levenhagen, M.D.; a neuropsychological evaluation by Robert Dries, Ph.D.; and a psychosocial evaluation and milieu monitoring by Charlie Schrauth, CADC III. The multidisciplinary team considered records and information provided by the Board, by the Respondent, and by Jack Coyle, D.O., the medical director at the Wyoming prison where the Respondent had most recently been employed. (State Exhibits 16-18; Respondent Exhibits AA-EEE)

a. Dr. Coyle reported that the Respondent's one-year contract with the Wyoming State Penitentiary was terminated early for a number of reasons, including that she was easily manipulated by inmates and seemed to have boundary issues. Prison security staff and nursing staff had reported physical contact between the Respondent and inmates on several occasions. The Respondent disputed this and testified that the only reason she was given for her contract being terminated at the prison was that the treatment she was providing was too expensive. She felt that Dr. Goldstone's consideration of this information was unfair to her because he did not contact other employees at the prison, he did not give her a chance to respond to the allegations until the last day of her evaluation, and then he told her that she was in denial. The Respondent later denied that she was easily manipulated by inmates and denies putting her arm around them, although she admits that she may have patted their hand. (See Exhibit A, pp. 20-21; YY)

b. In his report, Dr. Levenhagen indicated that he believed that the Respondent was not completely forthcoming during his evaluation. He further noted that the Respondent had an "astounding lack of appreciation for the types of boundary violations that she has done." He concluded that he would have "grave reservations" about the Respondent practicing psychiatry and that if she continues

to practice she should be supervised very closely. (State Exhibit 18)

c. Dr. Goldstone made the following recommendations: use of a psychiatric mentor to help the Respondent develop a practice style that meets current psychiatric standard of care; that the Respondent receive psychotherapy as it pertains to her underlying psychological issues and specifically tying the psychotherapy to her behavior and practice as a psychiatrist; and that the Respondent's psychiatric practice be closely monitored by the Board. While Dr. Goldstone had some concern that the Respondent may have a problem with alcohol, he was not prepared to make a diagnosis regarding alcohol. He recommended abstinence from alcohol, random weekly urine drug screening for 2-5 years, and no self-prescribing of medications. (State Exhibit 16)

13. On March 10, 2003, the Respondent was referred by her attorney for an evaluation by psychiatrist William S. Logan, M.D. in Kansas City, Missouri. Dr. Logan reviewed numerous records that were provided to him and submitted a lengthy report of evaluation, which describes the Respondent's treatment history and which is critical of the PRN evaluation. Dr. Logan provided the following diagnoses for the Respondent: Axis I: Depressive Disorder NOS by History and Axis II: Avoidant Personality Traits. In contrast to the PRN evaluation, Dr. Logan concluded that the Respondent suffers from no psychiatric condition impairing her ability to practice medicine with reasonable skill and safety. (Respondent Exhibit A)

14. At the hearing, the Respondent provided additional records from prior evaluations and treatment.

a. The Respondent was treated by psychiatrist Mark D. Vuolo, M.D. in 1993 and 1994 at the request of the Wyoming Medical Board. Prior to her treatment by Dr. Vuolo, the Respondent had self-diagnosed and self-prescribed medications. After his initial evaluation on May 11, 1993, Dr. Vuolo diagnosed the Respondent with Bipolar Disorder, depressed, in remission, along with probable underlying Dysthemia. He recommended continuation of the regimen of daily Lithium Carbonate, 1500 mg., Prozac, 40 mg. and Synthroid, 0.1 mg. The Lithium and Prozac were discontinued in December 1993 because the Respondent was pregnant, but Lithium was restarted late in her pregnancy

after a recurrence of depression. (Respondent Exhibits B-P)

The Respondent returned to Dr. Vuolo for further treatment on April 1, 2003 and related her treatment history in the interval since 1994 and provided Dr. Logan's evaluation to Dr. Vuolo for his review. On May 24, 2003, Dr. Vuolo revised his diagnosis to Mood Disorder NOS, considering the most likely specific diagnoses of Cyclothymic or Dysthymic Disorder. Dr. Vuolo agreed with Dr. Logan's diagnosis and his assessment of Avoidant Personality Traits. Dr. Vuolo's plan for psychiatric management is Prozac, 60 mg, twice weekly, and supportive psychotherapy in half-hour visits, every six to eight weeks. It was his understanding that the Respondent had also initiated weekly counseling with therapist Barb France in January 2003. (Respondent Exhibits B-O; TTT)

b. The Respondent also submitted additional records from her evaluations by Paul Bach, PhD, Clinical Psychologist/Neuropsychologist. Dr. Bach evaluated the Respondent at the request of the Montana Professional Assistance Program on December 18, 1998 and January 12, 1999. His conclusions are summarized at Finding of Fact 9(c). (Respondent Exhibits Q, R, S; State Exhibit 14)

c. Psychiatrist Elaine Nicola, M.D. evaluated the Respondent on December 22, 1999 at the request of Covenant Hospital. Dr. Nicola concluded that the Respondent's depression appeared well compensated by her 60 mg dose of Prozac. Dr. Nicola did not feel that therapy should be required since the Respondent was practicing successfully and had dealt with the issues that got her into trouble. Her diagnosis was Depression, NOS and possible Dysthymia mild. (Respondent Exhibit W; Testimony of Respondent)

15. The Respondent submitted a letter dated May 22, 2003 from Thomas C. Eachus, ACSW, LISW, BCD, the Executive Director of Black Hawk-Grundy Mental Health Center, Inc. concerning her employment as a staff psychiatrist from June 7, 1999 until January 7, 2002. Mr. Eachus described the Respondent's duties at the Mental Health Center and further stated that she got along well with clients, staff members and agency representatives. He further noted that the needs of her clients were a priority for her but that she experienced problems with completing paperwork according to prescribed standards. (Respondent Exhibit VVV)

16. The Respondent submitted a letter dated May 23, 2003 from H. Frederick Morelock, MS/MSW/LCSW, Mental Health Department, Wyoming State Penitentiary. Mr. Morelock worked with the Respondent at the state penitentiary in 2002. He stated that he witnessed immense improvement in many of their shared patients while the Respondent was on staff and some decompensation of these patients since she left the state penitentiary. Mr. Morelock found the Respondent to be approachable, consistently empathic, and cooperative. He would refer patients to the Respondent if he was in private practice. (Respondent Exhibit UUU)

CONCLUSIONS OF LAW

COUNT I

Iowa Code section 148.6(2)(i)(2001) provides, in relevant part:

148.6 Revocation

1. The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

...

i. ...violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing...

653 IAC 12.3(7) provides:

12.3(7) Failure to submit. Failure of a physician to submit to a board-ordered mental or physical examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

Accord, 653 IAC 12.4(34).

The Board is authorized to order physical and mental examinations of a licensee upon probable cause. Iowa Code section 148.6(2)(h)(2001); 653 IAC 12.3. The Respondent admits and the preponderance of the evidence established that the Respondent failed to submit, in a timely manner, to the Board-ordered comprehensive physical, psychiatric and substance abuse evaluation under the direction of Professional Recovery Network. The Respondent has violated Iowa Code section 148.6(2)(i) and 653 IAC 12.3(7).

COUNT II

Iowa Code section 148.6(2)(h)(2001) provides, in relevant part:

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

...

h. Inability to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy with reasonable skill and safety by reason of illness, ...or as a result of a mental or physical condition.

653 IAC 12.4(5) provides that a physician can be disciplined by the board for the inability of the physician to practice medicine and surgery with reasonable skill and safety as a result of a mental or physical condition.

The Respondent now asserts that her initial self-diagnosis of Bipolar Disorder, Type II, was in error, even though the diagnosis was confirmed by several subsequent evaluating psychiatrists. The Respondent denies that she has ever had an episode of hypomania, even though she has previously admitted periods of hypomania alternating with deep depression in a letter to the Board. (State Exhibit 8, Attachment G134) She now believes that what she previously believed to be hypomania was only extreme irritability, caused by her depression. Dr. Logan accepted the Respondent's own assessment and has diagnosed her with Depressive Disorder NOS by History.

Regardless of whether the Respondent's correct diagnosis is in fact Bipolar Disorder, Type II, or Depressive Disorder, the preponderance of the evidence in this record established that the Respondent suffers from a mental condition that has interfered with her ability to practice medicine with reasonable skill and safety. The panel was particularly concerned about the Respondent's lack of remorse and apparent inability to

appreciate the seriousness of her boundary violations. The panel is convinced that the five-day multidisciplinary evaluation at PRN is a more objective and reliable indicator of the Respondent's mental condition and its effect on her ability to practice medicine than the evaluation performed by Dr. Logan. The panel believes that the greater weight of the evidence supports the conclusion that the Respondent's current mental condition has either caused or has significantly contributed to many of the serious problems she has encountered in the practice of psychiatry, including her repeated boundary violations. The panel is convinced that it is necessary to require monitoring of the Respondent's psychiatric practice and to monitor her ongoing psychiatric treatment in order to ensure that she complies with the appropriate standard of care and in order to protect the public.

ORDER

IT IS THEREFORE ORDERED that for the failure to timely comply with the Board-ordered evaluation, the Respondent shall be issued a **CITATION AND WARNING** and shall pay a civil penalty of \$5,000. The civil penalty shall be paid to the Board office within thirty (30) days of the Board's final decision.

IT IS FURTHER ORDERED that the Respondent's Iowa medical license shall be **INDEFINATELY SUSPENDED**, effective immediately when the proposed decision becomes final. The Respondent may seek reinstatement of her Iowa Medical license only upon successful completion of the following terms and conditions. Respondent must:

A. Provide written verification of her successful completion of board-approved professional boundary training.

B. Submit for Board approval the name of a physician who regularly observes and/or supervises Respondent in the practice of medicine to serve as a worksite monitor. The Respondent shall also submit a written practice monitoring plan for Board approval. The worksite monitor shall provide a written statement indicating that he/she has read and understands all Board orders relating to this matter and agrees to serve as the worksite monitor under the terms of this agreement. The worksite monitor shall agree to inform the Board immediately if there is evidence of boundary violations, deficient record keeping, unethical or unprofessional conduct or a violation of the terms of this

Order. The practice monitor(s) shall agree to submit quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

C. Submit to the Board for approval, the name and curriculum vitae of a psychiatrist who will provide Respondent's continued treatment. The Respondent will be required to continue treatment with the Board approved psychiatrist until discharged and approval for discharge is received from the Board. The Respondent shall comply with any recommendations made by the psychiatrist. The Respondent shall meet with the psychiatrist as frequently as recommended by the psychiatrist and approved by the Board. The Respondent shall ensure that the psychiatrist submits quarterly reports to the Board detailing Respondent's attendance and progress in treatment on 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

D. Submit to the Board for approval, the name and curriculum vitae of a therapist who will provide Respondent's continued treatment. The Respondent will continue treatment with the Board approved therapist until discharged and approval for discharge is received from the Board. The Respondent shall comply with any recommendations made by the therapist. The Respondent shall meet with the therapist as frequently as recommended by the therapist and approved by the Board. The Respondent shall ensure that the therapist submits quarterly reports to the Board detailing Respondent's attendance and progress in treatment on 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

Should the Board elect to reinstate Respondent's Iowa medical license after the Respondent has completed the Board approved professional boundary training and has obtained Board approval of her practice monitor, practice monitoring plan, psychiatrist, and therapist, her Iowa medical license will be reinstated and placed on **INDEFINITE PROBATION**, subject to the following terms and conditions:

1. The Respondent shall comply with all of the terms of the Board approved practice monitoring plan and shall ensure that her practice monitor files reports with the

Board on 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

2. The Respondent shall continue in treatment with the Board approved psychiatrist and the Board approved therapist until discharged from treatment with Board approval. The Respondent shall ensure that both her psychiatrist and her therapist file reports with the Board detailing Respondent's attendance and progress in treatment on 1/20, 4/20, 7/20, and 10/20 of each year of Respondent's probation.

3. The Respondent is permanently prohibited from self-prescribing any medications.

4. The Respondent shall submit quarterly written reports under penalty of perjury to the Board, no later than 1/10, 4/10, 7/10, and 10/10 of each year of probation, verifying her compliance with all of the terms of probation.

5. The Respondent shall make an appearance before the Board annually or upon request. Respondent shall be given notice of the date, time, and location for the appearances.

6. The Respondent shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Iowa.

7. If the Respondent leaves Iowa to reside or practice outside the state, Respondent shall notify the Board in writing of the dates of departure and return.

8. If the Respondent violates or fails to comply with any of the terms or conditions of this Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code chapters 148, 272C, and 653 IAC 12.4.

IT IS FURTHER ORDERED, in accordance with 653 IAC 12.43, that the Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, the Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 12.43(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

Dated this 24th day of November, 2003.

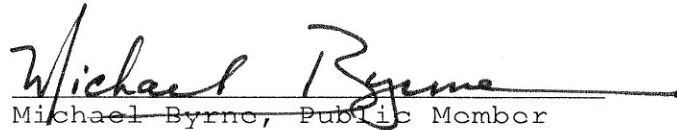
THE PANEL:




Bruce Hughes, M.D.



Susan Johnson, M.D.



Michael Byrne, Public Member



Sally Schroeder, Public Member

cc: Theresa O'Connell Weeg
Office of the Attorney General
Hoover Building
Des Moines, Iowa 50319

Matthew M. Boles
2910 Grand Avenue
Des Moines, Iowa 50312

The proposed decision of a panel becomes a final decision unless, within 30 days of the date the proposed decision is issued, a notice of appeal is served on the parties by the board itself or a notice of appeal is served, by certified mail or personal service, on the Board's executive director by either party. 653 IAC 12.32(2).

BEFORE THE IOWA STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF: DEBRA K. RAINEY, M.D. Respondent.	DIA # 02DPHMB019 ORDER GRANTING APPLICATION FOR CONTINUANCE AND SETTING SCHEDULING CONFERENCE
---	---

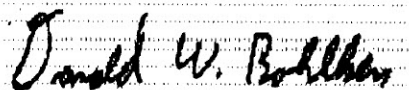
1. The respondent filed an application for continuance with the Iowa Board of Medical Examiners on May 13, 2003. On May 16, 2003, the State of Iowa filed a resistance to the application. On May 19, 2003, the undersigned received a copy of the resistance. The case is currently scheduled for hearing on May 29, 2003.

2. The respondent's application is granted solely for the reasons stated in paragraphs number 2 and 5 of the application. Respondent's counsel is cautioned that, barring unusual or extreme circumstances, it is doubtful that further requests for continuance from it shall be granted.

3. A telephone scheduling conference is set for June 4, 2003 at 3:00 p.m. so that the scheduling of this case may be coordinated between opposing counsel.

IT IS SO ORDERED:

Dated this 21st day of May 2003.



DONALD W. BOHLKEN
Administrative Law Judge
Department of Inspections and Appeals
3rd Floor, Lucas Bldg.
Des Moines, Iowa 50319-0083
515-281-8469
FAX: 515-281-4477

Copies to:

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF)	DIA NO: 02DPHMB019
THE STATEMENT OF CHARGES)	CASE NO: 02-98-202, 02-99-695
AGAINST:)	
)	ORDER GRANTING MOTION TO AMEND
DEBRA K. RAINEY, M.D.)	STATEMENT OF CHARGES
)	
Respondent)	

On September 27, 2002, the Iowa Board of Medical Examiners (Board) found probable cause to file a Statement of Charges against Debra K. Rainey, M.D. (Respondent). The Statement of Charges included two counts: violating a lawful order of the Board, in violation of Iowa Code section 148.6(2)(i) and 653 IAC 12.3(7) and 112.4(34)[Count I]; and inability to practice medicine and surgery with reasonable skill and safety as a result of a mental or physical condition, in violation of Iowa Code section 148.6(2)(h) and 653 IAC 12.4(5)[Count II]. A hearing was originally scheduled for November 13, 2002, but was later continued by the Board.

On January 10, 2003, the state of Iowa filed a Motion to Amend the Statement of Charges. Through its motion, the state sought to add new paragraphs 15 and 16 to the factual Circumstances. These new paragraphs would provide:

15. Respondent submitted to the Board-ordered evaluation on October 27, 2002.

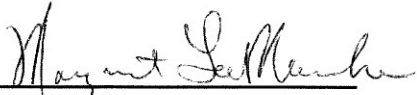
16. The Board has received information indicating Respondent suffers from a mental condition.

A second hearing date of February 5, 2003 was continued at the request of the Respondent's attorney. The Respondent did not file a resistance to the Motion to Amend. The hearing is now scheduled for May 29, 2003 at 12:30 p.m. On May 6, 2003, the Board delegated ruling on the pending motion to amend to the undersigned administrative law judge.

The state provides good cause for allowing these two amendments to the factual circumstances underlying the counts. The Respondent has apparently been aware of these factual circumstances since November 1, 2002 and of the Motion to Amend since prior to the previously scheduled hearing date and has not resisted the motion.

IT IS THEREFORE ORDERED, that the state's Motion to Amend Statement of Charges is hereby GRANTED.

Dated this 6th day of May, 2003.



Margaret LaMarche
Margaret LaMarche
Administrative Law Judge
Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Lucas State Office Building-Third Floor
Des Moines, Iowa 50319
(515)274-3867

For the Iowa Board of Medical Examiners

cc: Theresa O'Connell Weeg
Assistant Attorney General
Hoover State Office Building-2nd Floor
(LOCAL)
and by FAX: 281-7551

Matthew M. Boles
Tammy Westhoff
2910 Grand Avenue
Des Moines, Iowa 50312
and by FAX: 284-1704

Kent Nebel
Director of Legal Compliance
Iowa Board of Medical Examiners
400 SW 8th St, Suite C
(LOCAL)
and by FAX: 281-8641

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

DEBRA K. RAINEY, M.D., RESPONDENT

File Nos. 02-98-202 & 02-99-695

.....

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medical Examiners (the Board), on September 27, 2002, and files this Statement of Charges against Debra K. Rainey, M.D., (Respondent), a physician licensed pursuant to Chapter 147 of the 2001 Code of Iowa and alleges:

1. Respondent was issued license number 27315 to practice medicine and surgery in Iowa on October 3, 1989.
2. Respondent's Iowa medical license is valid and will next expire on June 1, 2004.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged pursuant to section 148.6(2)(i) of the Code of Iowa (2001) and 653 IAC 12.3(7) and 12.4(34) with violating a lawful order of the Board.

COUNT II

5. Respondent is charged under Iowa Code section 148.6(2) (h) (2001) and 653 Iowa Administrative Code section 12.4(5) with the inability to practice medicine and surgery with reasonable skill and safety as a result of a mental or physical condition.

CIRCUMSTANCES

6. On or about July 7, 1993, the Wyoming Board of Medicine filed a Complaint alleging Respondent suffered from a mental or physical condition which impaired her ability to practice medicine in a safe manner.

7. On or about December 16, 1993, Respondent and the Wyoming Board of Medicine entered into a Consent Decree immediately suspending Respondent's Wyoming medical license based on evidence Respondent suffered from a mental or physical condition which impaired her ability to practice medicine in a safe manner.

8. On or about July 16, 1994, the Iowa Board of Medical Examiners filed charges against Respondent's Iowa medical license based on the action taken by the Wyoming Board of Medicine.

9. On or about March 15, 1995, Respondent and Wyoming Board of Medicine entered into an Order of Reinstatement of Physician's License with Conditions reinstating Respondent's Wyoming medical license under certain terms and conditions due to concerns Respondent suffered from a mental condition which impaired her ability to practice medicine in a safe manner.

10. On or about May 1, 1995, Respondent and the Iowa Board of Medical Examiners entered into an Informal Settlement placing Respondent's Iowa medical license on indefinite probation under certain terms and conditions due to concerns that Respondent suffered from a mental condition which impaired her ability to practice medicine with reasonable skill and safety.

11. On or about March 12, 1998, the Iowa Board of Medical Examiners filed an Order terminating the indefinite probation placed on Respondent's Iowa medical license.

12. On or about February 6, 2002, the Iowa Board of Medical Examiners reviewed investigative material, including a peer review report, provided by an Iowa licensed physician, board-certified in psychiatry and neurology, which raises serious concerns that Respondent may suffer from a mental condition which impairs her ability to practice medicine with reasonable skill and safety and recommends that Respondent successfully complete a comprehensive psychiatric evaluation.

13. On January 16, 2002, pursuant to the provisions of 148.6(2)h of the 2001 Code of Iowa, the Board ordered Respondent to complete a comprehensive physical, psychiatric and substance abuse evaluation under the direction of Professional Recovery Network, Addictive Disease Medical Consultants (PRN), 2422 N. Grandview Boulevard, Waukesha, Wisconsin, within thirty (30) days of the date of the Order.

14. Respondent failed to complete the comprehensive physical, psychiatric and substance abuse evaluation in violation of the Evaluation Order dated January 16, 2002.

On this the 27th day of September, 2002, the Iowa Board of Medical Examiners finds
cause to file this Statement of Charges.

Dale R. Holdiman MD

Dale R. Holdiman, M.D., Chairperson
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

**BEFORE THE BOARD OF MEDICAL EXAMINERS
STATE OF IOWA**

IN THE MATTER OF THE COMPLAINT AND STATEMENT OF CHARGES AGAINST

DEBRA K. RAINEY, M.D., RESPONDENT

PO-94-009

TERMINATION ORDER

NOW ON March 12, 19 98 BE IT REMEMBERED:

1. That on May 1, 1995, an Order was issued by the Iowa State Board of Medical Examiners (the Board), placing the license to practice medicine and surgery, number 27315 issued to Debra K. Rainey, M.D. (the Respondent), on October 3, 1989, on probation under certain terms and conditions; and,

2. That on February 17, 1998, the Respondent filed an application with the Board seeking termination of her probation; and,

3. That on March 12, 1998, the Board considered the Respondent's application and voted to authorize the termination of the probation placed upon the Respondent's license to practice medicine and surgery.

THEREFORE IT IS ORDERED:

That the probation placed upon the Respondent's license to practice medicine and surgery is terminated, and the license is returned to its full privileges free and clear of all restrictions.

Teresa Mock MO
Teresa A. Mock, M.D., Chairperson
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, Iowa 50319-0180

**BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA**

IN THE MATTER OF THE COMPLAINT *
AND STATEMENT OF CHARGES AGAINST * **INFORMAL SETTLEMENT**
DEBRA K. RAINEY, MD, *
RESPONDENT * **02-94-009**

COMES NOW the Iowa Board of Medical Examiners (hereafter the Board) and Debra K. Rainey, MD (hereafter the Respondent), and pursuant to Iowa Code sections 17A.10 and 272C.3(4), enter into the following Informal Settlement of the contested case currently on file against the Respondent:

- 1) The Respondent was issued license number 27315 to practice medicine and surgery in Iowa on October 3, 1989.
- 2) A Complaint and Statement of Charges was filed against the Respondent on June 16, 1994.
- 3) The Board has jurisdiction of the parties and subject matter of the Complaint and Statement of Charges.
- 4) The Respondent admits the allegations contained in the Complaint and Statement of Charges.
- 5) Upon the Board's approval of this Informal Settlement, the Respondent's medical license shall be on probation for an indefinite period of time under the following terms and conditions:
 - A) The Respondent shall comply with all the terms and conditions of the ORDER OF REINSTATEMENT OF PHYSICIAN'S LICENSE WITH CONDITIONS, which the Respondent entered into with the Wyoming

INFORMAL SETTLEMENT
Debra K. Rainey, MD
02-94-009

Board of Medicine on or about March 15, 1995. A copy of the order is attached as Exhibit A.

B) The Respondent's practice in Iowa shall be supervised by another duly licensed, Board approved, practicing physician.

1) Prior to beginning practice in Iowa, the Respondent shall submit to the Board the names and curriculum vitae of three licensed physicians practicing in Iowa. The Board may approve one of the three to supervise the Respondent's practice under the terms of this Informal Settlement. As a condition of approval the physicians must agree to provide reports to the Board, quarterly and upon request, detailing the Respondent's practice performance. The quarterly reports shall be submitted to the Board by the approved supervising physician not later than January 15, April 15, July 15 and October 15 of each year of the Respondent's probation.

2) The Respondent shall provide a copy of this Informal Settlement to the physician approved by the Board to supervise her practice.

C) The Respondent shall continue treatment by a licensed psychiatrist or psychologist approved by the Board. The Respondent's treatment shall continue until the Respondent is discharged from treatment by the Board approved psychiatrist or psychologist and until the discharge is approved by the Board.

1) Prior to beginning practice in Iowa, the Respondent shall submit to the Board the names and curriculum vitae of three licensed psychiatrists or psychologists practicing in Iowa. The Board may approve one of the three to supervise the Respondent's continued treatment. As a condition of approval the psychiatrists or psychologists must agree to provide reports to the Board detailing the Respondent's treatment progress quarterly and upon request. The reports shall be provided to the Board by the approved psychiatrist or psychologist not later than January 15, April 15, July 15 and October 15 of each year of the Respondent's probation.

INFORMAL SETTLEMENT
Debra K. Rainey, MD
02-94-009

2) The Respondent shall provide a copy of this Informal Settlement to the Board approved treating psychiatrist or psychologist.

D) The Respondent shall submit reports to the Board quarterly and upon request attesting to her compliance with all the terms and conditions of this Informal Settlement.

E) The Respondent shall make appearances before the Board or a committee of the Board annually or upon request. The Respondent shall be provided notification of the times, dates and locations of the appearances.

F) The Respondent shall obey all federal, state and local laws and all rules governing the practice of medicine in Iowa.

G) The Respondent shall not petition the Board for termination of probation until the conditions placed upon her Wyoming medical license have been removed. However, removal of the conditions imposed upon the Respondent's Wyoming medical license shall not obligate the Board to terminate the probation on her Iowa medical license.

6. During the period of probation the Respondent shall not be eligible to supervise physician assistants.

7. In the event the Respondent leaves Iowa to reside or practice outside the state, the Respondent shall notify the Board in writing of the dates of departure and return. Periods of residence or practice outside Iowa shall not apply to the duration of this Informal Settlement.

8. If the Respondent violates or fails to comply with any of the terms or conditions of this Informal Settlement, the Board may initiate appropriate action to revoke or suspend the Respondent's license or to impose other licensee discipline as authorized in Iowa Code Chapters 272C and 148 and 653 IAC 12.2.

INFORMAL SETTLEMENT
Debra K. Rainey, MD
02-94-009

9. Upon full compliance with the terms and conditions set forth in this Informal Settlement and upon further order of the Board, the Respondent's license shall be restored to its full privileges free and clear of the terms of probation.

10. This Informal Settlement is subject to approval by the Board. If the Board fails to approve this Informal Settlement it shall be of no force or effect upon either party.

11. The Board's approval of this Informal Settlement shall constitute a **FINAL ORDER OF THE BOARD.**

This Informal Settlement is voluntarily submitted to the Board for approval on April 19, 1995.

Debra K. Rainey MD
Debra K. Rainey, MD, Respondent

Sworn and subscribed to before me by Debra K. Rainey, MD, on April 19, 1995.

Doris J. Houtable
Notary Public State of Wyoming



This Informal Settlement is approved by the Board on May 1, 1995.

James D. Collins, Jr. MD
James D. Collins, Jr., MD, Chairperson
Iowa Board of Medical Examiners

**BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA**

IN THE MATTER OF THE COMPLAINT	*	
AND STATEMENT OF CHARGES AGAINST	*	COMPLAINT AND STATEMENT
DEBRA K. RAINEY, MD,	*	OF CHARGES
RESPONDENT	*	02-94-009

COMES NOW Ann M. Martino, PhD, Executive Director of the Iowa Board of Medical Examiners (hereafter the Board), on June 16, 1994 and at the direction of the Board, files this Complaint and Statement of Charges against Debra K. Rainey, MD (hereafter the Respondent), a physician licensed pursuant to Chapter 147 of the Code of Iowa and alleges:

1. That James D. Collins, Jr., MD, Chairperson; George G. Spellman, Sr., MD, Vice Chairperson; Laura Stensrud, Secretary; Edra Broich; James Caterine, MD; Eddie D. DeHaan, MD; Mary C. Hodges; Donna M. Norman, DO; Theresa A. Mock, MD; and Roger F. Senty, DO, are the duly appointed and qualified officers and members of the Board.

2. That the Respondent was issued license number 27315 to practice medicine and surgery in the State of Iowa on October 3, 1989, as recorded in the permanent records in the office of the Board.

3. That the Respondent's license is current and will next expire on June 1, 1994.

4. That on or about July 7, 1993, a Complaint was filed before the Wyoming Board of Medicine, the medical licensing authority for the state of Wyoming, alleging that the Respondent may possess a physical or mental disability which could render her practice of medicine to be unsafe. The said Complaint was referred to an examination committee by the Board.

COMPLAINT AND STATEMENT OF CHARGES

Debra K. Rainey, MD

5. That on or about November 22, 1993, at the recommendation of the examination committee, the above referenced Complaint was remanded for proceeding as a disciplinary action. An Amended Complaint was filed before the Board on December 3, 1993.

6. That on or about December 16, 1993, the Respondent signed a Consent Decree and Order the provisions of which immediately became binding on her. The terms of the said Consent Decree and Order included a provision which suspended the Respondent's license to practice medicine in Wyoming.

7. That the Board is authorized to take disciplinary action against the Respondent pursuant to the provisions of sections 148.6(1), 148.6(2), and 148.6(2)d of the 1993 Code of Iowa, which state in whole or in part:

148.6(1) - The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection.

148.6(2) - Pursuant to this section, the Board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

148.6(2)d - Having the license to practice medicine and surgery ... revoked or suspended ... by a licensing authority of another state ...

8. That the Board is authorized to take disciplinary action against the Respondent pursuant to the provisions of 653 IAC 12.4 and 12.4(28) which state in whole or in part:

653-12.4 - Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2, including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

653-12.4(28)- Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections ... 148.6.

COMPLAINT AND STATEMENT OF CHARGES

Debra K. Rainey, MD

9. That paragraphs 7 and 8 constitute grounds for the Board to revoke, suspend or otherwise discipline the license to practice medicine and surgery issued to the Respondent on October 3, 1989.

WHEREFORE the undersigned charges that the Respondent is subject to disciplinary action pursuant to the provisions of sections 148.6(1), 148.6(2) and 148.6(2)d of the 1993 Code of Iowa, and 653 IAC 12.4 and 12.4(28). The undersigned prays that the Board enter an order fixing a time and place of hearing for the Complaint and Statement of Charges. The undersigned further prays that upon final hearing, the Board enter its findings of fact and decision to revoke, suspend or otherwise discipline the license to practice medicine and surgery issued to the Respondent on October 3, 1989 and for such other relief as the Board deems just in the premises.

IOWA STATE BOARD OF MEDICAL EXAMINERS



ANN M. MARTINO, PhD
Executive Director
1209 East Court Avenue
Des Moines, IA 50319-0180
Telephone: (515) 281-5171