

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
THERESA BYLANDER D.O. : OF CHARGES
RESPONDENT : 03-86-093

COMES NOW William S. Vanderpool, Executive Director of the Iowa State Board of Medical Examiners, on August 18, 1988, and files this Complaint and Statement of Charges against Theresa Bylander D.O., a physician licensed pursuant to Chapter 147, Code of Iowa and alleges:

1. That Mary Ellis is the duly appointed and qualified Director of Public Health of the State of Iowa.

2. That John Anderson, M.D., Chairman; C. L. Peterson, D.O., Vice Chairman; Marian C. Bourek, Secretary; Charlotte Cleavenger, D.O.; Dorothy J. Gildea, M.D.; John W. Olds, M.D.; Ann O'Neill; Hormoz Rassekh, M.D.; and Robert B. Stickler, M.D. are the duly appointed and qualified officers and members of the Iowa State Board of Medical Examiners.

3. That the Respondent is a resident of Polk County, Iowa, and was issued license number 1734 to practice osteopathic medicine and surgery in the State of Iowa on November 30, 1978, as

recorded in Book A Page 91 of the permanent records in the office of the Iowa State Board of Medical Examiners.

4. That the Respondent's license is current until 1990.

5. That on numerous occasions during the calendar years 1986, 1987 and 1988, the Respondent engaged in the practice of osteopathic medicine and surgery while intoxicated, or impaired by or under the influence of, alcohol or other chemical substances.

6. That the Iowa State Board of Medical Examiners is authorized to take disciplinary action against the Respondent pursuant to sections 148.6(1), 148.6(1)(h) and 148.6(1)(i) of the Code of Iowa which state in whole or in part:

148.6(1) - "In addition to the provisions of section 147.58 to 147.71, the medical examiners after due notice and hearing may direct the director of public health to issue an order to revoke or suspend a license to practice... osteopathic medicine and surgery... or to discipline a person licensed to practice... osteopathic medicine and surgery... for any of the grounds set forth in section 147.55 or if, after a hearing, the medical examiners determine that a physician licensed to practice... osteopathic medicine and surgery... is guilty of any of the following acts or offenses:"

148.6(1)(h) - "Inability to practice ...osteopathic medicine and surgery... with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics,

chemicals, or other type of material..."

148.6(1)(i) - "Willful or repeated violation of lawful rule or regulation promulgated by the board..."

7. That the Iowa State Board of Medical Examiners is authorized to take disciplinary action against the Respondent pursuant to the provisions of Rules 653-12.4, 653-12.4(3), 653-12.4(3)(c), 653-12.4(4), 653-12.4(14), 653-12.4(15) and 653-12.4(28) of the Iowa Administrative Code 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 \$1,000, when the board determines that the licensee is guilty of any of the following acts or offenses:"

653-12.4(3) - "...[P]ractice harmful or detrimental to the public."

653-12.4(3)(c) - "Practice harmful or detrimental to the public includes... when a physician is unable to practice medicine with reasonable skill and safety to patients as the result of... chemical abuse."

653-12.4(4) - "Habitual intoxication or addiction to the use of drugs. Habitual intoxication or addiction to the use of drugs includes, but is not limited to, the inability of a physician to practice... osteopathic medicine and surgery... with reasonable skill and safety by reason of the excessive use

of alcohol, drugs, narcotics, chemicals or other type of material which may impair a physicians ability to practice the profession with reasonable skill and safety."

653-12.4(14) - "Inability to practice... osteopathic medicine and surgery... with reasonable skill and safety by reason of...chemical abuse."

653-12.4(15) - "Willful or repeated violation of lawful rule or regulation promulgated by the board."

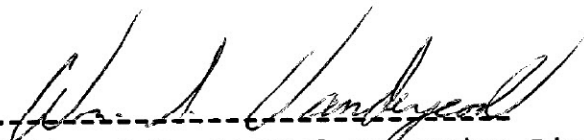
653-12.4(28) - "Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections...148.6."

8. That paragraphs 6 and 7 constitute grounds for the Iowa State Board of Medical Examiners to suspend, revoke, or otherwise discipline the license to practice osteopathic medicine and surgery issued to the Respondent on November 30, 1978.

WHEREFORE the undersigned charges that Theresa Bylander D.O., is subject to disciplinary action pursuant to the provisions of sections 148.6(1), 148.6(1)(h) and 148.6(1)(1) of the Code of Iowa and Rules 653-12.4, 653-12.4(3), 653-12.4(3)(c), 653-12.4(4), 653-12.4(14), 653-12.4(15), and 653-12.4(28) of the Iowa Administrative Code and 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 suspend, revoke or otherwise discipline the license to practice osteopathic medicine and surgery issued to Theresa Bylander, D O., on November 30, 1978, and for such other relief as the Board deems just in the premises.

IOWA BOARD OF MEDICAL EXAMINERS



William S. Vanderpool, Executive Director
Executive Hills West
Des Moines, Iowa 50319
Telephone: (515) 281-5171

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	
COMPLAINT AND STATEMENT)	
OF CHARGES AGAINST	)	NO. 03-86-093
TERESA BYLANDER, D.O.)	
RESPONDENT.	)	INFORMAL SETTLEMENT

COME NOW the Iowa Board of Medical Examiners [the Board] and Teresa Bylander, D.O., [the Respondent] and, pursuant to Iowa Code §§ 17A.10 and 258A.3(4), enter into the following Informal Settlement of the contested case currently on file:

1. The Respondent was issued license no. 1734 to practice osteopathic medicine and surgery in Iowa on November 30, 1978, as recorded in Book A, page 91 of the permanent records in the office of the Board.

2. A Complaint and Statement of Charges was filed against the Respondent on August 18, 1988.

3. The Board has jurisdiction of the parties and the subject matter.

4. The Director of Public Health shall take appropriate action to place the Respondent's license on probation for a period of four (4) years under the following terms and conditions:

A. The Respondent shall abstain from the personal use of alcohol.

- B. The Respondent shall not use any controlled or prescription drug in any form unless prescribed for her by a duly licensed, treating physician. The Respondent shall inform any treating physician of the terms of this Informal Settlement prior to accepting any medication.
- C. The Respondent shall submit to witnessed blood or urine samples on demand by a designee of the Board. The samples shall be used for drug and alcohol screening all costs of which shall be paid by the Respondent.
- D. The Respondent shall, within thirty (30) days of the execution of this Informal Settlement submit to the Board for approval the names and curriculum vitae of three physicians or qualified counselors practicing in Iowa.
- (1) As condition of approval the physicians or qualified counselors shall agree to report to the Board on Respondent's treatment on a quarterly basis or upon request.
- (2) The Respondent shall continue treatment or counseling until discharged from treatment by the physician or counselor.
- E. The Respondent shall attend a support group, such as Alcoholics Anonymous, at least twice monthly.

The support group shall be subject to the prior approval of the Board. The Respondent shall obtain documentation of attendance and make the documentation available to the Board or its designee on request.

- F. The Respondent shall submit quarterly reports under penalty of perjury stating that there has been compliance with all the conditions of this Informal Settlement.
- G. The Respondent shall make appearances annually or upon request before the Board or a committee. The Respondent shall be given reasonable notice of the date, time and place for the appearances.
- H. The Respondent shall obey all federal, state, and local laws, and all rules governing the practice of medicine in Iowa.

5. In the event the Respondent leaves Iowa to reside or to 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 will not apply to the duration of this Informal Settlement. If, however, the Respondent complies with the terms and conditions of this Informal Settlement while outside the state, including testing of witnessed blood or urine samples, the Respondent may apply to the Board to reduce the duration of this Informal Settlement.

6. The Respondent may apply to the Board to reconsider any of the terms and conditions of this Informal Settlement after two years from the date of the issuance of the Order by the Director of Public Health.

7. In the event the Respondent violates or fails to comply with any of the terms of provisions 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 Section 258A.3(2) of the Iowa Code and 653-§ 12.2 et seq. of the Iowa Administrative Code.

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

9. Execution of this Informal Settlement does not constitute an admission of wrongdoing by the Respondent.

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

11. This Informal Settlement is voluntarily submitted on this 21 day of March, 1989.

Teresa J. Bylander
TERESA BYLANDER, D.O.

Subscribed and sworn to before me on this 21 day of March, 1989.

Mark W. Bennett
Notary Public in and for the
State of Iowa

This Informal Settlement is accepted by the Iowa Board of Medical Examiners on the 20th day of April, 1989.

J.R. Anderson M.D.
JOHN ANDERSON, M.D., Chairman
Iowa Board of Medical Examiners

Subscribed and sworn to before me on this 21st day of April, 1989.

Jennis Carr
Notary Public in and for the
State of Iowa

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : ORDER
TERESA BYLANDER, D.O. : 03-86-093
RESPONDENT :

NOW on April 28, 1989, the above entitled matter
having been filed with the Director of Public Health, of the
State of Iowa, and the said Director of Public Health, having
reviewed the file and being fully advised in the premises FINDS:

1. That the Respondent was issued a license to practice
osteopathic medicine and surgery, on November 30, 1978, as
evidence by certificate number 1734, which is recorded in Book A
at page 91 of the permanent records in the office of the Iowa
State Board of Medical Examiners.

2. That a Complaint and Statement of Charges was filed
against the Respondent, Teresa Bylander, D.O., on August 18,
1988, and was scheduled to be heard before the Iowa State Board
of Medical Examiners.

3. That the Iowa State Board of Medical Examiners has
jurisdiction of the parties and the subject matter herein.

4. That the Director of Public Health is authorized to
enter an order herein under the provisions of Sections 148.6(1)
and 148.7(7), of the 1989 Code of Iowa and rule 653-12.50(31), of
the Iowa Administrative Code.

5. That pursuant to the provisions of Sections 17A.10 and

258A.3(4) of the 1989 Code of Iowa, the Respondent and the Iowa State Board of Medical Examiners have entered into an Informal Settlement providing that the undersigned should enter an order placing the Respondent's license to practice osteopathic medicine and surgery, in a probationary status for a period of four (4) years.

THEREFORE, IT IS HEREBY ORDERED that the Respondent's license to practice osteopathic medicine and surgery is placed on probation for a period of four (4) years under the following terms and conditions:

A. The Respondent shall abstain from the personal use of alcohol.

B. The Respondent shall not use any controlled or prescription drug in any form unless prescribed for her by a duly licensed, treating physician. The Respondent shall inform any treating physician of the terms of the Informal Settlement and this Order prior to accepting any medication.

C. The Respondent shall submit to witnessed blood or urine samples on demand by a designee of the Board. The samples shall be used for drug and alcohol screening all costs of which shall be paid by the Respondent.

D. The Respondent shall, within thirty (30) days of the execution of the Informal Settlement submit to the Board for approval the names and curriculum vitae of three physicians or qualified counselors practicing in Iowa.

(1) As condition of approval the physicians or qualified counselors shall agree to report to the Board on Respondent's treatment on a quarterly basis or upon request.

(2) The Respondent shall continue treatment or counseling until discharged from treatment by the physician or counselor.

E. The Respondent shall attend a support group, such as Alcoholics Anonymous, at least twice monthly. The support group shall be subject to the prior approval of the Board. The Respondent shall obtain documentation of attendance and make the documentation available to the Board or its designee on request.

F. The Respondent shall submit quarterly reports under penalty of perjury stating that there has been compliance with all the conditions of the Informal Settlement and this Order.

G. The Respondent shall make appearances annually or upon request before the Board or a committee. The Respondent shall be given reasonable notice of the date, time and place for the appearances.


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

5. In the event the Respondent leaves Iowa to reside or to 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 will not apply to the duration of the Informal Settlement or this Order. If, however, the Respondent complies with the terms and conditions of the Informal Settlement and this Order while outside the state, including testing of witnessed blood or urine samples, the Respondent may apply to the Board to reduce the duration of the Informal Settlement and this Order.

6. The Respondent may apply to the Board to reconsider any of the terms and conditions of the Informal Settlement and this Order after two years from the date of the issuance of the Order by the Director of Public Health.

7. In the event the Respondent violates or fails to comply with any of the terms of provisions of the Informal Settlement or this Order, the Board may initiate appropriate action to revoke or suspend the Respondent's license or to impose other licensee discipline as authorized in Section 258A.3(2) of the Iowa Code and 653-12.2 et seq. of the Iowa Administrative Code.

8. Upon full compliance with the terms and conditions set forth in the Informal Settlement and this Order, and upon expiration of the period of probation, Respondent's license shall be restored to its full privileges free and clear of the terms of the probation.



Mary L. Ellis, Director
Department of Public Health
Lucas State Office Bldg.
Des Moines, IA 50319

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
TERESA IRENE BYLANDER, D.O. : OF CHARGES
RESPONDENT : 03-90-403

COMES NOW William S. Vanderpool, Executive Director of the
Iowa State Board of Medical Examiners, on January 17
1991, and files this Complaint and Statement of Charges
against Teresa Irene Bylander, D.O. (hereafter the Respondent), a
physician licensed pursuant to Chapter 147, Code of Iowa and
alleges:

1. That Ronald D. Eckoff, M.D., M.P.H., is the duly appointed, acting Director of Public Health of the State of Iowa.
2. That John R. Anderson, M.D., Chairman; C.L. Peterson, D.O., Vice Chairman; Ann O'Neill, Secretary; Edra Broich; Charlotte Cleavenger, D.O.; John W. Olds, M.D.; Donna Drees, M.D.; George G. Spellman, Sr., M.D.; and Robert B. Stickler, M.D., are the duly appointed and qualified officers and members of the Iowa State Board of Medical Examiners (hereafter the Board).
3. That the Respondent is a resident of Polk County, Iowa, and was issued license number 01734 to practice osteopathic medicine and surgery in the State of Iowa on November 30, 1978, as recorded in the permanent records in the office of the Board.
4. That the Respondent's license is current until March 1, 1992.

5. That on April 28, 1989, an Order was issued by the Director of Public Health of the State of Iowa, placing the Respondent's license to practice osteopathic medicine and surgery in the state of Iowa on probation for a period of four (4) years under certain terms and conditions. The said Order was issued at the direction of the Board in a license discipline action.

6. That two of the specific terms of the probation as outlined in the Respondent's Probation Order, issued by the Director of Public Health of the state of Iowa on April 28, 1989, are:

a. "The Respondent shall not use any controlled or prescription drug in any form unless prescribed for her by a duly licensed, treating physician. The Respondent shall inform any treating physician of the terms of the Informal Settlement and this Order prior to accepting any medication."

b. "That Respondent shall submit to witnessed blood or urine samples on demand by a designee of the Board. The samples shall be used for drug and alcohol screening all costs of which shall be paid by the Respondent."

7. That on or about November 20, 1990, the Respondent provided a urine specimen upon request of an agent of the Board. Laboratory analysis of the said urine specimen show it to contain an opiate, a controlled drug.

8. That the opiate found to be present in the Respondent's urine specimen of November 20, 1990, had not been prescribed for

the Respondent by a duly licensed treating physician in accordance with the terms of the Respondent's probation.

9. That on or about August 8, 1989; November 29, 1989; and May 13, 1990, the Respondent was prescribed the controlled drug Fastin by another duly licensed treating physician. The Respondent failed to inform the said physician of the terms of the Informal Settlement and the Order issued by the Director of Public Health on April 28, 1989.

10. That on or about August 4, 1989, the Respondent was prescribed the controlled drug Tylenol #3, by another duly licensed physician. The Respondent failed to inform the said physician of the terms of the Informal Settlement and the Order issued by the Director of Public Health on April 28, 1989.

11. That on or about October 23, 1990, and October 24, 1990, the Respondent was administered the controlled drug, Cocaine 4% solution and the non-controlled drug Novacane by another duly licensed physician. The Respondent failed to inform the said physician of the terms of the Informal Settlement and the Order issued by the Director of Public Health on April 28, 1989.

12. That beginning on or about May 23, 1989, and continuing on several occasions to at least November 1990, the Respondent has self prescribed, and used, the non-controlled drugs, Lasix, Synthroid, Provera, Lidex E and Azo Gantrisin.

13. That the Respondent has violated the terms of the probation placed upon her license to practice osteopathic medicine and surgery in the state of Iowa.

14. That the Board is authorized to take disciplinary action

against the Respondent pursuant to the provisions of sections 148.6(1) and 148.6(1)(i) of the 1989 Code of Iowa, as amended, 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 license for any of the grounds set forth in section 147.55, Chapter 258A, or this subsection...

"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(1)(i) - "Willful or repeated violation of lawful rule or regulation adopted by the board or violating a lawful order of the board, previously entered by the board in a disciplinary hearing."

15. That the Board is authorized to take disciplinary action against the Respondent pursuant to the provision of rules 653-12.4, 653-12.4(16) and 653-12.4(28) of the Iowa Administrative Code 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(258A), 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:"

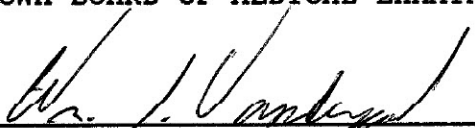
653-12.4(16) - "Violating a lawful order of the board, previously entered by the board in a disciplinary hearing."

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

16. That paragraphs 14 and 15 constitute grounds for the Board to revoke, suspend or otherwise discipline the license to practice osteopathic medicine and surgery issued to the Respondent, on November 30, 1978.

WHEREFORE the undersigned charges that the Respondent is subject to discipline pursuant to the provision of sections 148.6(1) and 148.6(1)(i) of the 1989 Code of Iowa, as amended, and rules 653-12.4, 653-12.4(16), and 653-12.4(28) of the Iowa Administrative Code. 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 osteopathic medicine and surgery issued to the Respondent, on November 30, 1978, and for such other relief as the Board deems just in the premises.

IOWA BOARD OF MEDICAL EXAMINERS



William S. Vanderpool
Executive Director
Executive Hills West
Des Moines, Iowa 50319
(515) 281-5171

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	
)	
COMPLAINT AND STATEMENT)	
)	
OF CHARGES AGAINST	)	NO. 03-90-403
)	
TERESA IRENE BYLANDER, D.O.,)	
)	
RESPONDENT.	)	INFORMAL SETTLEMENT

COME NOW the Iowa Board of Medical Examiners [the Board] and Teresa Irene Bylander, D.O., [the Respondent] and, pursuant to Iowa Code §§ 17A.10 and 258A.3(4), enter into the following Informal Settlement of the contested case currently on file:

1. The Respondent was issued license no. 01734 to practice medicine and surgery in Iowa on November 30, 1978, as recorded in the permanent records in the office of the Board.

2. A Complaint and Statement of Charges was filed against the Respondent on January 17, 1991.

3. The Board has jurisdiction of the parties and the subject matter.

4. The Director of Public Health shall take appropriate action to suspend the Respondent's license for an indefinite period of time commencing on July 1, 1991.

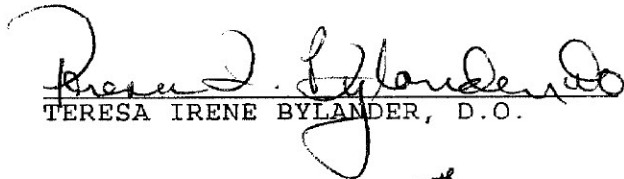
5. The Respondent shall not make application for reinstatement until satisfactory completion of an inpatient program for treatment of substance abuse which includes diagnosis, evaluation and any necessary treatment for any related mental condition. Satisfactory completion of an inpatient

program is in lieu of the time period provided in 653 Iowa Admin. Code § 12.50(36). Any application for reinstatement shall be subject to 653 Iowa Admin. Code § 12.50(36)(b)-(d). The Respondent shall allege in any application facts which, if established, will be sufficient to enable the Board to determine that the basis for the suspension no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the Respondent.


6. If the Board, upon application and hearing, decides to reinstate the Respondent's license to practice medicine and surgery, reinstatement may be upon a period of probation under terms and conditions to be prescribed by the Board.

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

8. This Informal Settlement is voluntarily submitted by the Respondent to the Board for consideration.


TERESA IRENE BYLANDER, D.O.

Subscribed and sworn to before me on this 19th day of June, 1991.


NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

This Informal Settlement is accepted by the Iowa Board of
Medical Examiners on the 27th day of June, 1991.

C. Peterson

C.L. PETERSON, D.O., Chairman
Iowa Board of Medical Examiners

Subscribed and sworn to before me on this 27th day of
June, 1991.

Genius Carr

NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : ORDER
TERESA IRENE BYLANDER, D.O., : 03-90-403
RESPONDER :

NOW ON June 28, 1991, the above
entitled matter having been filed with the Director of Public
Health of the State of Iowa, and the said Director of Public
Health having reviewed the file and being fully advised in the
premises FINDS:

1. That Teresa Irene Bylander, D.O., (hereafter the
Respondent), was issued an Iowa license to practice osteopathic
medicine and surgery on November 30, 1978, as evidenced by
certificate number 01734, which is recorded in the permanent
records in the office of the Iowa State Board of Medical
Examiners (hereafter the Board).

2. That a Complaint and Statement of Charges was filed
against the Respondent on January 17, 1991, and was scheduled to
be heard before the Board.

3. That the Board has jurisdiction of the parties and the
subject matter herein.

4. That the Director of Public Health is authorized to
enter an Order herein under the provisions of sections 148.6(1)
and 148.7(7) of the 1991 Code of Iowa and rule 653-12.50(31) of

the Iowa Administrative Code.

5. That pursuant to the provisions of sections 17A.10 and 258A.3(4) of the 1991 Code of Iowa, the Respondent and the Board have entered into an Informal Settlement providing that the undersigned should enter an Order imposing license discipline against the Respondent.

THEREFORE IT IS HEREBY ORDERED:

A. That license number 01734 issued to the Respondent on November 30, 1978, to practice osteopathic medicine and surgery in the State of Iowa, shall be indefinitely suspended effective July 1, 1991.

B. That the Respondent shall not make application for reinstatement until satisfactory completion of an inpatient program for the treatment of substance abuse which includes diagnosis, evaluation and any necessary treatment for any related mental condition. Satisfactory completion of an inpatient program is in lieu of the time period provided in 653 Iowa Administrative Code, section 12.50(36). Any application for reinstatement shall be subject to 653 Iowa Administrative Code, sections 12.50(36) (b) - (d). The Respondent shall allege in any application facts which, if established, will be sufficient to enable the Board to determine that the basis for the suspension no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the Respondent.

C. That if the Board, upon application and hearing, decides to reinstate the Respondent's license to practice osteopathic medicine and surgery, reinstatement may be upon a

period of probation under terms and conditions to be prescribed
by the Board.

Christopher G. Atchison

Christopher G. Atchison
Director
Iowa Department of Public Health
Robert Lucas State Office Building
Des Moines, Iowa 50319

FILE

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE	)	DIA NO: 91DPHMB-9
COMPLAINT AND STATEMENT)	
OF CHARGES AGAINST)	
	)	FINDINGS OF FACT,
TERESA IRENE BYLANDER, D.O.	)	CONCLUSIONS OF LAW,
	)	DECISION AND ORDER
Respondent	)	OF THE PANEL

On January 17, 1991 a Complaint and Statement of Charges was filed against Teresa Irene Bylander, D.O. (Respondent) by the Iowa Board of Medical Examiners (Board), charging her with violating terms of probation. On June 28, 1991 the Director of the Department of Public Health entered an order indefinitely suspending Respondent's license, pursuant to the terms of an informal settlement signed by the Respondent and the Board. On September 17, 1991 the Respondent filed an Application for Reinstatement and Request for Hearing. An Order For Hearing was issued on October 21, 1991, setting the hearing for November 21, 1991.

The hearing was continued at the request of the Respondent. On December 4, 1991 an Order for Hearing was issued setting the hearing for January 8, 1992. On January 6, 1992 the Respondent filed her Lists of Witnesses and Exhibits.

The hearing was before a panel of the Board on January 8, 1992 at 8:45 a.m. in the conference room, Iowa Board of Medical Examiners, 1209 East Court Avenue, Des Moines, Iowa. The Board panel included: Charlotte Cleavenger, D.O.; John W. Olds, M.D.; George G. Spellman, Sr., M.D.; and Edra Broich, public member. The Respondent appeared in person, and was represented by her counsel, Edward N. McConnell. The State was represented by Julie Pottorff, Assistant Attorney General. The hearing was recorded by a certified court reporter. The hearing was closed at the request of the Respondent, pursuant to Iowa Code section 258A.6(1) and 653 I.A.C. 12.50(23)"d". The record was left open to allow the Respondent to submit the affidavit of one of her psychiatrists. As of January 28, 1992, it had not been submitted and the record was closed. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided and was directed to prepare the panel's order.

THE RECORD

The record includes the Petition for Reinstatement, Order for Hearing, Motion for Continuance, Order, Appearance, Order for Hearing, Respondent's List of Exhibits, Respondent's List of Witnesses, the testimony of the witnesses at the hearing, and the following exhibits:

State's Exhibit A: Complaint and Statement of Charges (8/18/88)
State's Exhibit B: Informal Settlement and Director's Order
(4/28/89)

State's Exhibit C: Complaint and Statement of Charges (1/17/91)
State's Exhibit D: Informal Settlement and Director's Order
(6/28/91)

Medical Records:

State's Exhibit E: Evaluation - McBride Center (5/9/91)
State's Exhibit F: Report - Hazelden Foundation (8/6/91)
State's Exhibit G: Discharge Summary - Hazelden Foundation
(8/14/91)

State's Exhibit H: Investigative Report (7/17/91)

State's Exhibit I: Summary of Social Security Numbers

Supporting Documentation:

Iowa Application Exhibit I-1
Penn. Application Exhibit I-2
Kansas Renewal Exhibit I-3
New Mexico Trans Exhibit I-4
COMS Application Exhibit I-5
Allentown, PA Application . . Exhibit I-6
Blue Cross/Blue Shield Form. . Exhibit I-7
Mercy Staff Application . . . Exhibit I-8
Lutheran Staff Application . . Exhibit I-9
COMS Payroll Record. Exhibit I-10
COMS W-2 Forms Exhibit I-11
Charter Staff Application . . . Exhibit I-12
Charter Reappointment. Exhibit I-13
DOT Registration Exhibit I-14
Dept. of Army Exhibit I-15
Office of Personnel Exhibit I-16

State's Exhibit J: Birth Certificate

State's Exhibit K: Lakewood Junior College Records (1969)

State's Exhibit L: Burglary Report (11/1/87)

State's Exhibit M: Arizona Residency Application (1979-80)

State's Exhibit N: Insurance Application (2/21/85)

State's Exhibit O: Medical Assoc. Application (2/20/86)

State's Exhibit P: Letter dated 7/8/80 (Allentown Osteopathic
Hospital to Lipson)

State's Exhibit Q: Letter dated 7/22/80 (Falco to Bylander)

State's Exhibit R: Resolution of Allentown Osteopathic Medical
Staff Executive Committee (7/24/80)

State's Exhibit S: Letter dated 7/19/90 (Snyder to Rousch)

State's Exhibit T: Report of Commonwealth of Pennsylvania, Dept.
of Justice, Bureau of Drug Control (3/6/81)

Respondent's Exhibit A: Informal Settlement (6/19/91)

Respondent's Exhibit B: Order of Board (6/28/91)

Respondent's Exhibit C: Correspondence dated 7/8/91 (Sheehan to
Bennett)

Respondent's Exhibit D: Correspondence dated 9/13/91 (Jacobson
to Bennett)

Respondent's Exhibit E: Discharge Summary (8/14/91)

Respondent's Exhibit F: Correspondence (Post to Bennett)

Respondent's Exhibit G: Correspondence dated 5/9/91 (Addictive Disease Consultants to Board)
Respondent's Exhibit H: Application for Reinstatement
Respondent's Exhibit I: Correspondence dated 1/6/92 (Ermels to McConnell)

Joint Exhibit J: Article. Haugland, Stanley, M.D. Alcoholism and Other Drug Dependencies, Primary Care, Vol. 16, No. 2, June 1989.

FINDINGS OF FACT

1. The Respondent was issued license no. 01734 to practice medicine and surgery in Iowa on November 30, 1978, as recorded in the permanent records in the office of the Board. She filed an application to renew her Iowa license on August 14, 1984, which was granted. (Official file; State's Exhibit I-1)
2. Respondent was born on March 13, 1944. She attended St. Joseph's Academy and Johnson High School in St. Paul, Minnesota. She attended Lakewood Community College from 1967 to 1969 and the University of New Mexico from 1969 to 1973. She earned a Bachelor of University Studies (B.U.S.) Degree in August 1973. Respondent attended the College of Osteopathic Medicine and Surgery in Des Moines, Iowa, and graduated on June 1, 1977. Respondent served a rotating internship at the Allentown Osteopathic Hospital in Allentown, Pennsylvania from July 1, 1977 to July 1, 1978. Respondent served a residency in family practice at Allentown Osteopathic Hospital from September 1, 1978 to September 1, 1979 and engaged in family practice at the same hospital until August, 1980. From December, 1980 until June 30, 1984 Respondent served a psychiatric residency at the Karl Menninger School of Psychiatry, in Topeka, Kansas. In 1984 Respondent returned to Iowa and became the medical director at Our Primary Purpose, Lutheran Hospital, Des Moines, Iowa. In late 1985, Respondent joined the faculty of the College of Osteopathic Medicine as an assistant professor in the psychiatry department. She also had clinical duties. Later, she was named acting chairperson of the psychiatry department, in addition to her other duties. (Testimony of Respondent; State's Exhibits I, J, K)
3. A Complaint and Statement of Charges was filed against the Respondent by the Board on August 18, 1988 alleging that on numerous occasions in 1986, 1987, and 1988 Respondent engaged in the practice of osteopathic medicine and surgery while intoxicated, or impaired by alcohol or other chemical substances. Pursuant to an Informal Settlement, and Order of the Director of the Department of Health dated 4/28/89; Respondent's license was placed on probation for four years, subject to certain terms and conditions. (State's Exhibits A, B)

4. On January 17, 1991 the Board filed a second Complaint and Statement of Charges against the Respondent, alleging that she had violated terms of her probation. Specifically, it was alleged that (a) an opiate found in Respondent's urine specimen on November 20, 1990 had not been prescribed by a duly licensed physician; (b) the controlled drug Fastin was detected in Respondent's urine specimens on three separate dates. The Fastin was prescribed by a duly licensed physician who had not been informed of the terms of the Informal Settlement and Order dated April 28, 1989, as required by the terms of Respondent's probation; (c) on August 4, 1989 Respondent was prescribed the controlled drug Tylenol #3, but did not inform the physician of the terms of the Informal Settlement and Order; (d) on October 23 and 24, 1990 Respondent was administered the controlled drug, Cocaine 4% solution and the non-controlled drug Novocain by a physician, but failed to inform the physician of the terms of the Informal Settlement and Order; (e) beginning May 23, 1989 and continuing on several occasions to at least November 1990, the Respondent self prescribed, and used, the non-controlled drugs Lasix, Synthroid, Provera, Lidex E and Azo Gantrisin. (State's Exhibit C)

5. On May 7, 1991 Respondent reported to Addictive Disease Medical Consultants, Wauwatosa, Wisconsin for an inpatient psychiatric chemical and dependency evaluation. The resulting diagnosis was: "Axis I: Alcohol dependence syndrome, R/O opiate dependence versus abuse, and major depressive disorder NOS, Axis II: Mixed personality disorder." A treatment program was recommended, which included an in patient course of chemical dependency treatment followed by an extended residential treatment program. (State's Exhibit E)

6. On June 28, 1991 the Director of the Department of Public Health issued an Order, pursuant to an Informal Settlement signed by Respondent and the Board. The Order indefinitely suspended Respondent's license to practice osteopathic medicine and surgery in Iowa, effective July 1, 1991. The Order further provided that Respondent shall not make application for reinstatement until satisfactory completion of an in patient program for the treatment of substance abuse which includes diagnosis, evaluation, and any necessary treatment for any related mental condition. Satisfactory completion of an inpatient program is in lieu of the time period provided in 653 I.A.C. 12.50(36). (State's Exhibit D; Respondent's Exhibit A)

7. Respondent attended inpatient treatment at Hazelden in Center City, Minnesota from July 18, 1991 to August 14, 1991, when she was discharged with staff approval. Her diagnoses were: chemically dependent to alcohol; continuous pattern; nondependent abuse of opiate and opiate types, episodic pattern, and depression. Recommendations for further treatment included:

- a. Abstinence from all mood-altering chemicals.
- b. Structured aftercare in the home area.

c. Alcoholics Anonymous attendance twice a week, one preferably to be a women's group and one an impaired physician's group.

d. Female sponsor within one to two weeks of discharge.

e. One to one counseling with psychiatrist for family of origin issues and for monitoring of depression. R. Paul Post, M.D., of the Hazelden staff stated in a letter to Respondent's attorney, that she was able to resume her normal working duties as of the time of her discharge from Hazelden.

(State's Exhibit F; Respondent's Exhibit E; F; Testimonies of Jean Tostrup; Dr. Richard Heilman; Respondent)

8. Since her discharge from Hazelden Respondent has been attending Alcoholics Anonymous twice a week, including an impaired physician's group. She has a female sponsor with whom she communicates daily. Both her sponsor and a member of the impaired physician's group testified that Respondent has undergone a basic change in attitude and is making good progress. (Testimonies of Respondent, Dr. Stanley Haugland, Paula Priebe)

9. Respondent has been a patient of Dr. Harry Voth, M.D. in Topeka, Kansas since September 18, 1991. Dr. Voth was board certified in psychiatry in 1953 and in psychoanalysis in 1965. He has known the Respondent since she was a resident physician at the Menninger School of Psychiatry from 1981 to 1984. Dr. Voth testified that he sees Respondent two consecutive days each week. Dr. Voth's diagnosis is depression, as a symptomatic condition, with no severe character pathology. In Dr. Voth's opinion, Respondent has made good progress and is ready to return to work. Respondent still has some depression, but Dr. Voth believes it will improve if she returns to work. (Testimony of Dr. Harold Voth, M.D.)

10. Respondent is also the patient of a local psychiatrist, Dr. Belen Fernandez, M.D., who has prescribed Sinequan, 50 m.g. for depression and chlorhydrate, 500 m.g. p.r.n., for insomnia. Respondent sees Dr. Fernandez solely for medication. Dr. Voth has not been in contact with Dr. Fernandez, but is aware of Respondent's medications. Dr. Voth is not concerned about the medications, but would like to see Respondent get off both drugs as soon as possible. Dr. Voth is willing to assume responsibility for Respondent's total psychiatric care. (Testimony of Respondent; Dr. Voth)

11. Respondent had been employed at the University of Osteopathic Medicine in Des Moines prior to her suspension. She had been acting chairperson of the Department of Psychiatry and an associate professor of psychiatry. Respondent also had clinical duties. Respondent was well liked at the University by her supervisors, her co-workers, her patients, and her students. The University is anxious to reemploy Respondent as a faculty member with clinical duties. They have hired a chairperson during her

absence. The dean of the University is willing to cooperate with the Board and with Respondent's continued recovery. (Testimonies of Dr. Lawrence Jacobson; Respondent's Exhibit D; Rebecca Scavo, and Bonnie Theisen)

12. During her probation, Respondent was extremely uncooperative with the Board's investigator. Respondent often avoided the investigator when she came to Respondent's office seeking a urine specimen, and enlisted the help of her office personnel in avoiding the investigator. Moreover, the urinalysis results of at least one urine specimen given by Respondent strongly indicate that the specimen was not urine at all; but rather was water. (Testimony of Respondent, Teena Rousch; State's Exhibits H; S)

13. Several issues raised at the hearing, by agreement of the parties, raise serious questions concerning Respondent's credibility. Respondent has used three different social security numbers and four separate birthdates in various documents she has signed in the past. Respondent's explanations for these discrepancies were not convincing. In summary, Respondent states that she has lost her social security card several times and was given a different number when filing for a duplicate card. Respondent also stated that she has difficulty with such details. With regard to her birthdate, Respondent states that when she left home her mother gave her a baptismal certificate to use as proof of age, which had the wrong birthdate. Her mother wanted her to use the baptismal certificate due to an irregularity in the birth certificate. In addition, in various applications and documents filed by Respondent she claims to have earned an Associate of Arts (A.A.) degree and a Bachelor of Science (B.S.) degree. In fact, Respondent was never awarded an A.A. degree, due to nonpayment of a small student loan. Respondent actually earned a Bachelor of University Studies (B.U.S.) degree, which is not the same as a B.S. degree. (Testimony of Respondent; Teena Roush; State's Exhibits H, I, J, K, L, M, N, O)

14. In particular, the Board is concerned with misrepresentations made by the Respondent in her Iowa application for osteopathic medical licensure. In that application Respondent gives the wrong birthdate and the wrong social security number. She claims to have earned an A.A. and a B.S. degree. In addition, in her application to renew her Iowa license, Respondent denied ever having been warned or censured by, or requested to withdraw from any hospital in which she had trained or been a staff member. In fact, Respondent's hospital privileges had been suspended by Allentown Hospital in 1980. (Testimony of Respondent; Teena Rousch; State's Exhibits I, J, K, P, Q, R)

15. Respondent had numerous problems while practicing in Pennsylvania and Kansas. While practicing at Allentown Osteopathic Hospital, Respondent was investigated for possible demerol abuse by the Pennsylvania Department of Justice, Bureau of Drug Control. Respondent claims that the numerous demerol

prescriptions in her name were due to a theft of prescription blanks. After Respondent left to practice in Kansas, the case was closed for lack of evidence. This matter was unresolved, but is troubling to the panel (State's Exhibit T). In addition, Respondent's hospital privileges at Allentown Hospital were suspended in August, 1980 for her failure to complete charts on time. (State's Exhibits P, Q, R; Testimony of Respondent; Teena Rousch)

16. While Respondent was a resident at the Menninger School of Psychiatry, she was investigated by the Kansas Board of Healing Arts due to suspected drug dependence. She was suspended from her residency from March to May 1984, but was reinstated when urinalyses were negative. (Testimony of Respondent; Teena Rousch; State's Exhibits I, I-9)

17. In 1985 Respondent admitted herself to Hazelden for 18 to 20 days. She testified that her role as medical director at Our Primary Purpose caused her to take a closer look at her own drinking. On September 26, 1985 Respondent ordered 1500 dextro-amphetamine tablets 10 m.g.s from Interstate Drug Exchange of New York. She used her Kansas DEA number and a Kansas address, even though she had been employed by Our Primary Purpose since December 13, 1984. (Testimony of Respondent; State's Exhibits I, E, F)

CONCLUSIONS OF LAW

1. 653 Iowa Administrative Code section 12.50(36) provides:

12.50(36) Reinstatement.

Any person whose license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, has been revoked, or suspended by the Board, may apply to the Board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension.

a. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the director's order or the date of voluntary surrender.

b. All proceedings for reinstatement shall be initiated by the Respondent, who shall file with the Board an application for the reinstatement of their license. Such application shall be docketed in the original case in which the license was revoked, or suspended, or relinquished. All proceedings upon the petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the Board.

c. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the Board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the Respondent.

2. The Respondent has completed inpatient treatment as required by the Informal Settlement and Director's Order and is complying with Hazelden's recommendations for aftercare. The panel was impressed by the testimonies of Harold Voth, M.D., Stanley Haugland, M.D., and Lawrence Jacobson, D.O., as well as the testimonies of Respondent's Alcoholics Anonymous sponsor and Respondent's co-workers. All of these individuals have great confidence in Respondent, her recovery, and her ability to resume the practice of osteopathic medicine.

The panel was less impressed by Respondent's own testimony and her credibility. A number of disturbing issues were raised in this regard, not the least of which were Respondent's misrepresentations on her applications for Iowa licensure and her total lack of cooperation with the Board's investigator. The panel is also concerned that Respondent is being treated by two psychiatrists.

The panel believes that Respondent has made good progress in her recovery and is confident that she will be able to regain her Iowa license, if this progress continues. However, given Respondent's lack of cooperation with the Board in the past, as well as serious credibility problems, the panel concludes that it would be premature to grant the Application for Reinstatement at this time. The Respondent has not yet established that the basis for the suspension no longer exists or that it is in the public interest for her license to be reinstated.

To assist Respondent in regaining licensure, the panel strongly recommends that the Respondent take the following steps:

1. Seek weekly psychiatric care from a single psychiatrist who will provide her comprehensive care. The panel has confidence in Dr. Harold Voth, M.D., of Topeka, Kansas. If Respondent for any reason chooses to change psychiatrists, she should submit three names to the Board for its approval.
2. Respondent's psychiatrist should send quarterly reports to the Board concerning her progress. The panel recommends one report to be submitted by May 1, 1992 and a second report to be submitted prior to July 1, 1992.
3. Respondent should make quarterly written reports to the Board on her progress, including written evidence of her twice weekly attendance at Alcoholics Anonymous. The first report should be submitted by May 1, 1992 and a second report should be submitted prior to July 1, 1992.

4. Respondent should cooperate fully with the Board's agents and employees and should submit to witnessed blood or urine samples on demand by any agent or employee of the Board. Respondent should keep the Board's investigator assigned to her case informed of her schedule and should notify the investigator if she will be out of town for any extended period.
5. Respondent should follow all recommendations for after-care made by Hazelden.

The Panel recommends that the Board review Respondent's continued progress, and if it is favorable, pursue an informal settlement which would reinstate her license to practice osteopathic medicine and surgery, effective July 1, 1992 and place it on probation for a period of ten (10) years, pursuant to the following terms and conditions:

- A. The Respondent shall abstain from the personal use of alcohol.
- B. The Respondent shall not use any controlled or prescription drug in any form unless prescribed for her by another duly licensed, treating physician or other qualified medical practitioner. The Respondent shall inform any treating physician or other qualified medical practitioner of the terms of the Informal Settlement prior to accepting any medication.
- C. The Respondent shall submit to witnessed blood or urine samples on demand by an agent or employee of the Board. The samples shall be used for drug and alcohol screening, all costs of which shall be paid by the Respondent.
- D. The Respondent shall cooperate with the Board's probation supervision program and the Board's agents or employees supervising the Respondent's probation.
- E. The Respondent shall continue her psychiatric care with Dr. Harold Voth, M.D., or in lieu thereof, within thirty (30) days of the execution of the Informal Settlement the Respondent shall submit to the Board for approval the names and curriculum vitae of three physicians or qualified counselors. The Board may approve one of the three to serve as the Respondent's continued care treatment supervising physician or counselor.
 - (1) As a condition of approval the physicians or qualified counselors shall agree to report to the Board on Respondent's treatment on a quarterly basis or upon request.
 - (2) The Respondent shall continue treatment or counseling until discharged from treatment by the physician or counselor.
- F. The Respondent shall attend a support group, such as Alcoholics Anonymous, at least twice weekly, as recommended by Hazelden. The support group shall be subject to the prior approval of the Board. The Respondent shall obtain documentation of attendance and made the documentation available to the Board or its designee on request.

G. The Respondent shall submit quarterly reports under penalty of perjury stating that there has been compliance with all the conditions of the Informal Settlement.

H. The Respondent shall make appearances annually or upon request before the Board or a committee. The Respondent shall be given reasonable notice of the date, time and place for the appearances.

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

J. In the event the Respondent leaves Iowa to reside or to 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 will not apply to the duration of the Informal Settlement. If, however, the Respondent complies with the terms and conditions of the Informal Settlement while outside the State, including testing of witnessed blood or urine samples, the Respondent may apply to the Board to reduce the duration of the Informal Settlement.

K. The Respondent may apply to the Board to reconsider any of the terms and conditions of the Informal Settlement no sooner than two years from the date of execution of the Informal Settlement.

L. In the event the Respondent violates or fails to comply with any of the terms or provisions of the 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 Sections 148.6(1) and 258A.3(2) of the Iowa Code and 653-12.2 et seq. of the Iowa Administrative Code.

M. Upon full compliance with the terms and conditions set forth in the Informal Settlement, and upon expiration of the period of probation, Respondent's license shall be restored to its full privileges free and clear of the terms of probation.

DECISION AND ORDER

It is therefore ORDERED that when this proposed decision becomes final, the Director of the Department of Public Health of the State of Iowa shall enter an order providing that the application for reinstatement of the license of Teresa Irene Bylander, D.O., license number 01734, to practice osteopathic medicine and surgery, is DENIED.

In accordance with 653 Iowa Administrative Code 12.50(29), a proposed decision becomes a final decision unless appealed to the Board by a party adversely affected by serving notice of appeal on the executive director within thirty (30) days after service of the proposed decision. The Board may also review a proposed decision on its own motion.

Dated this 17TH day of February, 1992.

THE PANEL:

Charlotte Cleavenger, D.O.
Charlotte Cleavenger, D.O.

John W. Olds, M.D.
John W. Olds, M.D.

George B. Spellman, Sr., M.D.
George Spellman, Sr., M.D.

Edra Broich
Edra Broich

ML/lrb

CC: Julie Pottorf
Edward McConnell

FILE

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	
COMPLAINT AND STATEMENT	)	DIA NO: 91DPHMB-9
OF CHARGES AGAINST)	
)	
TERESA IRENE BYLANDER, D.O.,)	
Respondent	)	ORDER OF THE PANEL

The Panel issued its Proposed Findings of Fact, Conclusions of Law, Decision and Order on February 17, 1992. On March 4, 1992, the Respondent filed a Notice of Appeal and a Motion to Amend Decision. On March 11, 1992, the State of Iowa joined in the Respondent's Motion to Amend Decision.

The Panel met on March 12, 1992 and agreed to grant, in substance, the joint Motion to Amend. The Panel hereby withdraws its Proposed Decision and reopens the record to allow the Respondent to submit further evidence, as outlined in the Proposed Decision. Specifically, the Panel will allow Respondent to submit progress reports and will allow her psychiatrist to submit progress reports. The Panel will also expect to receive laboratory results of any urine or blood samples submitted by the Respondent at the Board's request.

The record will be held open until June 1, 1992. After June 1, the Panel will meet to conduct further deliberations.

Dated this *1st* day of *April*, 1992

THE PANEL:

Charlotte Cleavenger, D.O.
Charlotte Cleavenger, D.O.

John W. Olds
John W. Olds, M.D.

George Spellman, Sr., M.D.
George Spellman, Sr., M.D.

Edra Broich
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ML/jmm

cc: Julie Pottorff
Edward McConnell

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE	)	DIA NO. 91DPHMB-9
COMPLAINT AND STATEMENT)	
OF CHARGES AGAINST)	
	)	FINDINGS OF FACT,
TERESA IRENE BYLANDER, D.O.,	)	CONCLUSIONS OF LAW,
	)	DECISION AND ORDER
Respondent	)	OF THE PANEL

On January 17, 1991 a Complaint and Statement of Charges was filed against Teresa Irene Bylander, D.O. (Respondent) by the Iowa Board of Medical Examiners (Board) charging her with violating terms of probation. On June 28, 1991 the Director of the Department of Public Health entered an order indefinitely suspending Respondent's license, pursuant to the terms of an informal settlement signed by the Respondent and the Board. On September 17, 1991 the Respondent filed an Application For Reinstatement and Request for Hearing. An Order for Hearing was issued on October 21, 1991, setting the hearing for November 21, 1991.

The hearing was continued at the request of the Respondent. On December 4, 1991 an Order For Hearing was issued setting the hearing for January 8, 1992. On January 6, 1992 the Respondent filed her Lists of Witnesses and Exhibits.

The hearing was held before a panel of the Board on January 8, 1992 at 8:45 a.m. in the conference room, Iowa Board of Medical Examiners, 1209 East Court Avenue, Des Moines, Iowa. The Board panel included: Charlotte Cleavenger, D.O.; John W. Olds, M.D.; George G. Spellman, Sr., M.D.; and Edra Broich, public member. The Respondent appeared in person and was represented by her counsel, Edward N. McConnell. The State was represented by Julie Pottorff, Assistant Attorney General. The hearing was recorded by a certified court reporter. The hearing was closed at the request of the Respondent, pursuant to Iowa Code section 258A.6(1) and 653 IAC 12.50(23)"d". The record was left open to allow the Respondent to submit the affidavit of one of her psychiatrists. As of January 28, 1992, it had not been submitted and the record was closed. The panel deliberated but later decided to leave the record open, at the request of Respondent, to allow the Respondent to submit further evidence. (Order of the Panel dated April 1, 1992)

THE RECORD

The record includes the Petition for Reinstatement, Order for Hearing, Motion for Continuance, Order, Appearance, Order for Hearing, Respondent's List of Exhibits, Respondent's List of Witnesses, the testimony of the witnesses at the hearing, Stipulation as to Admission of Additional Evidence and Respondent's

Submission of Additional Evidence dated 4-13, 4-22, 5-1, 6-8, 6-17 and 6-29-92, and the following exhibits:

- State's Exhibit A: Complaint and Statement of Charges (8/18/88)
- State's Exhibit B: Informal Settlement and Director's Order (4/28/89)
- State's Exhibit C: Complaint and Statement of Charges (1/17/91)
- State's Exhibit D: Informal Settlement and Director's Order (6/28/91)

Medical Records:

- State's Exhibit E: Evaluation - McBride Center (5/9/91)
- State's Exhibit F: Report - Hazelden Foundation (8/6/91)
- State's Exhibit G: Discharge Summary - Hazelden Foundation (8/14/91)
- State's Exhibit H: Investigative Report (7/17/91)
- State's Exhibit I: Summary of Social Security Numbers

Supporting Documentation:

- Iowa Application Exhibit I-1
 - Penn. Application Exhibit I-2
 - Kansas Renewal Exhibit I-3
 - New Mexico Trans Exhibit I-4
 - COMS Application Exhibit I-5
 - Allentown, PA Application Exhibit I-6
 - Blue Cross/Blue Shield Form Exhibit I-7
 - Mercy Staff Application Exhibit I-8
 - Lutheran Staff Application Exhibit I-9
 - COMS Payroll Record Exhibit I-10
 - COMS W-2 Forms Exhibit I-11
 - Charter Staff Application Exhibit I-12
 - Charter Reappointment Exhibit I-13
 - DOT Registration Exhibit I-14
 - Dept. of Army Exhibit I-15
 - Office of Personnel Exhibit I-16
- State's Exhibit J: Birth Certificate
 - State's Exhibit K: Lakewood Junior College Records (1969)
 - State's Exhibit L: Burglary Report (11/1/87)
 - State's Exhibit M: Arizona Residency Application (1979-80)
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Alcoholism and Other Drug Dependencies,
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1. The Respondent was issued license no. 01734 to practice medicine and surgery in Iowa on November 30, 1978, as recorded in the permanent records in the office of the Board. She filed an application to renew her Iowa license on August 14, 1984, which was granted. (Official file; State's Exhibit I-1)
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- a. Abstinence from all mood-altering chemicals.
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- c. Alcoholics Anonymous attendance twice a week, one preferably to be a women's group and one an impaired physician's group.
- d. Female sponsor within one to two weeks of discharge.
- e. One to one counseling with psychiatrist for family of origin issues and for monitoring of depression. R. Paul Post, M.D., of the Hazelden staff stated in a letter to Respondent's attorney, that she was able to resume her normal working duties as of the time of her discharge from Hazelden.

(State's Exhibit F; Respondent's Exhibits E, F; testimonies of Jean Tostrup, Dr. Richard Heilman, Respondent)

8. Since her discharge from Hazelden, Respondent has been attending Alcoholics Anonymous twice a week, including an impaired physician's group. She has a female sponsor with whom she communicates daily. Both her sponsor and a member of the impaired physician's group testified that Respondent has undergone a basic change in attitude and is making good progress. Respondent has submitted proof of her attendance at AA for the time period of December 20, 1991 to April 16, 1992. (Testimonies of Respondent, Dr. Stanley Haugland, Paula Priebe; Respondent's Submission of Additional Evidence dated 4-22-92)

9. Respondent has been a patient of Dr. Harry Voth, M.D., in Topeka, Kansas since September 18, 1991. Dr. Voth was board certified in psychiatry in 1953 and in psychoanalysis in 1965. He has known the Respondent since she was a resident physician at the Menninger School of Psychiatry from 1981 to 1984. At the hearing, Dr. Voth testified that he sees Respondent two consecutive days each week. Dr. Voth's diagnosis is depression, as a symptomatic condition, with no severe character pathology. In Dr. Voth's opinion, Respondent is ready to return to work, and it would be detrimental if she could not resume her professional work. Dr. Voth continues to have sessions with Respondent on a regular basis and concludes that she has made excellent progress. (Testimony of Dr. Harold Voth, M.D.; Additional Submissions of Evidence dated 4-13-92 and 6-17-92)

10. Respondent was also the patient of a local psychiatrist, Dr. Belen Fernandez, M.D., who has prescribed Sinequan, 50 m.g. for depression and chlorhydrate, 500 m.g. p.r.n., for insomnia. Respondent saw Dr. Fernandez solely for medication. Dr. Voth has

not been in contact with Dr. Fernandez, but was aware of Respondent's medications. Dr. Voth was not concerned about the medications, but wanted to see Respondent get off both drugs as soon as possible. Dr. Voth is willing to assume responsibility for Respondent's total psychiatric care. Respondent is no longer taking Sinequan or any mood altering drugs. (Testimonies of Respondent, Dr. Voth; Additional Submissions of Evidence dated 6-17-92)

11. Respondent had been employed at the University of Osteopathic Medicine in Des Moines prior to her suspension. She had been acting chairperson of the Department of Psychiatry and an associate professor of psychiatry. Respondent also had clinical duties. Respondent was well liked at the university by her supervisors, her co-workers, her patients, and her students. The university is anxious to reemploy Respondent as a faculty member with clinical duties. They have hired a chairperson during her absence. The dean of the university is willing to cooperate with the Board and with Respondent's continued recovery. (Testimonies of Dr. Lawrence Jacobson, Rebecca Scavo, Bonnie Theisen; Respondent's Exhibit D)

12. During her probation, Respondent was extremely uncooperative with the Board's investigator. Respondent often avoided the investigator when she came to Respondent's office seeking a urine specimen, and enlisted the help of her office personnel in avoiding the investigator. Moreover, the urinalysis results of at least one urine specimen given by Respondent strongly indicate that the specimen was not urine at all; but rather was water. However, two urine specimens were collected from the Respondent after the hearing, and both were negative. It appears that she is now cooperating with the Board's investigator. (Testimonies of Respondent, Teena Rousch; State's Exhibits H, S; Memo dated June 29, 1992)

13. Several issues raised at the hearing, by agreement of the parties, raise serious questions concerning Respondent's credibility. Respondent has used three different social security numbers and four separate birth dates in various documents she has signed in the past. Respondent's explanations for these discrepancies were not convincing. In summary, Respondent states that she has lost her social security card several times and was given a different number when filing for a duplicate card. Respondent also stated that she has difficulty with such details. With regard to her birth date, Respondent states that when she left home her mother gave her a baptismal certificate to use as proof of age, which had the wrong birth date. Her mother wanted her to use the baptismal certificate due to an irregularity in the birth certificate. In addition, in various applications and documents filed by Respondent she claims to have earned an Associate of Arts (A.A.) degree and a Bachelor of Science (B.S.) degree. In fact, Respondent was never awarded an A.A. degree, due to nonpayment of a small

student loan. Respondent actually earned a Bachelor of University Studies (B.U.S.) degree, which is not the same as a B.S. degree. (Testimonies of Respondent, Teena Rousch; State's Exhibits H, I, J, K, L, M, N, O)

14. In particular, the Board is concerned with misrepresentations made by the Respondent in her Iowa application for osteopathic medical licensure. In that application Respondent gives the wrong birth date and the wrong social security number. She claims to have earned an A.A. and a B.S. degree. In addition, in her application to renew her Iowa license, Respondent denied ever having been warned or censured by, or requested to withdraw from any hospital in which she had trained or been a staff member. In fact, Respondent's hospital privileges had been suspended by Allentown Hospital in 1980. (Testimonies of Respondent, Teena Rousch; State's Exhibits I, J, K, P, Q, R)

15. Respondent had numerous problems while practicing in Pennsylvania and Kansas. While practicing at Allentown Osteopathic Hospital, Respondent was investigated for possible demerol abuse by the Pennsylvania Department of Justice, Bureau of Drug Control. Respondent claims that the numerous demerol prescriptions in her name were due to a theft of prescription blanks. After Respondent left to practice in Kansas, the case was closed for lack of evidence. This matter was unresolved, but is troubling to the panel (State's Exhibit T). In addition, Respondent's hospital privileges at Allentown Hospital were suspended in August, 1980 for her failure to complete charts on time. (Testimonies of Respondent, Teena Rousch; State's Exhibits P, Q, R)

16. While Respondent was a resident at the Menninger School of Psychiatry, she was investigated by the Kansas Board of Healing Arts due to suspected drug dependence. She was suspended from her residency from March to May 1984, but was reinstated when urinalyses were negative. (Testimonies of Respondent, Teena Rousch; State's Exhibits I, I-9)

17. In 1985 Respondent admitted herself to Hazelden for 10 to 20 days. She testified that her role as medical director at Our Primary Purpose caused her to take a closer look at her own drinking. On September 26, 1985, Respondent ordered 1500 dextroamphetamine tablets 10 mgs from Interstate Drug Exchange of New York. She used her Kansas DEA number and a Kansas address, even though she had been employed by Our Primary Purpose since December 13, 1984. (Testimony of Respondent; State's Exhibits I, E, F)

CONCLUSIONS OF LAW

1. 653 Iowa Administrative Code section 12.50(36) provides:

12.50(36) Reinstatement.

Any person whose license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy, has been revoked, or suspended by the Board, may apply to the Board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension.

a. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the director's order or the date of voluntary surrender.

b. All proceedings for reinstatement shall be initiated by the Respondent, who shall file with the Board an application for the reinstatement of their license. Such application shall be docketed in the original case in which the license was revoked, or suspended, or relinquished. All proceedings upon the petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the Board.

c. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the Board to determine that the basis for the revocation or suspension no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the Respondent.

2. The Respondent has completed inpatient treatment as required by the Informal Settlement and Director's Order and is complying with Hazelden's recommendations for aftercare. The panel was impressed by the testimonies of Harold Voth, M.D., Stanley Haugland, M.D., and Lawrence Jacobson, D.O., as well as the testimonies of Respondent's Alcoholic Anonymous sponsor and Respondent's co-workers. All of these individuals have great confidence in Respondent, her recovery, and her ability to resume the practice of osteopathic medicine.

The panel was less impressed by Respondent's own testimony and her credibility. A number of disturbing issues were raised in this regard, not the least of which was Respondent's total lack of cooperation with the Board's investigator during her probation. It appears that Respondent is now cooperating with the Board's investigator.

The panel believes that Respondent has made good progress in her recovery and is ready to resume the practice of medicine, subject to certain conditions. Given the evidence of her progress which has been submitted during and after the hearing, the Respondent has sufficiently established that the basis for the suspension no longer exists and that it is in the public interest for her license to be reinstated.

DECISION AND ORDER

It is therefore ORDERED, that if this decision of the panel becomes a final decision, the license to practice osteopathic medicine and surgery issued to Teresa Irene Bylander, D.O., license number 01734, shall be reinstated and placed on probation for a period of ten (10) years, pursuant to the following terms and conditions:

A. The Respondent shall abstain from the personal use of alcohol.

B. The Respondent shall not use any controlled or prescription drug in any form unless prescribed for her by a duly licensed, treating physician. The Respondent shall inform any treating physician of the terms of the Informal Settlement and this Order prior to accepting any medication.

C. The Respondent shall submit to witnessed blood or urine samples on demand by a designee of the Board. The samples shall be used for drug and alcohol screening, all costs of which shall be paid by the Respondent. The Respondent shall cooperate fully with the Board's designee.

D. The Respondent shall continue her psychiatric care with Dr. Harold Voth, M.D., until discharged or transferred by him to the care of another psychiatrist. If her care is transferred to another psychiatrist, the name of that psychiatrist shall be submitted within thirty (30) days for Board approval.

(1) The Respondent's psychiatrist shall agree to report to the Board on Respondent's treatment on a quarterly basis or upon request.

(2) The Respondent shall continue treatment or counseling until discharged from treatment by her psychiatrist.

E. The Respondent shall attend a support group, such as Alcoholics Anonymous, at least twice weekly, as recommended by Hazelden. The support group shall be subject to the prior approval of the Board. The Respondent shall obtain documentation of attendance and make the documentation available to the Board or its designee on request.

F. The Respondent shall submit quarterly reports under penalty of perjury stating that there has been compliance with all the conditions of this Order.

G. The Respondent shall make appearances annually or upon request before the Board or a committee. The Respondent shall be given reasonable notice of the date, time and place for the appearances.

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

I. In the event the Respondent leaves Iowa to reside or to 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 will not apply to the duration of the probation. If, however, the Respondent complies with the terms and conditions of this Order while outside the State, including testing of witnessed blood or urine samples, the Respondent may apply to the Board to reduce the duration of the probation.

J. The Respondent may apply to the Board to reconsider any of the terms and conditions of this Order after two years from the date of the issuance of the Order.

K. In the event the Respondent violates or fails to comply with any of the terms or provisions of this Order, the Board may initiate appropriate action to revoke or suspend the Respondent's license or to impose other licensee discipline as authorized in Section 258A.3(2) of the Iowa Code and 653 - 12.2 et seq. of the Iowa Administrative Code.

L. Upon full compliance with the terms and conditions set forth in this Order, and upon expiration of the period of probation, Respondent's license shall be restored to its full privileges free and clear of the terms of probation.

In accordance with 653 Iowa Administrative Code 12.50(29), a proposed decision becomes a final decision unless appealed to the Board by a party adversely affected by serving notice of appeal on the executive director within thirty (30) days after service of the proposed decision. The Board may also review a proposed decision on its own motion.

Dated this 8th day of July, 1992.

THE PANEL:

Charlotte Cleavenger
Charlotte Cleavenger, D.O.

John W. Olds
John W. Olds, M.D.

George Spallman, Sr.
George Spallman, Sr., M.D.

Edra Broich
Edra Broich

MGL/jmm

cc: Julie Pottorff
Edward McConnell

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : ORDER
TERESA IRENE BYLANDER, D.O. : 03-90-403
RESPONDENT :

* * * * *

BE IT REMEMBERED:

1. That on June 28, 1991, an Order was issued by the Director of Public Health of the State of Iowa, indefinitely suspending Iowa license number 01734 issued to Teresa Irene Bylander, D.O. (hereafter the Respondent) to practice osteopathic medicine and surgery in Iowa.
2. That the Respondent filed a petition for reinstatement of license on September 17, 1991.
3. That on October 21, 1991, an Order was issued setting a hearing on Respondent's petition for license reinstatement.
4. That on January 8, 1992, a hearing on the Respondent's petition for license reinstatement was held before a four member panel of the Iowa State Board of Medical Examiners (hereafter the Board).
5. That on July 8, 1992, a Findings of Fact, Conclusions of Law, Decision and Order of the Panel was issued. A copy of the same was immediately forwarded to the Respondent. In addition, a copy of the Findings of Fact, Conclusions of Law, Decision and Order of the Panel was delivered to the office of the Attorney General of Iowa.
6. That on July 16, 1992, the Findings of Fact, Conclusions of

Law, Decision and Order of the Panel was accepted by the Board without further review. On the same date the State of Iowa and the Respondent jointly filed a stipulation waiving all rights to intra-agency appeal of the Findings of Fact, Conclusions of Law, Decision and Order of the Panel.

7. That as the Findings of Fact, Conclusions of Law, Decision and Order of the Panel was accepted without further review by the Board, and as the State of Iowa and the Respondent both waived their rights to intra-agency appeal of the same, the said Findings of Fact, Conclusions of Law, Decision and Order of the Panel, became a final decision of the Board.

THEREFORE IT IS HEREBY ORDERED that Iowa license number 01734 issued to the Respondent to practice osteopathic medicine and surgery in Iowa on November 30, 1978, and indefinitely suspended on June 28, 1991, is REINSTATED. The said license shall be on probation for ten (10) years from this date pursuant to the following terms and conditions:

A. The Respondent shall abstain from the personal use of alcohol.

B. The Respondent shall not use any controlled or prescription drug in any form unless prescribed for her by a duly licensed, treating physician. The Respondent shall inform any treating physician of the terms of this Order prior to accepting any medication.

C. The Respondent shall submit to witnessed blood or urine samples on demand by a designee of the Board. The samples shall be used for drug and alcohol screening, all costs of which shall be paid by the Respondent. The Respondent shall cooperate fully with the Board's designee.

D. The Respondent shall continue her psychiatric care with Dr. Harold Voth, M.D.; until discharged or transferred by him to the care of another psychiatrist. If her care is transferred to another

psychiatrist, the name of that psychiatrist shall be submitted within thirty (30) days for Board approval.

(1) The Respondent's psychiatrist shall agree to report to the Board on Respondent's treatment on a quarterly basis or upon request.

(2) The Respondent shall continue treatment or counseling until discharged from treatment by her psychiatrist.

E. The Respondent shall attend a support group, such as Alcoholics Anonymous, at least twice weekly, as recommended by Hazelden. The support group shall be subject to the prior approval of the Board. The Respondent shall obtain documentation of attendance and made the documentation available to the Board or its designee on request.

F. The Respondent shall submit quarterly reports under penalty of perjury stating that there has been compliance with all the conditions of this Order.

G. The Respondent shall make appearances annually or upon request before the Board or a committee. The Respondent shall be given reasonable notice of the date, time and place for the appearances.

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

I. In the event the Respondent leaves Iowa to reside or to 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 will not apply to the duration of the probation. If, however, the Respondent complies with the terms and conditions of this Order while outside the State, including testing of witnessed blood or urine samples, the Respondent may apply to the Board to reduce the duration of the probation.

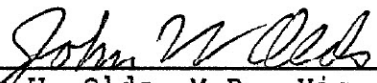
J. The Respondent may apply to the Board to reconsider any of the terms and conditions of this Order after two years from the date of the issuance of the Order.

K. In the event the Respondent violates or fails to comply with any of the terms or provisions of this Order, the Board may initiate appropriate action to revoke or suspend the Respondent's license or to impose other licensee discipline as authorized in

Sections 148.6(1) and 258A.3(2) of the Iowa Code and 653 - 12.2 et seq. of the Iowa Administrative Code.

L. Upon full compliance with the terms and conditions set forth in this Order, and upon expiration of the period of probation, Respondent's license shall be restored to its full privileges free and clear of the terms of probation.

IOWA STATE BOARD OF MEDICAL EXAMINERS



John W. Olds, M.D., Vice-Chairman
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, IA 50319
(515) 281-5171

7/17/92

Date

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
THERESA IRENE BYLANDER, D.O. : OF CHARGES
RESPONDENT : 03-93-121

COMES NOW Ann M. Martino, Ph.D., Executive Director of the Iowa State Board of Medical Examiners (hereafter the Board), on June 3 1993, and at the direction of the Board files this Complaint and Statement of Charges against Theresa Irene Bylander, D.O. (hereafter the Respondent), a physician licensed pursuant to Chapter 147, Code of Iowa and alleges:

1. That Edra Broich, James Caterine, M.D., Charlotte Cleavenger, D.O., James D. Collins, Jr., M.D., Eddie DeHaan, M.D., Mary C. Hodges, Roger Senty, D.O., George G. Spellman, Sr., M.D., Laura Stensrud, and Johanna Whalen, M.D., are the duly appointed and qualified members of the Board.

2. That the Respondent was issued license number 01734 to practice osteopathic medicine and surgery in the State of Iowa on November 30, 1978, as recorded in the permanent records in the office of the Board.

3. That the Respondent's license is current until March 1, 1994.

4. That on July 17, 1992, an Order was issued by the Board reinstating the Respondent's suspended license to practice osteopathic medicine and surgery in the state of Iowa and placing the license on probation for a period of ten (10) years under certain terms and conditions.

5. That two of the specific terms and conditions of probation as outlined in the said probation order are:

a. "The Respondent shall submit to witnessed blood or urine samples on

demand by a designee of the Board. The samples shall be used for drug and alcohol screening, all costs of which shall be paid by the Respondent. The Respondent shall cooperate fully with the Board's designee."

b. "The Respondent shall submit quarterly reports under penalty of perjury stating that there has been compliance with all the conditions of this Order."

6. That on or about December 31, 1992, the Respondent failed to cooperate with a designee of the Board who was conducting a probation visit.

7. That the Respondent failed to submit the January, 1993 quarterly report in a timely fashion.

8. That the Respondent failed to submit the April, 1993 quarterly report in a timely fashion.

9. That the Respondent has violated the terms of the probation placed upon her license to practice osteopathic medicine and surgery in the state of Iowa.

10. 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)(i) 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)(i) - "Willful or repeated violation of lawful rule or regulation adopted by the board or violating a lawful order of the board, previously entered by the board in a disciplinary...hearing..."

11. That the Board is authorized to take disciplinary action against the Respondent

pursuant to the provisions of 653 I.A.C. 12.4, 12.4(15), 12.4(16), 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(15) - "Willful or repeated violation of lawful rule or regulation adopted by the board."

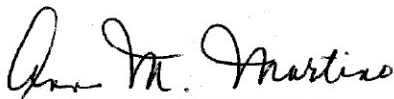
653-12.4(16) - "Violating a lawful order of the board, previously entered by the board in a disciplinary...hearing..."

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

12. That paragraphs 10 and 11 constitute grounds for the Board to revoke, suspend or otherwise discipline the license to practice osteopathic medicine and surgery issued to the Respondent, on November 30, 1978.

WHEREFORE the undersigned charges that the Respondent is subject to discipline pursuant to the provisions of sections 148.6(1), 148.6(2), and 148.6(2)(i) of the 1993 Code of Iowa, and 653 I.A.C. 12.4, 12.4(15), 12.4(16), 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 osteopathic medicine and surgery issued to the Respondent, on November 30, 1978, and for such other relief as the Board deems just in the premises.

IOWA BOARD OF MEDICAL EXAMINERS



Ann M. Martino, Ph.D.,
Executive Director
1209 East Court Avenue
Des Moines, Iowa 50319-0180
(515) 281-5171

FILE

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

93 JUL -1 AM 10:57

IN THE MATTER OF THE	)	RULING ON RESPONDENT'S REQUEST
COMPLAINT AND STATEMENT	)	FOR A MORE DEFINITIVE
OF CHARGES AGAINST	)	STATEMENT AND REQUEST FOR
	)	EXTENSION OF TIME TO ANSWER
THERESA IRENE BYLANDER, D.O.,)	
	)	03-93-121
Respondent	)	DIA NO. 93DPHMB-28

The Respondent filed a Request for a More Definitive Statement on June 16, 1993. On June 29, 1993, the State filed a Resistance, contending that the Complaint and Statement of Charges and the investigative file satisfy the notice requirements of Iowa Code section 17A.12(1)(d) (1993). The Respondent specifically requests that the more specific statement enumerate how the Respondent allegedly failed to cooperate with a designee of the Board on December 31, 1992, so that she can formulate a specific answer. The Respondent's request for a more definitive statement is granted. The State shall furnish the Respondent with a more definitive statement of the charges by July 16, 1993. The Respondent shall submit her Answer within twenty (20) days after receipt of the More Definitive Statement.

Dated this 30th day of June, 1993.

Margaret LaMarche
Margaret LaMarche
Administrative Law Judge
for the Iowa Board of Medical Examiners

ML/jmm

cc: Dennis Carr, Board of Medical Examiners
Julie Pottorff, Assistant Attorney General
Douglas E. Gross and Inga Bumbarly Langston, for the Respondent

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

95 MAR - 8 PM 1: 28
IA BOARD OF MED. EXAMINERS

IN THE MATTER OF THE COMPLAINT *
AND STATEMENT OF CHARGES AGAINST * **INFORMAL SETTLEMENT**
THERESA IRENE BYLANDER, DO, *
RESPONDENT * **03-93-121**

COMES NOW the Iowa Board of Medical Examiners (hereafter the Board) and Theresa Irene Bylander DO (hereafter the Respondent), and pursuant to Iowa Code sections 17A.10 and 272C.3(4), enter into the following Informal Settlement of the disciplinary action currently on file against the Respondent:

- 1) The Respondent was issued license number 01734 to practice osteopathic medicine and surgery in Iowa on November 30, 1978.
- 2) A Complaint and Statement of Charges was filed against the Respondent on June 3, 1993. The Complaint and Statement of Charges is awaiting hearing.
- 3) The Board has jurisdiction of the parties and subject matter of the Complaint and Statement of Charges.
- 4) The Board shall issue an Order amending the Order imposing probation upon the Respondent's osteopathic medical license which was issued on July 17, 1992, a copy of which is attached as Exhibit A. The Order shall amend Exhibit A by adding the following terms and provisions:
 - A) Within thirty (30) days of the Board's approval of this Informal Settlement, the Respondent shall pay a civil penalty in the amount of \$2500.00 by delivering to the Executive Director of the Board a check or money order payable to the Iowa State Treasurer.

INFORMAL SETTLEMENT
Theresa Irene Bylander, DO

The check or money order shall be deposited into the state general fund.

B) On Monday, Tuesday, Wednesday, Thursday and Friday of each week, excluding legal holidays, for a period of six (6) months from the date of the Board's approval of this Informal Settlement, the Respondent shall provide a witnessed urine specimen in an amount not less than 30 milliliters. The urine specimens shall be randomly tested for the presence of drugs or alcohol, all costs of which shall be paid by the Respondent. The urine specimens shall be provided in the following described manner:

The Respondent shall present herself at the Board office, 1209 East Court Avenue, Des Moines, Iowa, between the hours of 8:30 am and 12:30 pm, and shall provide the required urine specimen in the presence of a female Board staff member. If the Respondent is to be out of the Des Moines area and therefore be unable to provide the required urine specimen, the Respondent shall notify the Board's Compliance Section by phone or in writing in advance of the date of her departure and expected return. If due to illness, an emergency or another unforeseen circumstance, the Respondent is unable to appear and provide the urine specimen, the Respondent shall contact the Board's Compliance Section by phone with a satisfactory explanation for her inability to provide the required urine specimen.


C) For a period of six (6) months following the date of the Board's approval of this Informal Settlement the Respondent shall submit a monthly sworn report to the Board stating that she is in compliance with all the terms and provisions of her probation. The reports shall be received in the Board's office not later than the fifth working day of each month.

5) All terms and provisions outlined in Exhibit A remain in full force and effect as originally ordered. Any violation of the terms or provisions of this Informal Settlement shall be deemed a violation of the terms and provisions of Exhibit A and shall be dealt with accordingly.

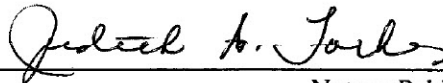
INFORMAL SETTLEMENT
Theresa Irene Bylander, DO

6) This Informal Settlement is the disposition to a contested case and is subject to approval of the Board. If the Board fails to approve this Informal Settlement, it shall be of no force or effect to either party.

This Informal Settlement is voluntarily submitted on March 8, 1995.

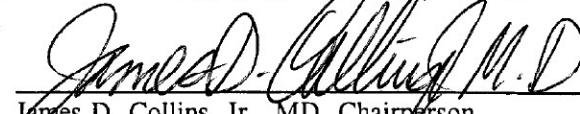

Theresa Irene Bylander, DO, Respondent

Subscribed and sworn to before me on March 8 1995.



Notary Public, State of Iowa
My Comm. Exp. April 6, 1995

This Informal Settlement is accepted by the Board on March 8 1995.


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

DMC/da
as Bylander IS

COPY

Exhibit A

BEFORE THE BOARD OF MEDICAL EXAMINERS

OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT :

AND STATEMENT OF CHARGES AGAINST : ORDER

TERESA IRENE BYLANDER, D.O. : 03-90-403

RESPONDENT :

BE IT REMEMBERED:

1. That on June 28, 1991, an Order was issued by the Director of Public Health of the State of Iowa, indefinitely suspending Iowa license number 01734 issued to Teresa Irene Bylander, D.O. (hereafter the Respondent) to practice osteopathic medicine and surgery in Iowa.

2. That the Respondent filed a petition for reinstatement of license on September 17, 1991.

3. That on October 21, 1991, an Order was issued setting a hearing on Respondent's petition for license reinstatement.

4. That on January 8, 1992, a hearing on the Respondent's petition for license reinstatement was held before a four member panel of the Iowa State Board of Medical Examiners (hereafter the Board).

5. That on July 8, 1992, a Findings of Fact, Conclusions of Law, Decision and Order of the Panel was issued. A copy of the same was immediately forwarded to the Respondent. In addition, a copy of the Findings of Fact, Conclusions of Law, Decision and Order of the Panel was delivered to the office of the Attorney General of Iowa.

6. That on July 16, 1992, the Findings of Fact, Conclusions of

Law, Decision and Order of the Panel was accepted by the Board without further review. On the same date the State of Iowa and the Respondent jointly filed a stipulation waiving all rights to intra-agency appeal of the Findings of Fact, Conclusions of Law, Decision and Order of the Panel.

7. That as the Findings of Fact, Conclusions of Law, Decision and Order of the Panel was accepted without further review by the Board, and as the State of Iowa and the Respondent both waived their rights to intra-agency appeal of the same, the said Findings of Fact, Conclusions of Law, Decision and Order of the Panel, became a final decision of the Board.

THEREFORE IT IS HEREBY ORDERED that Iowa license number 01734 issued to the Respondent to practice osteopathic medicine and surgery in Iowa on November 30, 1978, and indefinitely suspended on June 28, 1991, is REINSTATED. The said license shall be on probation for ten (10) years from this date pursuant to the following terms and conditions:

A. The Respondent shall abstain from the personal use of alcohol.

B. The Respondent shall not use any controlled or prescription drug in any form unless prescribed for her by a duly licensed, treating physician. The Respondent shall inform any treating physician of the terms of this Order prior to accepting any medication.

C. The Respondent shall submit to witnessed blood or urine samples on demand by a designee of the Board. The samples shall be used for drug and alcohol screening, all costs of which shall be paid by the Respondent. The Respondent shall cooperate fully with the Board's designee.

D. The Respondent shall continue her psychiatric care with Dr. Harold Voth, M.D., until discharged or transferred by him to the care of another psychiatrist. If her care is transferred to another

psychiatrist, the name of that psychiatrist shall be submitted within thirty (30) days for Board approval.

(1) The Respondent's psychiatrist shall agree to report to the Board on Respondent's treatment on a quarterly basis or upon request.

(2) The Respondent shall continue treatment or counseling until discharged from treatment by her psychiatrist.

E. The Respondent shall attend a support group, such as Alcoholics Anonymous, at least twice weekly, as recommended by Hazelden. The support group shall be subject to the prior approval of the Board. The Respondent shall obtain documentation of attendance and made the documentation available to the Board or its designee on request.

F. The Respondent shall submit quarterly reports under penalty of perjury stating that there has been compliance with all the conditions of this Order.

G. The Respondent shall make appearances annually or upon request before the Board or a committee. The Respondent shall be given reasonable notice of the date, time and place for the appearances.

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

I. In the event the Respondent leaves Iowa to reside or to 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 will not apply to the duration of the probation. If, however, the Respondent complies with the terms and conditions of this Order while outside the State, including testing of witnessed blood or urine samples, the Respondent may apply to the Board to reduce the duration of the probation.

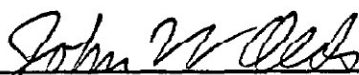
J. The Respondent may apply to the Board to reconsider any of the terms and conditions of this Order after two years from the date of the issuance of the Order.

K. In the event the Respondent violates or fails to comply with any of the terms or provisions of this Order, the Board may initiate appropriate action to revoke or suspend the Respondent's license or to impose other licensee discipline as authorized in

Sections 148.6(1) and 258A.3(2) of the Iowa Code and 653 - 12.2 et seq. of the Iowa Administrative Code.

L. Upon full compliance with the terms and conditions set forth in this Order, and upon expiration of the period of probation, Respondent's license shall be restored to its full privileges free and clear of the terms of probation.

IOWA STATE BOARD OF MEDICAL EXAMINERS



John W. Olds, M.D., Vice-Chairman
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, IA 50319
(515) 281-5171

7/17/92

Date

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

IN THE MATTER OF THE COMPLAINT *
*
AND STATEMENT OF CHARGES AGAINST * **ORDER**
*
THERESA IRENE BYLANDER, D.O., * **03-93-121**
*
RESPONDENT *
*

NOW ON 17 MAR 95, BE IT REMEMBERED:

1. That Theresa Irene Bylander, D.O. (hereafter the Respondent), was issued a license to practice osteopathic medicine and surgery in the state of Iowa, on November 30, 1978, as evidenced by certificate number 01734, which is recorded in the permanent records in the office of the Iowa State Board of Medical Examiners (hereafter the Board).

2. That a Complaint and Statement of Charges was filed against the Respondent, on June 3, 1993, and was scheduled to be heard before the Board.

3. That the Board has jurisdiction of the parties and the subject matter herein.

4. That the undersigned is authorized to issue an Order herein on the behalf of the Board, under the provisions of sections 148.6(1), 148.6(2), and 148.7(7), of the 1995 Code of Iowa.

5. That pursuant to the provisions of sections 17A.10 and 272C.3(4) of the 1995 Code of Iowa, the Respondent and the Board have entered into an Informal Settlement providing

that the undersigned should enter an Order relating to the Respondent's license to practice osteopathic medicine and surgery in the state of Iowa.

THEREFORE IT IS ORDERED that the Order imposing probation upon the Respondent's osteopathic medical license which was issued on July 17, 1992, attached as Exhibit A to the Informal Settlement, be amended by adding the following terms and provisions:

a) Within thirty (30) days of the Board's approval of the Informal Settlement, the Respondent shall pay a civil penalty in the amount of \$2,500.00 by delivering to the Executive Director of the Board a check or money order payable to the Iowa State Treasurer. The check or money order shall be deposited into the state general fund.

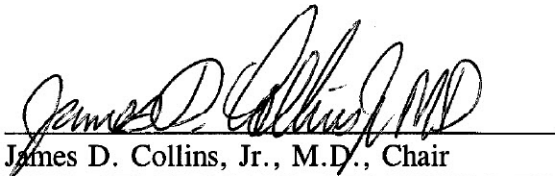
b) On Monday, Tuesday, Wednesday, Thursday and Friday of each week, excluding legal holidays, for a period of six (6) months from the date of this Order, the Respondent shall provide a witnessed urine specimen in an amount not less than 30 milliliters. The urine specimens shall be randomly tested for the presence of drugs or alcohol, all costs of which shall be paid by the Respondent. The urine specimens shall be provided in the following described manner:

The Respondent shall present herself at the Board office, 1209 East Court Avenue, Des Moines, Iowa, between the hours of 8:30 a.m. and 12:30 p.m., and shall provide the required urine specimen in the presence of a female Board staff member. If the Respondent is to be out of the Des Moines area and therefore unable to provide the required urine specimen, the Respondent shall notify the Board's Compliance Section by phone or in writing in advance of the date of her departure and expected return. If due to illness, an emergency or another unforeseen circumstance, the Respondent is unable to appear and provide the urine specimen, the Respondent shall contact the Board's Compliance Section by phone with a satisfactory explanation for her inability to provide the required urine specimen.

c) For a period of six (6) months following the date of this Order, the Respondent shall submit a monthly sworn report to the Board stating that she is in compliance with all the terms and provisions of her probation. The reports shall be received in the Board's office not later than the fifth working day of each month.

6. All terms and provisions outlined in Exhibit A to the Informal Settlement remain in full force and effect as originally ordered. Any violation of the terms or provision of this

Order shall be deemed a violation of the terms and provisions of Exhibit A to the Informal Settlement and shall be dealt with accordingly.

A handwritten signature in black ink, appearing to read "James D. Collins, Jr., M.D.", written over a horizontal line.

James D. Collins, Jr., M.D., Chair
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, IA 50319-0180

Teresa

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF	)	DIA NO: 95DPHMB-31
THE COMPLAINT AND STATEMENT	)	CASE NO: 03-95-237
OF CHARGES AGAINST)	
	)	FINDINGS OF FACT,
TERESA I. BYLANDER, D.O.	)	CONCLUSIONS OF LAW,
	)	DECISION AND ORDER
RESPONDENT	)	OF THE PANEL

TO: TERESA I. BYLANDER, D.O.

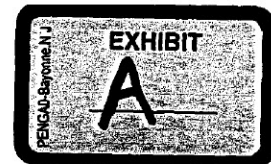
On October 19, 1995, the Iowa Board of Medical Examiners (Board) filed a Statement of Charges against Teresa I. Bylander, D.O., (Respondent) which alleged that the Respondent had violated the terms and conditions of the probation placed upon her license to practice osteopathic medicine and surgery in Iowa. The Statement of Charges further alleged that the Respondent had violated Iowa Code sections 148.6(1) and 148.6(2)(i)(1995) and 653 IAC 12.4(16) and (28). An Original Notice and Order for Hearing set the hearing for December 7, 1995.

On October 25, 1995 the Respondent filed a Motion for Continuance, which was denied. Subsequently, the Executive Director issued an Order continuing the hearing to a date not later than January 19, 1996. In addition, it was ordered that discovery was to be completed no later than December 23, 1995. On December 28, 1995 an Order was issued scheduling the hearing for January 11 and 12, 1996.

On January 5, 1996 the state of Iowa filed a Motion for Order to Compel Discovery and for Expenses. An Order to Compel was issued on January 5, 1996. The Respondent filed a Resistance and Motion for Extension of Time after the Order to Compel was issued.

Also on January 5, 1996 the Respondent filed a Motion to Rescind, Motion to Strike Exhibits and Limit Evidence, Demand for Additional Records and Documents, and a Motion for Continuance. The state filed Resistances to these motions on January 8, 1996. The parties were heard orally on these motions and rulings were issued on January 8, 1996.

On January 8, 1996 the Respondent served the Board with a Subpoena Duces Tecum. The state filed a Motion to Quash Subpoena on January 10, 1996. The Respondent filed a Resistance to Motion to Quash Subpoena and Motion for Reconsideration of Demand for Additional Records and Documents. A ruling was issued on January 10, 1996.



On January 10, 1996, the Respondent filed another Motion for Continuance, which was denied. The Respondent also filed a Motion to Exclude Evidence, which was denied at the hearing.

The hearing was held before a three member panel of the Board on January 11 and 12, 1996. The members of the panel were: Donna Norman, D.O.; Teresa Mock, M.D.; and Edra Broich, public member. The Respondent appeared and was represented by her counsel, Michael Sellers. The state was represented by Heather Adams and Theresa O'Connell Weeg, Assistant Attorneys General. The hearing was closed to the public, at the written request of the Respondent, pursuant to Iowa Code section 272C.6(1)(1995). The hearing was recorded by a certified court reporter. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided and was instructed to prepare the panel's proposed decision, in accordance with their deliberations.

THE RECORD

The record includes the Statement of Charges; the Original Notice; the Order for Hearing; the above described motions and rulings, the discovery requests of the parties, the testimony of the witnesses, and the following exhibits:

- State Exhibit A: Complaint Report, 7/6/95
- State Exhibit B: Investigative Report, 9/2/95
- State Exhibit C: Statement of Dina Nightingale, R.N.
- State Exhibit D: Statement of Cindy Johnson
- State Exhibit E: Statement of Pat Marshall, R.N.
- State Exhibit F: Summary suspension letter dated 7/5/95 (Smits to Respondent)
- State Exhibit G: Progress Notes, Dr. Loren Olson, 7/6/95
- State Exhibit H: Adverse Action Report, 8/2/95
- State Exhibit I: excluded
- State Exhibit J: Complaint and Statement of Charges, 1/17/91; Informal Settlement, 6/27/91; Order 6/28/91; Application for Reinstatement and Request for Hearing, 9/17/91, and attached exhibits; Order for Hearing on Petition for Reinstatement of Licensure; Findings of Fact, Conclusions

- of Law, Decision and Order of the Panel,
7/8/92; Order, 7/17/92.
- State Exhibit K: Complaint and Statement of Charges,
6/3/93; Informal Settlement, 3/8/95;
Order 3/17/95
- State Exhibit L: Des Moines Police Department, Area Study
of CADS Trips, 6/30/95
- Respondent Exhibit 1: Affidavit of Deborah L. Rolek,
7/22/95
- Respondent Exhibit 2: Curriculum Vitae of Harold Voth,
M.D.
- Respondent Exhibit 3: Curriculum Vitae of Rebecca R.
Monsma, MSW, LSW
- Respondent Exhibit 4: Affidavit of Rebecca Monsma, 7/25/95
- Respondent Exhibit 5: Memorandum dated 1/12/95 (Respondent
to Director of Nursing Staff)
- Respondent Exhibit 6: Paging record, Answer Plus
- Respondent Exhibit 7: Affidavit of Francine Sciorrotta,
7/25/95
- Respondent Exhibit 8: Chronology of 6/30/95, prepared by
Respondent
- Respondent Exhibit 9: Banking records and cancelled
checks.

FINDINGS OF FACT

1. The Respondent was issued license number 01734 to practice osteopathic medicine and surgery in Iowa on November 30, 1978. The Respondent's license is current and will next expire on March 1, 1996. (Board file)
2. The Respondent's license was initially placed on probation by the Board on April 28, 1989. The probationary term was four years, subject to certain terms and conditions. On January 17, 1991 the Board filed a Complaint and Statement of Charges alleging that the Respondent had violated the terms of that probation. The alleged violations included a urine specimen that was positive for a controlled drug that had not been prescribed by a physician, the accepting of controlled drug prescriptions from treating physicians

without notifying the physicians of the terms of her Informal Settlement and probation, and the self prescription of various non-controlled drugs. Following the filing of this Complaint and Statement of Charges, the Respondent and the Board entered into an Informal Settlement. Effective July 1, 1991, the Respondent's license to practice osteopathic medicine and surgery was indefinitely suspended. She was prohibited from applying for reinstatement until she successfully completed an inpatient substance abuse treatment program, including diagnosis, evaluation and any necessary treatment for any related mental condition. (Testimony of Bernard Jennisch; State Exhibit J)

3. The Respondent's license was reinstated on July 17, 1992, following a hearing before a panel of the Board on her Petition for Reinstatement. Her license was placed on probation for a period of ten (10) years, subject to terms and conditions. The terms and conditions prohibited the Respondent from the personal use of alcohol or the use of any controlled or prescription drug in any form unless prescribed for her by a duly licensed, treating physician. On June 3, 1993, the Board filed another Complaint and Statement of Charges alleging that the Respondent had violated the terms of her probation when she failed to cooperate with a designee of the Board who was conducting a probation visit and when she failed to timely file two quarterly reports. The Respondent and the Board entered into an Informal Settlement in which the Respondent agreed to pay a civil penalty of \$2500.00 and to provide witnessed urine specimens at the Board office on all weekdays, excluding legal holidays, for a period of six months. An Order was issued on March 17, 1995 which incorporated the provisions of the Informal Settlement. (Testimony of Bernard Jennisch; State Exhibit K)

4. In April 1995 the Respondent attended the spring meeting of the American College of Neuropsychiatrists in Phoenix, Arizona. During a luncheon, the Respondent sat next to Dr. Wesley Richardson, D.O., another Des Moines psychiatrist. Both the Respondent and Dr. Richardson had graduated from the same residency program. Dr. Richardson had met the Respondent once during his residency program. Subsequently, when Dr. Richardson began practicing in Des Moines, he had contact with the Respondent at section meetings. In addition, they had referred patients to each other. At the luncheon, Dr. Richardson and the Respondent discussed their residency program and the Respondent's concerns about the current probationary status of the program. Dr. Richardson and the Respondent agreed to meet for dinner to continue their conversation. (Testimony of Dr. Wesley Richardson, D.O.; Respondent)

5. They agreed to meet in the hotel lobby at 7:00 or 7:30 p.m. Dr. Richardson had rented a car and would drive. The Respondent chose a restaurant and obtained directions which she had written on

a piece of paper. They walked to Dr. Richardson's car, which was parked in front of the hotel. Dr. Richardson testified that he did not notice anything unusual about the Respondent at this time, but that he was probably leading the way to the car and may have been walking in front of her. When they got in the car, the Respondent had the directions on a piece of paper that appeared to be an opened envelope. When they were in the car, Dr. Richardson said that the Respondent was very excited that he had a convertible. She loudly stated that he was very courageous to rent a car in a city that size. Dr. Richardson noted that her speech was very slurred. He asked her if he could keep the top down and she agreed. She attempted to put a scarf on her head but had great difficulty with it and seemed uncoordinated. Dr. Richardson thought she was under the influence of a chemical substance, but he did not smell alcohol. He decided that if she ate, she would sober up. He asked her for the directions to the restaurant, but she could not find them. Dr. Richardson continued to drive, thinking that he could find a restaurant. Finally, he parked the car in an available space, thinking that they would be able to find a restaurant or a place to have coffee. (Testimony of Wesley Richardson, D.O.)

6. Dr. Richardson opened the car door for the Respondent. As she got out of the car, the Respondent's gait was unsteady, and she was staggering. Dr. Richardson saw a nearby park bench, and he had the Respondent sit down. He asked some office workers if there was a place nearby to eat or get coffee, and they said no. Dr. Richardson decided that maybe things would get better if they sat for awhile. They were on the park bench for approximately thirty minutes. Dr. Richardson describes her conversation during this time as disorganized. He had difficulty following her. She was very concerned with a resident who had left the residency program that they had been discussing. She also complimented Dr. Richardson "a lot" on his skills as a psychiatrist. In Dr. Richardson's opinion her praise of him was "overboard" because they had not worked together much. At one point in their conversation, the Respondent told Dr. Richardson that "she knew what she had done tonight, and she did it purposefully." Dr. Richardson told her he did not understand, but she did not offer any explanation. (Testimony of Wesley Richardson, D.O.)

7. After about thirty minutes on the park bench, Dr. Richardson suggested going back to the hotel to eat, and the Respondent agreed. While they were driving, the Respondent's nose started running, and neither of them had a kleenex or handkerchief. Dr. Richardson told the Respondent that he would look for a place to stop. The Respondent told Dr. Richardson that if he was any kind of a gentleman he would give her something for her nose. Richardson stopped at a fast food restaurant to get the Respondent napkins. The Respondent told Dr. Richardson "no, just take me to the hotel." Dr. Richardson does not recall the Respondent ever

telling him that she did not feel well. When they arrived at the hotel, the Respondent got out of the car and walked toward the doorman. Dr. Richardson let her go, assuming that the doorman would take care of her. Dr. Richardson told the Board's investigator that he did not want to be seen with the Respondent. (Testimony of Wesley Richardson, D.O.; Bernard Jennisch; State Exhibit B)

8. Dr. Richardson testified that he had heard rumors about the Respondent's problems with the Board, but had no direct knowledge of her probation. He did not report his observations to the Board or anyone else because he assumed that there were no restrictions on her activity during her personal time. In July 1995, when Dr. Richardson found out that the Respondent was under investigation by Mercy Hospital for alleged alcohol use, he mentioned the incident to his supervisor at Mercy Franklin. His supervisor, Dr. Loren Olson, contacted the Board to inquire whether Richardson would be required to report the Phoenix incident. Dr. Richardson contacted the Board after he was told it was a reportable incident. The Board's investigator interviewed Dr. Richardson. At the interview, Dr. Richardson did not mention the Respondent's comment to him that she knew what she had done. According to Dr. Richardson, the investigator did not question him in as much detail as the assistant attorney general. (Testimony of Wesley Richardson, D.O.; Bernard Jennisch; State Exhibit B)

9. The Respondent testified concerning her evening with Dr. Richardson in Phoenix. She denied that she had directions to the restaurant and stated that the concierge had only given her the name and phone number for the restaurant, which she had written on a piece of paper. She said that she did not lose the piece of paper, rather she had put it in her purse and did not want to look for it. These statements were not credible. The Respondent denied that she was under the influence of any chemical substance. She testified that she spoke loudly because of the noise of the convertible. Dr. Richardson testified, however, that at the speed they were travelling it was not necessary to speak loudly to be heard. The Respondent denied that she brought a scarf or attempted to put one on. She testified that she felt a convertible was dangerous, and she had been in an accident in a convertible years before. She admitted that she was very upset over the residency program and the plight of one particular resident. When she was interviewed by the Board's investigator, the Respondent denied that they had sat on a park bench that evening. At the hearing, she testified that they may have talked on the park bench for about fifteen minutes, and she probably lost track of time. The Respondent admitted that she made a comment to Dr. Richardson that she had made a "mistake." She testified that she meant she made a mistake in sharing the particular resident's problems with Dr. Richardson. (Testimony of Respondent; Wesley Richardson, D.O.; Bernard Jennisch; State Exhibit B)

10. The Respondent testified that she became very ill with stomach cramps, and she could not stand up. According to the Respondent, she has suffered from intermittent severe stomach cramps and diarrhea since a 1994 trip to Africa. She also testified that she had severe menstrual cramps. The Respondent testified that she was afraid she might have an accident, and she finally asked Dr. Richardson to take her back to the hotel. The Respondent admits making the comment to Richardson that a real gentleman would give her something for her nose, but testified that she was teasing him. This explanation is not consistent with her claim that she was in severe pain at the time. When she arrived at the hotel, she went up to the doorman to ask if there was a ladies' room on the first floor. She testified that she did not tell Dr. Richardson about the cramps, but she did tell him that she did not feel well and did not think that she could eat. Dr. Richardson denies that the Respondent ever told him she was not feeling well. Dr. Richardson testified, in his opinion, the Respondent was "feeling no pain." (Testimony of Respondent; Dr. Wesley Richardson)

11. Her personal physician, Dr. Fred Strickland, D.O., testified that the Respondent had spoken to him about her chronic intermittent diarrhea, and he understood that it could be temporarily debilitating. Dr. Strickland testified that he had tried to work with her on ways to deal with the diarrhea. Dr. Strickland did not mention any medical tests had been done, but the Respondent testified that she had AIDS, hepatitis, and immunological testing to try to determine the cause of the diarrhea. She testified that she has been intending to have a full GI series done, but has been putting it off. Dr. Strickland also works for the University of Osteopathic Medicine and Surgery. In addition to training medical students, Dr. Strickland conducts a family practice in the Tower Clinic. Dr. Strickland has known the Respondent since the mid-1970's, when they were students together at the College of Osteopathic Medicine and Surgery. Dr. Strickland testified that the Respondent suffers from insomnia, which he believes is secondary to stress. He has prescribed Ambien for her insomnia, to be taken only at bedtime. Dr. Strickland told the Board's investigator that he has periodically prescribed Restoril (a benzodiazepene) for the Respondent as needed. Dr. Strickland testified that he sees the Respondent fairly frequently and thinks he would have detected any ongoing problems with chemicals. (Testimony of Respondent; Dr. Fred Strickland, D.O.; State Exhibit B)

12. The Respondent is a board certified psychiatrist. She teaches psychiatry at the University of Osteopathic Medicine and Surgery and has clinical duties and private patients. She often treats very difficult psychiatric cases. On Friday, June 30, 1995 the Respondent had two female psychiatric patients who had been admitted to the locked ward at Mercy Franklin Medical Center. Patient #1 was extremely agitated, tearful, and anxious. The

psychiatric nurse on duty used several different techniques in an attempt to calm her down but was unsuccessful. The nurse, Dina Nightingale, decided to call the Respondent. Her first call was during regular office hours. The employee at Respondent's office told Ms. Nightingale that the Respondent was not in, and she told Nightingale to page her. The digital pager was not providing a voice prompt, and Ms. Nightingale reported this to Respondent's office staff. They told her to keep trying. Ms. Nightingale continued to attempt to page Respondent and was eventually successful in getting the voice prompt and completing the page. Ms. Nightingale paged the Respondent approximately six times over a period of three hours. The Respondent did not respond to the pages. Ms. Nightingale also called the Respondent at her home, but there was no answer. She could not recall if she also called the Respondent's answering service. (Testimony of Respondent; Dina Nightingale; State Exhibit C)

13. The patient continued to be extremely agitated. Dr. Strickland, who had done the history and physical on the patient earlier that day, came to the unit. Ms. Nightingale told him that she had not been able to reach the Respondent and asked him if he would feel comfortable prescribing something for the patient. Dr. Strickland agreed, and he wrote a prescription for a mid-level sedative. He told Nightingale that if the Respondent disagreed, to tell her that he felt the patient needed something to calm her down a little. The Respondent came to the hospital at 10:25 p.m. Ms. Nightingale recalled the time because she works the 3:00 to 11:30 p.m. shift, and she was near the end of her shift. The Respondent went directly to the nurse's station, and Ms. Nightingale told her about the agitated patient and Dr. Strickland's prescription. At first, the Respondent did not seem to understand what Nightingale was telling her, and Nightingale repeated herself several times and showed her Dr. Strickland's notations in the patient chart. The Respondent became very loud and agitated and asked Nightingale, "what did you want from me that you didn't think you would get?" Ms. Nightingale left the nurse's station. (Testimony of Dina Nightingale; State Exhibit C)

14. Ms. Nightingale testified that the Respondent smelled very strongly of alcohol. The Respondent's voice was loud and patients were sleeping, so Ms. Nightingale decided to go check on her patients. Both of the Respondent's patients were in the lounge, smoking. They were both long term patients of the Respondent's and had been hospitalized on the unit previously. However, the Respondent appeared to have difficulty recognizing them, and a psychiatric technician had to point them out to her. The Respondent took each of the patients to another area for therapy. This took less than one half hour. Ms. Nightingale testified that she had no doubt she smelled alcohol, but she approached a co-worker and said "I think I smell alcohol, what do you think?" This co-worker said she smelled alcohol. Another co-worker confirmed

the alcohol odor also. These co-workers provided written statements concerning the odor of alcohol and Respondent's behavior that evening. Ms. Nightingale testified that, in her opinion, the odor was not gasoline or perfume. She is familiar with the Respondent's perfume. (Testimony of Dina Nightingale; State Exhibits C, D, E)

15. Ms. Nightingale returned to the nurse's station to complete the charting for her shift. The Respondent came to the nurse's station after completing the patients' therapy. Ms. Nightingale could smell alcohol on the Respondent; they had minimal conversation. The Respondent complained loudly about the poor nursing care the patients were receiving. Several patients were nearby, including the Respondent's two patients. The Respondent's patients were very upset, and they began making negative comments about their therapy. One of them called the Respondent a "drunk." The other patient was very agitated and was screaming, yelling, and crying. Ms. Nightingale took the same patient who had been sedated earlier to the "quiet room", to try to get her to lie down. Ms. Nightingale estimated that it was approximately 11:10 p.m., and the Respondent left the unit. Ms. Nightingale testified that her relationship with the Respondent had been professional, but "not good." In Nightingale's opinion, the Respondent often tried to provoke her into verbal arguments. When the Respondent did this, Ms. Nightingale would usually walk away from her. (Testimony of Dina Nightingale; State Exhibits C, D, E)

16. Ms. Nightingale decided that she would report what had occurred. She went home and made notes of the times and what happened. That weekend she typed a statement. Nightingale called her supervisor, Penny McGrath, the following day and said she and her co-workers would be turning in written statements on Monday. Penny McGrath told Ms. Nightingale that she had called the hospital at 12:30 a.m. that morning after receiving a call at home from the Respondent. The Respondent called McGrath to report her dissatisfaction with Ms. Nightingale obtaining a prescription from Dr. Strickland. Ms. McGrath told Nightingale that the Respondent had kept her on the phone for nearly an hour. The Respondent admits that she called Ms. McGrath that evening to complain about Dina Nightingale. (Testimony of Dina Nightingale; Respondent)

17. Two of Ms. Nightingale's co-workers, a registered nurse and a psychiatric technician, also prepared written statements, which they gave to their supervisor. The nurse reported that the Respondent smelled very strongly of alcohol, that one of the patients told her that the Respondent smelled of alcohol, and that the Respondent made inappropriate statements which caused some of the patients to become agitated and upset. The psychiatric technician reported that the Respondent appeared to have the odor of alcohol on her breath and that a patient also reported this to her. (Testimony of Bernard Jennisch; State Exhibits D, E)

18. The medical director of Mercy Franklin reported this incident to Mercy Hospital. On July 5, 1995, Mercy Hospital summarily suspended the Respondent's medical staff membership and clinical privileges. On July 6, 1995 the medical director interviewed the Respondent's two patients who observed the events of June 30, 1995, and reported the incident to the Board. (Testimony of Bernard Jennisch; State Exhibit A, B, F, G)

19. On July 27, 1995, a hearing was held before the Mercy Hospital Executive Committee regarding the Respondent's medical staff membership and clinical privileges. The Respondent appeared and submitted three affidavits and a chronology of the events of June 30, 1995. The affidavits submitted by the Respondent were prepared by Deborah Rolek, a close personal friend of the Respondent; Rebecca Monsma, a co-worker and close personal friend; and Francine Sciorrotta, the Respondent's hairdresser and personal friend. These documents were also submitted into this record. The Executive Committee confirmed the summary suspension of the Respondent's medical staff membership and clinical privileges, and this information was reported to the National Practitioner's Data Bank. (Testimony of Bernard Jennisch; Respondent; State Exhibit H; Respondent Exhibits 1, 4, 7, 8)

20. In her affidavit, the Respondent's hairdresser reported that the Respondent arrived at her salon at approximately 4:15 p.m. on June 30, 1995. The hairdresser was behind schedule and did not begin working on the Respondent until 5:00 p.m. or after. It would have taken her at least an hour to do the Respondent's hair. Following the appointment, the Respondent stayed to visit with Ms. Sciorrotta. Ms. Sciorrotta recalls that it was at least 7:00 p.m., or perhaps later, when the Respondent left her salon. After that, the Respondent went upstairs to Ms. Sciorrotta's home to check on Sciorrotta's husband, who had been in a car accident. Ms. Sciorrotta reported that she sensed nothing which would suggest that the Respondent was intoxicated, nor did the Respondent consume any alcoholic beverages while she was with Ms. Sciorrotta. Ms. Sciorrotta also reported that the Respondent often receives and returns pages while at her salon. According to Sciorrotta, she recalled the Respondent receiving and returning one page while she was at her salon. The Respondent testified that this was the one page that appears in the answering service records. (Testimony of Respondent; Respondent Exhibit 7)

21. Deborah Rolek testified at the hearing before the panel and stated in her affidavit that she was at the Respondent's home, returning items she had borrowed, when the Respondent returned from her hair appointment. Ms. Rolek could not recall the exact time that the Respondent arrived home. She testified that she normally waits until after she has put her children to bed, which would usually be 8:00 p.m., before she visits the Respondent. She was not sure if she put the children to bed before going to the

Respondent's on June 30th. Ms. Rolek takes care of the Respondent's home when she is out of town and has a garage door opener and the code to Respondent's security system. When Respondent arrived home, she needed to finish her hair and change her clothes before making patient rounds. Ms. Rolek stayed and visited with the Respondent while she got ready. Ms. Rolek estimates that they visited for approximately 35 minutes. Ms. Rolek did not observe any signs that the Respondent had consumed alcohol. Ms. Rolek has never observed the Respondent consume alcohol, nor has she seen her exhibit signs of alcohol consumption. (Testimony of Deborah Rolek; Respondent Exhibit 1)

22. Rebecca Monsma is a licensed clinical social worker and a member of the faculty at the University of Osteopathic Medicine and Health Sciences in Des Moines, Iowa. Ms. Monsma and the Respondent share patients, including the two patients who were hospitalized at Mercy Franklin on June 30th. Ms. Monsma is also a close personal friend of the Respondent's. Ms. Monsma went to Mercy Franklin on June 30, 1995 at approximately 8:30 p.m. to see Respondent's two patients. She spent approximately one-half hour with each patient, and left Mercy Franklin at approximately 9:30 p.m. While she was at Mercy Franklin, Ms. Monsma was told that Ms. Nightingale had obtained a prescription from Dr. Strickland for one of the patients, after the Respondent did not respond to her pages. Ms. Monsma was concerned because the Respondent had written orders that the patient, who was psychotic, drug dependent and drug seeking, not be given drugs. Ms. Monsma was also concerned because both patients reported that the Respondent had not answered her pages. Ms. Monsma felt that the only way the patients could know this is from the nurse. In Ms. Monsma's opinion, it was absolutely inappropriate for the nurse to discuss the pages with the patients.

a) In her affidavit, Ms. Monsma stated that she met with the Respondent at Baker's Square on Merle Hay Road at approximately 10:30 p.m. on June 30th. She reported that the Respondent was angry that Ms. Nightingale had procured a prescription for her patient. Ms. Monsma also reported that she had no reason to think that the Respondent had been drinking that night. She did not smell of alcohol and appeared totally sober. Ms. Monsma also stated in her affidavit that she spoke to Linda Fish, a social worker, on July 1, 1995. Ms. Fish told Monsma that one of the Respondent's patients had told her that the Respondent was drunk on the evening of June 30, 1995 and another nurse, Lorna, told Ms. Fish the same thing.

b) In her testimony at the hearing, Ms. Monsma recalled that she saw the Respondent, not once, but twice, on the evening of June 30th. Ms. Monsma testified that when she was leaving Mercy Franklin at approximately 9:30 p.m. she met the Respondent in the parking lot. According to Ms. Monsma, the

Respondent was just arriving at Mercy Franklin. Ms. Monsma tried to convince the Respondent not to go into the hospital. She warned the Respondent that her patients were upset about her not answering pages and told the Respondent about Dr. Strickland's prescription. The Respondent was very angry, but insisted on going into Mercy Franklin. She agreed to meet Ms. Monsma in approximately one hour at Baker's Square.

c) In her testimony, Ms. Monsma also recalled that when she went home to change her clothes, she got a telephone call from Linda Fish on her garage phone as she was leaving her car. The trip from the hospital to Ms. Monsma's home takes approximately ten minutes. According to Monsma, Ms. Fish reported that one of the Respondent's patients and a nurse had called her at home to report that the Respondent was at the hospital and was terribly intoxicated. Ms. Fish said that she wanted to speak to the Respondent, and Monsma replied that she would give the Respondent the message. Ms. Monsma further testified that when she met the Respondent at Baker's Square, she told her to call Linda Fish. According to Ms. Monsma, the Respondent immediately called Ms. Fish from the pay phone.

(Testimony of Rebecca Monsma; Respondent Exhibit 4)

23. Linda Fish testified that she is the caseworker for Respondent's patient who received the prescription from Dr. Strickland. Ms. Fish had driven the patient to Mercy Franklin on June 29th to admit her because she was "psychotic and out of control." The patient had problems with chemical abuse and exhibits drug seeking behavior. Ms. Fish testified that she received a telephone call at home during the evening of June 30, 1995 from this patient. She estimated the time of the call as 8:00 or 8:30 p.m. The patient was upset and accused the Respondent of drinking. According to Ms. Fish, Nightingale called at approximately 9:00 p.m. to say that the patient was right, and the Respondent had been drinking. Ms. Fish then called Ms. Monsma to ask her what was going on. Ms. Fish testified that she specifically recalls calling Ms. Monsma at 9:30 p.m. Ms. Fish testified that the Respondent called her at 10:30 p.m. Ms. Fish testified that she remembers looking at the clock when the Respondent called, and it was after the evening news. According to Ms. Fish, she spoke to the Respondent for ten or fifteen minutes, and the Respondent did not seem to be impaired. (Testimony of Linda Fish)

24. The Respondent's chronology, which she prepared for her hearing before the Mercy Hospital Executive Committee, does not mention that she saw Ms. Monsma before she entered Mercy Franklin on June 30, 1995. Ms. Monsma's testimony that she met the Respondent on her way into Mercy Franklin on June 30th was not credible. It is not credible that neither Respondent nor Ms.

Monsma would mention this very significant meeting in the contemporaneously prepared affidavit and chronology. Moreover, neither the chronology nor the affidavit mention the telephone calls from or to Linda Fish that evening. The time frames provided by Ms. Fish, of which she appeared certain, do not correspond to the time frames provided by the Respondent, Monsma, or the hospital staff. Ms. Fish reports hearing from the patient at 8:30, which is more than an hour before anyone else reports that the Respondent arrived at Mercy Franklin. The hospital employees, who also prepared contemporaneous written reports, estimated the Respondent's arrival at Mercy Franklin at 10:30 p.m. and her departure at 11:10 p.m. These staff members were performing charting duties at the time and had reason to know and note the actual times of arrival and departure. Moreover, upon questioning by Respondent's counsel, Ms. Nightingale recalled that the security guard had told her that he had observed the Respondent and had called the police to alert them that an impaired driver was leaving their parking lot. Following this testimony, both the Respondent and the state made efforts to obtain a record of this police call. The records from the Des Moines police department indicate that they received a telephone call from a nurse at Mercy Franklin Center at 11:09 p.m. stating that the Respondent would be leaving the parking lot shortly and is drunk driving. This telephone call to the police did not originate from the locked psychiatric ward. (Testimony of Respondent; Rebecca Monsma; Linda Fish; Dina Nightingale; Dennis Carr; State Exhibits C, D, E, L; Respondent Exhibits 4, 8)

25. The Respondent testified that she did not consume alcohol on June 30, 1995 or at any other time. She had given her daily urine specimen at the Board office at 11:30 a.m. on June 30th. The Respondent's chronology states that she was at her University office until 2:00 p.m. After that she ran errands until her hair appointment at 4:15. The Respondent's chronology further states that she left the salon at 7:15 p.m. or after and stopped for gas on her way home at the Amoco Station on 35th Street in West Des Moines. She states that she met Deborah Rolek at about 8:00 p.m. at her home and left her home at approximately 9:00 p.m., after fixing her hair, having something to eat, and changing her clothes. The Respondent estimates that she arrived at Mercy Franklin Center at 9:30 p.m. and remained there for approximately one hour, before meeting Ms. Monsma at Baker's Square.

a) At the hearing, the Respondent recalled that she did not get gas at the Amoco station in West Des Moines on her way home from her hair appointment. Rather, upon checking her bank statements, she realized that she got gas at the Amoco station at the corner of Beaver and Franklin Avenues, not far from Mercy Franklin. The Respondent testified that she now recalls that she went to the gas station after leaving home at 9:00 p.m., on her way to Mercy Franklin. She recalled that

she had to pump her own gas and spilled some on herself. She said that she cleaned up in the ladies room and rubbed cologne on her hands and face to cover the odor. In her opinion, the staff at Mercy Franklin may have detected the odor of gasoline on her and mistaken it for alcohol. The Respondent produced cancelled check #5406, which was dated 6/30/95 and written to Tegler Amoco in the amount of \$25.60. However, the Respondent also provided her cancelled check to her hairdresser, which was check #5409, three check numbers after her check for gas. When asked about this discrepancy, the Respondent stated that she carries two check books. However, she could not explain why the check sequence was out of order. It seems more likely that the Respondent did get gas before she had her hair done and changed her clothes.

b) Both the Respondent and Deborah Rolek testified that the Respondent had a cigarette and used mouth spray before going to Mercy Franklin. Both wondered whether the mouth spray, which may have contained alcohol, was what the staff detected on her breath.

c) The Respondent testified that she never received any pages from Mercy Franklin on June 30, 1995. She introduced a copy of the paging record from her answering service which did not show any pages from Mercy Franklin. She also introduced a copy of a memo dated January 13, 1995, which she sent to the nursing staff. In this memo, she reminded the nursing staff of her longstanding policy that they not page her directly, but that all pages go through the office or answering service. Any pages made directly to the Respondent, without going through the answering service, would not appear on the answering service paging record.

(Testimony of Respondent; Deborah Rolek; Respondent Exhibits 5, 6, 8, 9)

26. Dr. Dennis Rolek, D.O., testified as a character witness for the Respondent. Dr. Rolek's license is currently under probation. He testified that he initially met the Respondent when she was a student at the College of Osteopathic Medicine and Surgery and became reacquainted with her six to eight years ago when she returned to Des Moines to practice psychiatry. He has referred several difficult psychiatric patients to the Respondent. When Dr. Rolek developed a problem with alcohol, the Respondent provided a lot of support to both Dr. Rolek and his family. The Respondent was instrumental in getting Dr. Rolek into treatment initially and after a relapse. Deborah Rolek, Dr. Rolek's wife, considers the Respondent to be her best friend. Dr. Rolek testified that he sees the Respondent at least once a week and speaks to her by telephone several times each week. Dr. Rolek testified that he would recognize signs of chemical use or impairment in the Respondent and

would definitely intervene if he did. Dr. Rolek testified that he has commented to the Respondent on three or four occasions that he did not like her perfume, which, in his opinion, smelled like stale wine. He testified that he has seen no signs of substance abuse in the Respondent from January 1993 until the present. In his opinion, the Board has treated licensee's unfairly, and the Respondent is being "framed." Ms. Rolek also testified that, in her opinion, the Board treats licensees unfairly. (Testimony of Dr. Dennis Rolek, D.O.; Deborah Rolek)

27. Dr. Harold Voth, M.D., supervised the Respondent while she was in the residency program at Menninger School of Psychiatry. He describes the Respondent as a very gifted psychotherapist. Dr. Voth is particularly impressed with the depth of her commitment to her patients. On September 18, 1991, Dr. Voth began treating the Respondent for depression, as one of the conditions of the reinstatement of the Respondent's license. He initially saw the Respondent for two consecutive sessions each week and then gradually reduced the frequency. The Respondent was discharged from his care in summer, 1994. Dr. Voth met with the Respondent again in August 1995, and she told him about the current allegations of alcohol use. In Dr. Voth's opinion, the Respondent appeared stable in August 1995. Dr. Voth testified that he has never seen the Respondent under the influence of alcohol, and he does not feel that she poses a risk to patients. (Testimony of Respondent; Respondent Exhibit 2)

CONCLUSIONS OF LAW

1. Iowa Code section 148.6(1), and (2)(i)(1995) provide, 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. [V]iolating a lawful order of the board, previously entered by the board in a disciplinary... hearing...

2. 653 IAC 12.4(16) and (18) provide, in relevant part:

653-12.4(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2(272C), 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:

...
12.4(16) Violating a lawful order of the board, previously entered by the board in a disciplinary...hearing...

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

3. There are two factual issues presented by this appeal: whether the Respondent used alcohol or another chemical substance, which was not prescribed for her, in April 1995 while in Phoenix, Arizona, and on June 30, 1995.

April 1995 - Phoenix, Arizona

Dr. Wesley Richardson, D.O., testified that, in his opinion, the Respondent was under the influence of a chemical substance in April 1995 when they met for dinner in Phoenix, Arizona. Dr. Richardson was previously acquainted with the Respondent. He based his opinion on his observations of her and her inappropriately loud, slurred speech, her lack of coordination, her unsteady, staggering gait, her loss of the directions to the restaurant, and her disorganized and somewhat inappropriate conversation. The Respondent never told Dr. Richardson that she was not feeling well. Based on this behavior, Richardson concluded that the Respondent would need to "sober up" before they could go to a restaurant for dinner.

The Respondent challenges Dr. Richardson's testimony and denies that she had consumed any alcohol or any drug, prescribed or otherwise, that evening. The Respondent denies that her speech was slurred or her movements uncoordinated. She denies that she brought a scarf or unsuccessfully attempted to put it on. She denies that she ever had directions to the restaurant or that she lost them. She testified that during the drive she became ill from a chronic stomach problem and asked to go back to the hotel.

The Respondent further contends that Dr. Richardson's failure to report this incident until after the June 30, 1995 incident was reported indicates a lack of credibility. The Respondent contends that the reporting of the June 30th incident by Dr. Olson to the Board was motivated by the professional competition between Dr. Olson and the Respondent. She attributes this same motive to Dr.

Richardson, who is employed by Mercy Franklin and reports to Dr. Olson.

Dr. Richardson's testimony was direct, consistent, and credible. The suggestion that he would make false allegations about the Respondent in order to please his employer or gain a competitive advantage is far-fetched and unsupported by the evidence. It is clear that Dr. Richardson was reluctant to come forward and did so only after it was made clear that he was professionally obligated to do so. Moreover, the explanations provided by the Respondent were not credible. She claims to have been ill and to have a chronic problem with cramps and diarrhea, although she still has not had a GI study to help determine the cause. If this had been her problem that evening, it is not logical that she would have voluntarily sat on the park bench for an extended period, while carrying on a conversation about the residency program. This would not explain her inappropriately loud voice or slurred speech.

The testimony of Dr. Richardson was more credible than the testimony of the Respondent concerning the events of that evening. The preponderance of the evidence established that the Respondent was under the influence of either alcohol or a chemical substance, not prescribed a duly authorized prescribing physician, in April 1995.

June 30, 1995 - Mercy Franklin

The testimony of Dina Nightingale concerning the events of Friday evening, June 30, 1995, was compelling and convincing. Like Dr. Richardson, Ms. Nightingale was previously acquainted with the Respondent, but reported Respondent's speech to be inappropriately loud. Nightingale testified that the Respondent had a difficult time understanding what she was trying to tell her about Dr. Strickland's prescription. According to Ms. Nightingale, the Respondent smelled very strongly of alcohol. Ms. Nightingale had "no doubt" about this. Ms. Nightingale was familiar with the Respondent's perfume. Ms. Nightingale testified that, in her opinion, she was not mistaking Respondent's perfume or gasoline for the odor of alcohol. Nightingale's impressions of the Respondent were corroborated by the written statements of another nurse and a psychiatric technician. Patients also corroborated these observations. However, due to the psychiatric conditions of the patients and the possibility that they may have overheard some of the nurse's comments, the panel did not give the patient's statements much weight. Nevertheless, the evidence did establish that the patients were upset and agitated by the Respondent's behavior that evening.

Ms. Nightingale admitted that her relationship with the Respondent was "professional, but not good." In Nightingale's opinion, the Respondent often tried to provoke her into verbal arguments. When

this happened, Nightingale would "walk away." In this case, Nightingale and the Respondent disagreed about the pages. Nightingale was certain that her pages were properly sent and received by the Respondent. The Respondent felt that Nightingale improperly paged her directly, rather than going through the answering service. The Respondent maintains that she never received any of the pages. However, the panel does not believe that this strained relationship significantly affected the credibility of Nightingale's observations. The panel is convinced that Nightingale is motivated by her concerns for her patients. Moreover, whether or not the Respondent received the pages was not directly relevant to Ms. Nightingale's observations of her condition. Nightingale went home and immediately made notes concerning her observations and the times involved and prepared a typed statement later that evening. Nightingale had never before filed a report concerning another physician, but did so in this case because the Respondent's behavior was "totally unacceptable."

The Respondent and Rebecca Monsma both testified that the Respondent arrived at Mercy Franklin at 9:30 p.m. and left at approximately 10:30 p.m. Another of the Respondent's witnesses, Linda Fish, contends that the Respondent was at Mercy Franklin before 8:30 p.m. These assertions are all contradicted by the statements of two nurses and a psychiatric technician who all place her arrival time at approximately 10:30 p.m. Ms. Nightingale testified that the Respondent left at approximately 11:10 p.m., which is also consistent with the police report concerning the call from Mercy Franklin. If the Respondent did not arrive at Mercy Franklin until 10:30 p.m., there is at least one hour of time unaccounted for after she left Deborah Rolek.

The panel notes that all of the witnesses who testified on behalf of the Respondent, with the exception of Linda Fish, were close personal friends of the Respondent. Their close friendship with the Respondent does affect their perception of the Respondent and the weight accorded their testimony. Moreover, both Dr. and Mrs. Rolek admitted that they feel that the Board has treated the Respondent and other licensees unfairly. Linda Fish was clearly incorrect in her recollection of the times. Moreover, the telephone call between Ms. Fish and the Respondent was never previously reported. The panel found the testimony of the Respondent and Ms. Monsma concerning a 9:30 p.m. meeting in the Mercy Franklin parking lot to be not credible. If this had occurred, the panel is confident that this significant information would have been included in the Respondent's chronology and in Ms. Monsma's affidavit, both of which were provided to the Mercy Hospital Executive Committee.

The testimonies of both Wesley Richardson, D.O., and Dina Nightingale, R.N., were credible. The preponderance of the evidence established that the Respondent was under the influence of either alcohol or another chemical substance in April 1995 and on

June 30, 1995. The Respondent has violated the terms of her probation which were established by Board Orders dated July 17, 1992 and March 17, 1995.

DECISION AND ORDER

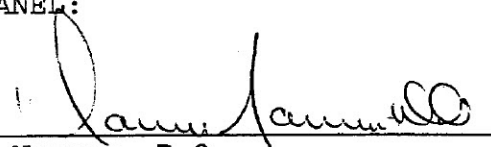
IT IS THEREFORE ORDERED, that when this Proposed Decision of the Panel becomes a final decision, that the license to practice osteopathic medicine and surgery issued to the Respondent, license no. 01734, shall be INDEFINITELY SUSPENDED.

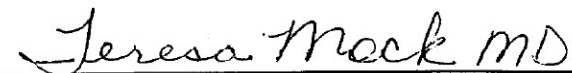
IT IS FURTHER ORDERED, that before the Board will consider a Petition for Reinstatement, the Respondent must submit to a comprehensive multidisciplinary physical, neuropsychiatric, and chemical dependency evaluation at a facility to be approved by the Board. All costs of this evaluation will be the Respondent's responsibility. The Respondent must implement any treatment recommendations provided as a result of this evaluation and must demonstrate that the reason for the indefinite suspension of her license no longer exists, and it is in the public interest for her license to be reinstated. See 653 IAC 12.50(36)

IT IS FURTHER ORDERED, in accordance with 653 IAC 12.51, 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 12.51(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 order.

Dated this 20th day of Feb., 1996.

THE PANEL:


Donna Norman, D.O.


Teresa Mock, M.D.


Edra Broich, Public Member

DIA No. 95DPHMB-31

Page 20

cc: Michael M. Sellers
One Corporate Place, Suite 320
1501 42nd St.
West Des Moines, Iowa 50266-1005

Heather Adams
Theresa O'Connell Weeg
Assistant Attorneys General
Hoover Building
(LOCAL)

In accordance with 653 IAC 12.50(29), a proposed decision becomes a final decision unless appealed to the Board by a party adversely affected by serving a notice of appeal on the executive director within thirty (30) days after service of this proposed decision. The Board may also review a proposed decision on its own motion.

HA

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

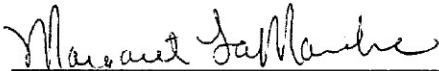
IN THE MATTER OF	)	DIA NO: 95DPHMB-31
THE COMPLAINT AND STATEMENT	)	CASE NO: 03-95-237
OF CHARGES AGAINST)	
TERESA I. BYLANDER, D.O.	)	RULING ON MOTION
	)	FOR CONTINUANCE ✓
Respondent)	

On January 10, 1996, the Respondent filed a Motion for Continuance of the hearing scheduled to commence on January 11, 1996. The Respondent proposes rescheduling the hearing for January 16 and 17, 1996. The state of Iowa filed a Resistance.

653 IAC 12.50(15) provides that continuance requests must be made no later than seven days prior to the hearing. Within seven days of the date set for the hearing, no continuances shall be granted except for extraordinary, extenuating, or emergency situations.

The Motion for Continuance is DENIED.

Dated this 10th day of January, 1996.

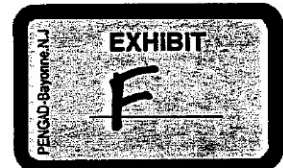


Margaret LaMarche
Administrative Law Judge
for the Iowa Board of Medical Examiners

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and by FAX (221-2702)

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and by FAX (281-4209)

Dennis Carr
Iowa Board of Medical Examiners
(LOCAL)



BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF	)	DIA NO: 95DPHMB-31
THE COMPLAINT AND STATEMENT	)	CASE NO: 03-95-237
OF CHARGES AGAINST)	
	)	FINAL ORDER OF THE
	)	BOARD ON APPEAL
TERESA I. BYLANDER, D.O.)	
)	
RESPONDENT)	

On February 20, 1996, a panel of the Iowa Board of Medical Examiners issued a Proposed Decision in the above-captioned case. The Respondent filed a timely notice of appeal. A transcript was ordered, and an Order was issued setting the date of the appeal hearing and establishing a briefing schedule. The appeal hearing date was later reset to December 12, 1996 at 8:30 a.m. Briefs were filed by the Respondent and by the state.


The appeal hearing was held on Thursday, December 12, 1996 at 8:30 a.m. at the Johnston Room, Merle Hay Holiday Inn, Des Moines, Iowa. The Respondent appeared and was represented by her counsel, Michael Sellers. The state was represented by Theresa O'Connell Weeg and Heather Adams, Assistant Attorneys General. All of the members of the Board, except Teresa Mock, M.D., were present.

Following oral arguments, the Board deliberated its decision in closed session, pursuant to Iowa Code section 21.5(1)(f)(1995). Having considered the oral arguments, briefs, and the entire record before the panel, the Board voted in open session to affirm the panel's decision.

ORDER

IT IS THEREFORE ORDERED, that the Proposed Decision of the Panel, issued in case no. 03-95-237 on February 20, 1996, is hereby ~~AFFIRMED~~ and ADOPTED as the final decision of the Board.

Dated this 18th day of December, 1996.



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

cc: Michael Sellers
Theresa O'Connell Weeg
Heather Adams

FILE

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT	)	DIA NO. 95DPHMB-23
AND STATEMENT OF CHARGES AGAINST	)	CASE NO. 03-95-006
)	
TERESA I. BYLANDER, D.O.,	)	RULING ON REQUEST FOR
	)	EXTENSION OF TIME
Respondent)	

A panel of the Iowa Board of Medical Examiners issued a Proposed Decision in the above-captioned case on February 20, 1996. The Respondent filed a timely notice of appeal to the full Board.

On April 8, 1996, the Respondent requested a ninety day extension of time of the ordering of the transcript for the purpose of allowing the Respondent additional time to reconsider whether to pursue an appeal of the panel's decision. The Respondent points out that she has agreed not to practice medicine until the disciplinary proceeding is concluded.

On April 12, 1996, the state filed a Resistance to the Respondent's extension request. The state argues that the Respondent was allowed thirty days to decide whether to appeal, and there are no provisions allowing an additional extension to reconsider her decision.

In her Amended Request For Extension Of Time, the Respondent states that she is involved in "complex physical and medical difficulties which may require surgical intervention and which require her full attention and participation." As pointed out by the state in its further Resistance, the appeal involves only the preparation of a legal brief and oral argument, it does not involve the Respondent's testimony or active involvement.

The request for a ninety day extension is DENIED. The transcript of the panel hearing has not yet been completed. The briefing and oral argument schedule will be set by the Board following receipt of the transcript.

Dated this 26th day of April, 1996.



Margaret LaMarche
Administrative Law Judge
for the Iowa Board of Medical Examiners

DIA No. 95DPHMB-23
Page 2

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Ann Martino, Ph.D.
Executive Director
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Executive Hills West
(LOCAL)

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IA. BOARD OF MED. EXAMINERS

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BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF)	DIA NO: 95DPHMB-31
THE COMPLAINT AND STATEMENT	)	CASE NO: 03-95-237
OF CHARGES AGAINST)	
	)	RULING ON MOTION TO QUASH
	)	SUBPOENA
TERESA I. BYLANDER, D.O.)	
)	
Respondent)	

On January 8, 1996, the Respondent served a Subpoena Duces Tecum on the Iowa Board of Medical Examiners, requesting "copies of urine tests results for: 3/1/95 to 4/30/95 and 6/1/95 to 7/31/95; copies of daily card filled out by Dr. Bylander at the time she gave urine tests during above time periods; copies of all correspondence between Dr. Bylander and the Board of Medical Examiners for the last 6 months; and anything else in any and all files pertaining to Dr. Bylander for the last 6 months. Delivered by 5:00 p.m. 1-9-96."

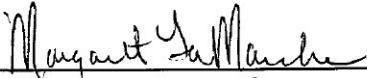
On January 10, 1996 the state of Iowa filed a Motion to Quash Subpoena. Also on January 10, 1996, the Respondent filed a Resistance to Motion to Quash Subpoena and Motion for Reconsideration of Demand for Additional Records and Documents.

The information requested by the Respondent in the Subpoena Duces Tecum is substantially the same information requested in her Demand for Additional Documents and Records filed on January 5, 1996. A discovery schedule was issued for this case and pursuant to written Board Order, dated December 6, 1995, discovery closed on December 23, 1995. For this reason the Demand for Additional Documents was ruled untimely in a ruling issued by the undersigned on January 8, 1996.

These documents should have been obtained through discovery, in conformance with the discovery timetable. The Respondent has cited no reason for her failure to timely request these materials. He cites to Iowa Code section 272C.6(4) and Doe v. Occupational Board for the proposition that the Respondent is entitled to all investigative information. This is not in dispute. What is at issue is whether the Respondent can ignore all discovery deadlines and wait until the last minute to request documents. The Respondent contends that these records should have been a part of the investigative file, which she has received. However, the allegations in this case do not involve urine screens. If the Respondent felt that the urine screen records were relevant to her defense, she should have requested them within the discovery deadlines. Obviously, she was well aware of the existence of these records, but has failed to timely request them.

The Motion to Quash the Subpoena Duces Tecum is GRANTED.

Dated this 10th day of January, 1996.



Margaret LaMarche
Administrative Law Judge
for the Iowa Board of Medical Examiners

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Heather Adams
Assistant Attorney General
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Dennis Carr
Iowa Board of Medical Examiners
(LOCAL)

FILE

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IA. BOARD OF MED. EXAMINERS

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA


IN THE MATTER OF	)	DIA NO: 95DPHMB-31
THE COMPLAINT AND STATEMENT	)	CASE NO: 03-95-237
OF CHARGES AGAINST)	
	)	RULING ON MOTION
TERESA I. BYLANDER, D.O.	)	FOR CONTINUANCE
)	
Respondent)	

On January 10, 1996, the Respondent filed a Motion for Continuance of the hearing scheduled to commence on January 11, 1996. The Respondent proposes rescheduling the hearing for January 16 and 17, 1996. The state of Iowa filed a Resistance.

653 IAC 12.50(15) provides that continuance requests must be made no later than seven days prior to the hearing. Within seven days of the date set for the hearing, no continuances shall be granted except for extraordinary, extenuating, or emergency situations.

The Motion for Continuance is DENIED.

Dated this 10th day of January, 1996.


 Margaret LaMarche
 Administrative Law Judge
 for the Iowa Board of Medical Examiners

cc: Michael M. Sellers
One Corporate Place, Suite 320
1501 42nd St.
West Des Moines, Iowa 50266-1005
and by FAX (221-2702)

Heather Adams
Assistant Attorney General
Hoover Building
(LOCAL)
and by FAX (281-4209)

Dennis Carr
Iowa Board of Medical Examiners
(LOCAL)

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TERESA I. BYLANDER, DO, RESPONDENT

No. 03-95-237

STATEMENT OF CHARGES

COMES NOW Ann M. Martino, PhD, Executive Director of the Iowa Board of Medical Examiners (the Board), on October 19, 1995, and at the direction of the Board files this Statement of Charges against Teresa I. Bylander, DO (the Respondent), a physician licensed pursuant to Chapter 147 of the Code of Iowa and alleges:

1. That James D. Collins, Jr., MD, Chairperson; Laura J. Stensrud, Vice Chairperson; Edra E. Broich, Secretary; James M. Catherine, MD; Eddie D. DeHaan, MD; Mary C. Hodges; Dale R. Holdiman, MD; Teresa A. Mock, MD; Donna M. Norman, DO; and Roger F. Senty, DO, are the duly appointed, qualified and acting members of the Board.

2. That the Respondent was issued license number 01734 to practice osteopathic medicine and surgery in Iowa on November 30, 1978.

3. That the Respondent's license is current and valid until March 1, 1996.

4. That on July 17, 1992, an Order was issued by the Board reinstating the Respondent's suspended license to practice osteopathic medicine and surgery in Iowa placing the license on probation for a period of ten (10) years under certain terms and

conditions. The Order was issued by the Board in a license discipline action.

5. That the Respondent's probation order includes the following terms and conditions:

The Respondent shall abstain from the personal use of alcohol.

The Respondent shall not use any controlled or prescription drug in any form unless prescribed for her by a duly licensed, treating physician.

6. That on or about April 7, 1995, the Respondent, in the opinion of a physician colleague, was impaired due to the use of alcohol, drugs, narcotics or other chemicals.

7. That on or about June 30, 1995, the Respondent appeared at a hospital to make rounds and saw and provided treatment to two patients while, in the professional opinion of three health care professionals and the opinion of the two patients she treated, the Respondent was impaired due to the use of alcohol or other chemicals.

8. That the Respondent has violated the terms and conditions of the probation placed upon her license to practice osteopathic medicine and surgery in Iowa.

9. That the Board is authorized to take disciplinary action against the Respondent pursuant to the provisions of section 148.6(1) 148.6(2) and 148.6(2)i of the 1995 Code of Iowa and 653 IAC 12.4, 12.4(16), and 12.4(28), which state in whole or 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)i - ... [V]iolating a lawful order of the board, previously entered by the board in a disciplinary ... hearing ...

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:

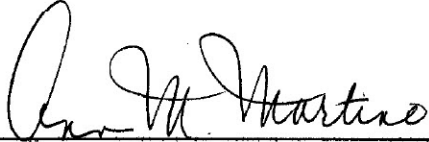
12.4(16) - Violating a lawful order of the board, previously entered by the board in a disciplinary ... hearing ...

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

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)i of the 1995 Code of Iowa and 653 IAC 12.4, 12.4(16), and 12.4(28). The undersigned prays that the Board enter an order fixing a time and place of hearing for the Statement of Charges. The undersigned further prays that upon final hearing, the Board enter its finding of fact and decision to revoke, suspend or otherwise discipline the license to

practice osteopathic medicine and surgery issued to the Respondent
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
Executive Hills West
1209 East Court Avenue
Des Moines, Iowa 50319-0180
Telephone: (515) 281-5171

FILE

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TERESA I. BYLANDER, DO, RESPONDENT

No. 03-95-237

ORDER

BE IT REMEMBERED that on October 25, 1995, Teresa I. Bylander, DO (the Respondent), filed a motion with the Iowa Board of Medical Examiners (the Board), requesting that the date for hearing the Statement of Charges in the above entitled action, currently scheduled for December 7, 1995, be continued to a later date following the completion of discovery. On November 2, 1995, the State of Iowa (the State), filed a resistance to the Respondent's motion for continuance. In outlining its reasons for resisting the Respondent's motion the State alleges that:

1. "The Respondent has serious, recurrent substance abuse problems, had several charges previously filed against her, and is currently order of the Board."
2. "In the most recent charge, Respondent came to the hospital under the influence of alcohol or drugs."
3. "Complaints against Respondent regarding this were received from patients and other health care professionals."
4. "The Respondent's continued practice poses serious danger to the public."

ORDER DENYING CONTINUANCE
Teresa I. Bylander, DO
No. 03-95-237

A review of the documents in the Board's official file in this action reflect that the Statement of Charges alleging that the Respondent has violated probation was filed on October 19, 1995. An order was issued on the same date setting December 7, 1995, as the date for hearing the Statement of Charges. Also on the same date an Original Notice was issued for service upon the Respondent advising, inter alia, of the date and time set for hearing. On October 23, 1995, the Respondent was personally served with copies of the Statement of Charges, Order for Hearing and Original Notice. On October 25, 1995, by letter dated October 24, 1995, Michael M. Sellers, Esq., Attorney at Law, West Des Moines, Iowa, filed notice of representation of the Respondent in this action.

The hearing is scheduled to be held seven weeks following the date of the filing of the Statement of Charges. The Respondent was served notice of the action, including the date set for hearing, four days following the date of filing. Counsel for the Respondent filed notice of his representation of the Respondent two days later. By December 7, 1995, the date set for hearing, the Respondent will have had some 45 days after being served notice of the action to prepare a defense and complete discovery.

ORDER DENYING CONTINUANCE
Teresa I. Bylander, DO
No. 03-95-237

The undersigned believes that it would not be in the best interests of the Respondent, the State or the public, for a continuance to be granted.

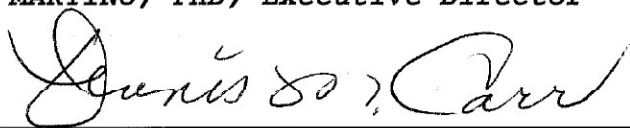
THEREFORE IT IS HEREBY ORDERED that the Respondent's Motion for Continuance is **DENIED**.

Dated this 21st day of November, 1995.

IOWA BOARD OF MEDICAL EXAMINERS

ANN M. MARTINO, PhD, Executive Director

by: _____



Dennis M. Carr, Associate Director/Chief of Compliance
1209 East Court Avenue
Des Moines, IA 50319-0180
Phone: 515-281-7088

c: Ann M. Martino, PhD, Executive Director
Theresa O'Connell Weeg, Esq., Assistant Attorney General
Michael M. Sellers, Esq., Attorney for Respondent
Presiding Administrative Law Judge

DMC/* 11-21-95

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PROOF OF SERVICE

THE UNDERSIGNED CERTIFIES THAT THE FOREGOING INSTRUMENT WAS SERVED UPON ALL PARTIES TO THE ABOVE CAUSE BY DEPOSITING A COPY THEREOF IN THE U.S. MAIL, POSTAGE PREPAID, IN ENVELOPES ADDRESSED TO EACH OF THE ATTORNEYS OF RECORD HEREIN AT THEIR RESPECTIVE ADDRESSES DISCLOSED ON THE PLEADINGS, ON

Nov. 21, 1995
Dennis M. Carr

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TERESA I. BYLANDER, DO, RESPONDENT

No. 03-95-237

ORDER

BE IT REMEMBERED that on October 25, 1995, Teresa I. Bylander, DO (the Respondent), filed a motion with the Iowa Board of Medical Examiners (the Board), requesting that the date for hearing the Statement of Charges in the above entitled action, currently scheduled for December 7, 1995, be continued to a later date following the completion of discovery. On November 2, 1995, the State of Iowa (the State), filed a resistance to the Respondent's motion for continuance. In outlining its reasons for resisting the Respondent's motion the State alleges that:

1. "The Respondent has serious, recurrent substance abuse problems, had several charges previously filed against her , and is currently order of the Board."
2. "In the most recent charge, Respondent came to the hospital under the influence of alcohol or drugs."
3. "Complaints against Respondent regarding this were received from patients and other health care professionals."

CONTINUANCE
Teresa I. Bylander, DO
No. 03-95-237

4. "The Respondent's continued practice poses serious danger to the public."

A review of the documents in the Board's official file in this action reflect that the Statement of Charges alleging that the Respondent has violated probation was filed on October 19, 1995. An order was issued on the same date setting December 7, 1995, as the date for hearing the Statement of Charges. Also on the same date an Original Notice was issued for service upon the Respondent advising, inter alia, of the date and time set for hearing. On October 23, 1995, the Respondent was personally served with copies of the Statement of Charges, Order for Hearing and Original Notice. On October 25, 1995, by letter dated October 24, 1995, Michael M. Sellers, Esq., Attorney at Law, West Des Moines, Iowa, filed notice of representation of the Respondent in this action.

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CONTINUANCE
Teresa I. Bylander, DO
No. 03-95-237

Based on these facts, on November 21, 1995, it was determined that it would not be in the best interests of the Respondent, the State or the public, for a continuance to be granted. An order denying the Motion for a Continuance was issued at that time.

Since the order denying the continuance was issued, the attorney representing the Respondent has provided information indicating that the Respondent is prohibited from practicing medicine until the case with the Board is resolved by the terms of her contract with her current employer and under the terms of her existing malpractice insurance. In view of this information, the State has reversed its initial resistance to the motion for the continuance on the grounds that both of these restrictions on the Respondent's continued practice will ameliorate the potentially serious danger posed to the public while affording her the additional time requested to prepare an adequate defense.

After considering the additional information provided by the attorney for the Respondent and the change in the State's position as a result, the Undersigned shall grant the continuance upon receipt of a sworn statement from the Respondent attesting that she shall not practice osteopathic medicine and surgery under any circumstances until such time as the case (No. 03-95-237) is resolved.

THEREFORE, IT IS ORDERED that, upon receipt of the aforementioned sworn statement, the Respondent's Motion for a Continuance is **GRANTED**. A new hearing date shall

CONTINUANCE

Teresa I. Bylander, DO

No. 03-95-237

be set for no later than January 19, 1996. Discovery shall be completed no later than December 23, 1995.

Dated this 6th day of December, 1995.

IOWA BOARD OF MEDICAL EXAMINERS



Ann M. Martino, Ph.D., Executive Director
1209 East Court Avenue
Des Moines, IA 50319-0180
Phone: 515-281-7088

cc: **Denny Carr, Associate Director**
Theresa O'Connell Weeg, Esq., Assistant Attorney General
Michael M. Sellers, Esq., Attorney for Respondent
Presiding Administrative Law Judge

AMM/ 12-06-95

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