

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

RICHARD P. MICHAELSON, M.D., RESPONDENT

FILE NO. 02-07-431

**STATEMENT OF CHARGES and SETTLEMENT AGREEMENT
(combined)**

COMES NOW the Iowa Board of Medicine (the Board), and
Richard P. Michaelson, M.D. (Respondent), on April 2, 2008, and pursuant
to Iowa Code sections 17A.10(2) and 272C.3(4)(2007), enter into this combined
Statement of Charges and Settlement Agreement.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 29914 on May 25, 1994.
2. Respondent's Iowa medical license is active and will next expire on June 1, 2009.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.
4. Respondent is a psychiatrist who practices in Muscatine, Iowa.

5. **STATEMENT OF CHARGES:** On July 18, 2007, the Board filed formal disciplinary charges against Respondent for violating the terms of a Physician Health Contract that he entered into with the Iowa Physician Health Program (IPHP).

6. **SETTLEMENT AGREEMENT:** On December 12, 2007, Respondent entered into a Settlement Agreement with the Board (Board Order) to resolve the pending disciplinary charges. Under the terms of the Settlement Agreement, Respondent was placed on indefinite probation subject to certain terms and conditions.

COUNT I

7. Respondent is charged pursuant to Iowa Code section 148.6(2)(i) and 653 IAC 23.1(11) with violating a lawful order of the Board.

COUNT II

8. Respondent is charged pursuant to Iowa Code sections 147.55(4) and 272C.10(4) and 653 IAC 23.1(6) with substance abuse, or the habitual intoxication or addiction to the use of drugs or alcohol.

CIRCUMSTANCES

9. The Board alleges that Respondent violated the terms and conditions of the Board Order when he:

- A. Failed to establish a Board monitoring program;
- B. Consumed alcohol;
- C. Failed to fully comply with the Board's drug screening program;
- D. Failed to demonstrate that he attended at least twelve (12) Board-approved aftercare meetings monthly;

- E. Failed to demonstrate that he attended Board-approved substance abuse counseling;
 - F. Failed to demonstrate that he attended Board-approved mental health counseling;
 - G. Failed to submit a worksite monitor to the Board for approval;
 - H. Failed to file quarterly reports with the Board;
 - I. Failed to pay his quarterly monitoring fee to the Board; and
 - J. Failed to pay a \$2,500 civil penalty.
11. The Board alleges that Respondent tested positive for alcohol on March 13, 2008.

SETTLEMENT AGREEMENT

12. **INDEFINITE SUSPENSION:** Respondent's Iowa medical license shall be **indefinitely suspended** upon the date of this Order. During the period of suspension, Respondent shall not engage in any aspect of the practice medicine under his Iowa medical license. The Board will not consider reinstatement of Respondent's Iowa medical license until Respondent has successfully completed substance abuse treatment at a Board-approved treatment program and he demonstrates that it is safe for him to return to the practice of medicine.

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

14. Respondent voluntarily submits this Order to the Board for consideration.

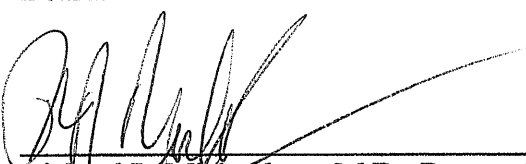
15. This Order constitutes the resolution of a contested case proceeding.

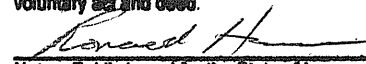
16. In the event Respondent violates or fails to comply with any of the terms of this Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code chapters 148 and 272C and 653 IAC 25.

17. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges, and waives any objections to the terms of this Settlement Agreement.

18. This Order is subject to approval of the Board. If the Board fails to approve this Order, it shall be of no force or effect to either party.

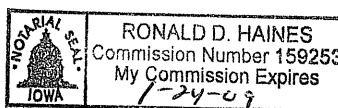
19. The Board's approval of this Order shall constitute a **Final Order** of the Board.


Richard P. Michaelson, M.D., Respondent

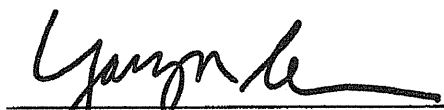
STATE OF IOWA, Johnson County, ss:
On this 24 day of March, A.D. 2008, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Richard P. Michaelson to me known to be the identical person(s) named in and who executed the within and foregoing instrument, to which this is affixed, and acknowledged that he (she) executed the same as their voluntary act and deed.

Notary Public in and for the State of Iowa

Subscribed and sworn to before me on 24th March, 2008.

Notary Public, State of Iowa



This Order is approved by the Board on April 2, 2008.


Yasyn Lee, M.D., Chairperson
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

RICHARD P. MICHAELSON, M.D., RESPONDENT

FILE NO. 02-07-431

SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (Board), and Richard P. Michaelson, M.D., (Respondent), and on December 12, 2007, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4)(2007), enter into this Settlement Agreement to resolve the contested case currently on file.

1. Respondent was issued Iowa medical license no. 29914 on May 25, 1994.
2. Respondent's Iowa medical license is active and will next expire on June 1, 2009.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.

CIRCUMSTANCES

4. Respondent is a psychiatrist who practices in Muscatine, Iowa.
5. On August 11, 2006, Respondent entered into a Physician Health Contract with the Iowa Physician Health Program (IPHP) due to alcohol dependence. Under the terms of the Physician Health Contract, Respondent agreed to fully comply with numerous monitoring requirements, including, but not limited to, the following:

- A. Respondent agreed to fully comply with the IPHP drug screening program;
- B. Respondent agreed to ensure that quarterly reports are submitted to the IPHP verifying his compliance with the terms of the Physician Health Contract; and
- C. Respondent agreed to fully comply with all restrictions on his license to practice medicine that the IPHP deems appropriate;

6. On January 31, 2007, the IPHP referred Respondent to the Board for consideration after the IPHP concluded that Respondent violated the terms of his Physician Health Contract, including the following:

- A. Respondent failed to ensure that all necessary quarterly reports were submitted to the IPHP to verify that he has fully complied with his Physician Health Contract; and
- B. Respondent failed to fully comply with the IPHP drug screening program.

The IPHP recommended that Respondent continue under the monitoring of the IPHP and the Board agreed.

7. On June 12, 2007, the IPHP referred Respondent to the Board for consideration after the IPHP concluded that Respondent again violated the terms of his Physician Health Contract when he returned to the practice of medicine without prior approval from the IPHP. Under Iowa law and Board rules, Respondent is subject to formal disciplinary charges.

8. On July 18, 2007, the Board filed formal disciplinary charges against Respondent for violating the terms of his Physician Health Contract when he returned to the practice of medicine without prior approval from the IPHP.

SETTLEMENT AGREEMENT

9. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating the terms of his Physician Health Contract when he returned to the practice of medicine without prior approval from the IPHP. Respondent is hereby **WARNED** that engaging in such conduct in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

10. **CIVIL PENALTY:** Within twenty days of the date of the Order, Respondent shall pay a civil penalty in the amount of **\$2,500**. The civil penalty shall be made payable to the Treasurer of Iowa and mailed to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

11. **INDEFINITE PROBATION:** Respondent shall be placed on **indefinite probation** subject to the following terms and conditions:

- A. **Board Monitoring Program:** Respondent shall contact Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph. #515-281-3654, to establish a monitoring program. Respondent shall fully comply with all requirements of the monitoring program.
- B. **Alcohol Prohibition:** Respondent shall not consume alcohol.
- C. **Controlled or Prescription Drug Restriction:** Respondent shall not use any controlled or prescription drug in any form unless the controlled or prescription drug has been prescribed for Respondent's use by another duly licensed treating physician or other qualified treating health care provider. Respondent shall provide the Board written notice within 72 hours of the use of any controlled or

prescription drug. Respondent shall inform any treating physician or other treating health care provider of his history of alcohol dependence prior to receiving any prescription drug.

- D. **Drug Screening Program:** Respondent shall continue to submit to the Board's drug screening program. Respondent shall provide random blood or urine specimens when required. Respondent agrees to comply with all requirements of the drug-screening program. Respondent shall also provide random blood or urine specimens on demand by an agent of the Board. The specimens shall be used for drug and alcohol screening, all costs of which shall be paid by Respondent.
- E. **AA/NA Meetings:** Respondent shall attend at least twelve (12) Board-approved aftercare meetings (Alcoholics Anonymous or Narcotics Anonymous) monthly. Only one meeting per week may be a meeting for professionals. Respondent shall obtain a sponsor and have at least weekly contact with this individual. Respondent shall append to each quarterly report referred to below, statements signed or initiated by another person in attendance at the meetings attesting to the Respondent's attendance. The statement shall include the date, time, and location of the meetings attended.
- F. **Substance Abuse Counseling:** Respondent shall submit to the Board for approval the name and CV of a physician or counselor to provide ongoing substance abuse counseling.

- (1) The counselor shall submit written 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 this Order.
- (2) Respondent shall continue with counseling until discharged by the Board-approved counselor and until Respondent's discharge from counseling is approved by the Board.
- (3) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board. All costs associated with the counseling shall be the responsibility of Respondent.

G. **Mental Health Counseling:** Respondent shall submit to the Board for approval the name and CV of a counselor to provide ongoing mental health counseling.

- (1) The counselor shall submit written 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 this Order.
- (2) Respondent shall continue with counseling until discharged by the Board-approved counselor and until Respondent's discharge from counseling is approved by the Board.
- (3) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board. All costs associated with the counseling shall be the responsibility of Respondent.

- H. **Worksite Monitor:** Respondent shall submit for Board approval the name of a physician who regularly observes Respondent in the practice of medicine to serve as worksite monitor. The Board shall share a copy of all Board orders relating to this matter with the worksite monitor. The worksite monitor shall provide a written statement indicating that the monitor has read and understands all Board orders relating to this matter and agrees to act 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 substance abuse or a violation of this Order. The monitor 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.
- I. **Quarterly Reports:** Respondent shall file sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions of this Settlement Agreement. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of the Respondent's probation.
- J. **Board Appearances:** Respondent shall make appearances before the Board or a Board committee annually or upon request. Respondent shall be given reasonable notice of the date, time and location for the appearances. Said appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(d).
- K. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with each quarterly

report from Respondent required by this Order. The monitoring fee shall be sent to: Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medicine. The Monitoring Fee shall be considered repayment receipts as defined in Iowa Code section 8.2.C.

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

13. In the event 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 and 272 and 653 IAC 25.

14. Periods of residence or practice outside the state of Iowa will not apply to the duration of this Order.

15. This Order constitutes the resolution of a contested case proceeding.

16. This Order is voluntarily submitted by Respondent to the Board for consideration.

17. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges and waives any objections to the terms of this Settlement Agreement.

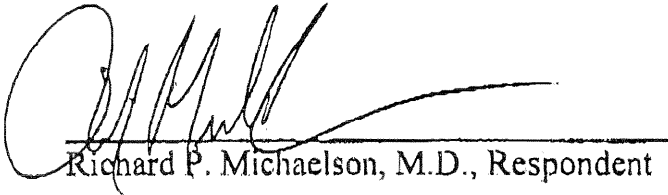
18. This Order is subject to approval by the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

19. The Board's approval of this Order shall constitute a **Final Order** of the Board.

19. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges and waives any objections to the terms of this Settlement Agreement.

20. This Order is subject to approval by the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.


21. The Board's approval of this Order shall constitute a **Final Order** of the Board.


Richard P. Michaelson, M.D., Respondent

Subscribed and sworn to before me on 11-5-07, 2007.

Notary Public, State of _____.

This Order is approved by the Board on December 12, 2007.


Yasyh Lee, M.D., Chair
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE BOARD OF MEDICINE OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

RICHARD P. MICHAELSON, M.D., RESPONDENT

FILE NO. 02-07-431

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine on July 18, 2007, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 29914 on May 25, 1994. Respondent's Iowa medical license is active and will next expire on June 1, 2009.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on August 29, 2007, before the Iowa Board of Medicine. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Iowa Board of Medicine office at 400 SW 8th Street, Suite C, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Statement of Charges you are required by 653 Iowa Administrative Code 24.2(5)(d) to file an Answer. In that Answer, you should state whether you will require a continuance of the date and time of the hearing.

3. Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on prehearing matters, and be present to assist and advise the board at hearing.

4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 Iowa Administrative Code Chapter 25. At hearing, you will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 653 Iowa Administrative Code 25.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

5. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to counsel for the State at the following address: Theresa O'Connell Weeg, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

6. Communications. You may not contact board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case. You should direct any questions to Kent M. Nebel, J.D., the Board's Legal Director at 515-281-7088 or to Assistant Attorney General Theresa O'Connell Weeg at 515-281-6858.

B. LEGAL AUTHORITY AND JURISDICTION

7. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 147, 148, and 272C (2007).

8. Legal Authority: If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 148, and 272C (2007) and 653 Iowa Administrative Code Chapter 25.

9. Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 653 Iowa Administrative Code 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

10. Respondent is charged pursuant to 653 IAC 23.1(12) for violating a health contract that he entered into with the Iowa Physician Health Program (IPHP).

STATEMENT OF THE MATTERS ASSERTED

11. Respondent is a psychiatrist who practices in Muscatine, Iowa.

12. On August 11, 2006, Respondent entered into a Physician Health Contract with the IPHP due to alcohol dependence and agreed to fully comply with numerous monitoring requirements.

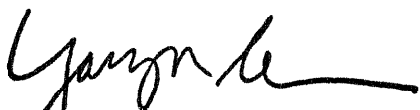
13. On June 12, 2007, the IPHP referred Respondent to the Board after the IPHP concluded that Respondent violated the terms of his Physician Health Contract when he returned to the practice of medicine without prior approval from the IPHP.

E. SETTLEMENT

14. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 Iowa Administrative Code 25. If you are interested in pursuing settlement of this matter, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

F. PROBABLE CAUSE FINDING

15. On this 18th day of July 2007, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



Yasyn Lee, M.D., Chairperson
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686