

**BEFORE THE IOWA BOARD OF MEDICINE**

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**IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST**

**RYAN D. LEE, D.O., RESPONDENT**

**FILE No. 03-10-546**

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**SETTLEMENT AGREEMENT**

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COMES NOW the Iowa Board of Medicine (Board), and Ryan D. Lee, D.O., (Respondent), and on July 28, 2011, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this Settlement Agreement to resolve the contested case currently on file.

1. Respondent was issued Iowa license no. 3954 on December 18, 2008.
2. Respondent's Iowa medical license is active and will next expire on next expire on June 1, 2012.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

**STATEMENT OF THE MATTERS ASSERTED**

4. Respondent is an Iowa-licensed physician who formerly practiced psychiatry in a residency training program in Sioux Falls, South Dakota.

5. On May 12, 2011, the South Dakota Board of Medical and Osteopathic Examiners (South Dakota Board) revoked Respondent's South Dakota resident training permit after finding that he violated the laws and rules governing the practice of medicine in South Dakota. The South Dakota Board found that Respondent committed unprofessional or dishonorable conduct when he engaged in an inappropriate sexual relationship with a female mental health patient he was treating.

6. On June 3, 2011, the Board filed a Statement of Charges alleging that Respondent violated the laws and rules governing the practice of medicine in Iowa when he engaged in an inappropriate sexual relationship with a female mental health patient he was treating.

#### **SETTLEMENT**

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in sexual misconduct in violation of the laws and rules governing the practice of medicine in Iowa when he engaged in an inappropriate sexual relationship with a female mental health patient he was treating. Respondent is hereby **WARNED** that such conduct in the future may result in further disciplinary action, including revocation of your Iowa medical license.

8. **CIVIL PENALTY:** Respondent shall pay a **\$7,500** civil penalty. The civil penalty shall be paid prior to the Board's approval of this Order by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

9. **INDEFINITE SUSPENSION:** Upon the Board's approval of this order, Respondent's Iowa medical license shall be **suspended indefinitely**. Respondent shall not engage in any aspect of the practice of medicine during the period of suspension.

10. **REINSTATEMENT:** The Board will consider reinstatement of Respondent's Iowa medical license upon a motion for reinstatement pursuant to Iowa Code chapters 17A, 147, 148 and 272C and 653 IAC 26. Respondent's license shall not be reinstated except upon a showing by Respondent that the basis for suspension of the Respondent's medical license no longer exists, and that it is in the public interest for the license to be reinstated. Prior to seeking reinstatement of his Iowa medical license, Respondent shall successfully complete a comprehensive professional sexual misconduct evaluation under the direction of Gene G. Abel, M.D., at the Behavioral Medicine Institute of Atlanta (BMI), 1401 Peachtree Street, Suite 140, Atlanta, Georgia, 30309, Ph. 404-872-7929. Respondent shall fully comply with any recommendations made by BMI. Respondent is responsible for all costs associated with the evaluation and shall ensure that an evaluation report is sent to the Board directly from the evaluation program.

11. **FIVE YEARS PROBATION:** Should the Board choose to reinstate Respondent's Iowa medical license, Respondent shall be placed on **probation for a period of five (5) years** from the date of reinstatement subject to the following terms and conditions:

A. **Monitoring Program:** Respondent shall establish a Board monitoring program with Shantel Billington, Compliance Monitor, Iowa Board of

Medicine, 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-3654. Respondent shall fully comply with all requirements of the monitoring program. If Respondent fails to establish a Board monitoring program or fails to fully comply with all requirements of the Board monitoring program, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 24.

- B. **Compliance with BMI Recommendations:** Respondent shall fully comply with all recommendations made by BMI following the evaluation.
- C. **Polygraph Examinations:** Respondent shall submit to Board-approved polygraph examinations every six months.
- D. **Principles of Medical Ethics, Staff Surveillance Forms and Patient Satisfaction Surveys:**
  - 1) Respondent shall post the Principles of Medical Ethics in his medical practice as directed by the Board;
  - 2) Respondent shall utilize Staff Surveillance Forms in his medical practice as directed by the Board; and
  - 3) Respondent shall utilize Patient Satisfaction Surveys in his medical practice as directed by the Board.

E. **Counseling:** Respondent shall submit the name and CV of an Iowa-licensed counselor for Board-approval and complete Board-approved sexual misconduct counseling under the following terms and conditions:

- 1) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board. All costs shall be Respondent's responsibility;
- 2) Respondent shall continue counseling until his discharge is approved by the Board; and
- 3) The counselor shall agree to submit written quarterly reports to the Board concerning Respondent's progress no later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation;

F. **Physician Mentoring Plan:** Respondent shall submit the name and CV of a physician who regularly works with and observes Respondent in the practice of medicine to serve as physician mentor. The Board shall share a copy of all Board orders relating to this matter with the physician mentor. The physician mentor shall provide a written statement indicating that the mentor has read and understands all Board orders in this matter and agrees to act as the physician mentor under the terms of this Order. The physician mentor shall agree to inform the Board immediately if there is evidence that Respondent has engaged in sexual misconduct or unprofessional conduct.

- 1) The physician mentor shall meet with Respondent at least once each week for a minimum of one hour;
- 2) The physician mentor and Respondent shall discuss issues regarding maintaining appropriate professional boundaries and cultural issues related to the practice of medicine; and
- 3) The physician mentor shall submit written quarterly reports to the Board describing Respondent's progress no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

G. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms and conditions of this Order, including attendance at meetings with his counselor. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of Respondent's probation.

H. **Board Appearances:** Respondent shall make an appearance before the Board annually or upon request. Respondent shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(d).

I. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with each quarterly report required under this Order. The monitoring fee shall be sent to:

Coordinator of Monitoring Programs, Iowa Board of Medicine, 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medicine. The monitoring fee shall be considered repayment receipts as defined in Iowa Code section 8.2.

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

13. In the event Respondent violates or fails to comply with the terms of this Order, the Board may initiate action to suspend or revoke Respondent's Iowa license or impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 24.

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

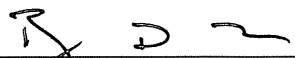
15. Respondent voluntarily submits this Order to the Board for consideration.

16. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board. Periods in which Respondent does not practice medicine or fails to comply with the terms established in this Order shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.

17. Respondent understands that by entering into this combined Statement of Charges and Settlement Agreement, Respondent cannot obtain a copy of the investigative file. Pursuant to Iowa Code section 272C.6(4), a copy of the investigative file may only be provided to a licensee after a Statement of Charges is filed but before final resolution.

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

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

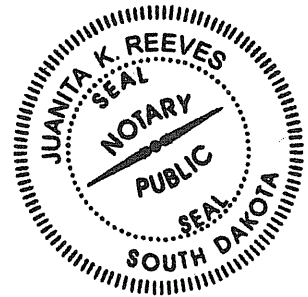
  
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Ryan D. Lee, M.D., Respondent  
D.O.

Subscribed and sworn to before me on June 16, 2011.

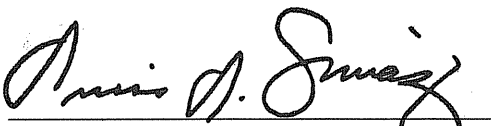
Notary Public, State of South Dakota.



My Commission Expires August 5, 2011



This Order is approved by the Board on July 28, 2011.

  
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Siroos S. Shirazi, M.D., Chairman  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686



**BEFORE THE IOWA BOARD OF MEDICINE**

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**IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST**

**RYAN D. LEE, D.O., RESPONDENT**

**FILE NO. 03-10-546**

\*\*\*\*\*

**STATEMENT OF CHARGES**

\*\*\*\*\*

**COMES NOW** the Iowa Board of Medicine (Board) on June 3, 2011, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa license no. 3954 on December 18, 2008. Respondent's Iowa medical license is active and will next expire on next expire on June 1, 2012.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing. A disciplinary contested case hearing shall be held on August 9, 2011, before the Iowa Board of Medicine. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Iowa Board of Medicine office at 400 SW 8<sup>th</sup> Street, Suite C, Des Moines, Iowa.

2. Answer. Within twenty (20) days of the date you are served this Notice of Hearing you are required by 653 Iowa Administrative Code 25.10 to file an Answer. In that Answer, you should also state whether you will require a continuance of the date and time of the hearing.

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

4. Prehearing Conference. A prehearing conference will be held by telephone on June 29, 2011 at 9:30 a.m., before an Administrative Law Judge from the Iowa Department of Inspections and Appeals (ALJ). Please contact Kent M. Nebel, J.D., Legal Director, Iowa Board of Medicine, at 515-281-7088 with the telephone number at which you or your legal counsel can be reached. Board rules on prehearing conferences may be found at 653 Iowa Administrative Code 25.15.

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

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

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

## **B. LEGAL AUTHORITY AND JURISDICTION**

8. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 147, 148, and 272C (2005).

9. Legal Authority: If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 148, and 272C (2005) and 653 Iowa Administrative Code Chapter 25.25.

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

## **C. SECTIONS OF STATUTES AND RULES INVOLVED**

### **COUNT I**

11. Respondent is charged pursuant to Iowa Code section 148.6(2)(d) with having a license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence.

### **COUNT II**

12. Respondent is charged pursuant to Iowa Code section 148.6(2)(i) and 653 IAC 23.1(10) and 13.7(4)(a)-(d) with willfully or repeatedly violating a lawful rule or regulation adopted by the board when he engaged in sexual misconduct in violation of the laws and rules governing the practice of medicine in Iowa including, but not limited to, the following:

- a. In the course of providing medical care, a physician shall not engage in contact, touching, or comments of a sexual nature with a patient, or with the patient's parent or guardian if the patient is a minor.
- b. A physician shall not engage in any sexual conduct with a patient when that conduct occurs concurrent with the physician-patient relationship, regardless of whether the patient consents to that conduct.
- c. A physician shall not engage in any sexual conduct with a former patient unless the physician-patient relationship was completely terminated before the sexual conduct occurred. In considering whether that relationship was completely terminated, the board will consider the duration of the physician-patient relationship, the nature of the medical services provided, the lapse of time since the physician-patient relationship ended, the degree of dependence in the physician-patient relationship, and the extent to which the physician used or exploited the trust, knowledge, emotions, or influence derived from the physician-patient relationship.

- d. A psychiatrist, or a physician who provides mental health counseling to a patient, shall never engage in any sexual conduct with a current or former patient, or with that patient's parent or guardian if the patient was a minor, regardless of whether the patient consents to that conduct.

#### **STATEMENT OF THE MATTERS ASSERTED**

13. Respondent is an Iowa-licensed physician who formerly practiced psychiatry in a residency training program in Sioux Falls, South Dakota.

14. On May 12, 2011, the South Dakota Board of Medical and Osteopathic Examiners (South Dakota Board) revoked Respondent's South Dakota resident training permit after finding that he committed unprofessional or dishonorable conduct when he engaged in an inappropriate sexual relationship with a female mental health patient he was treating.

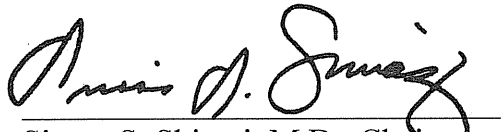
15. The Board alleges that Respondent violated the laws and rules governing the practice of medicine in Iowa when he engaged in an inappropriate sexual relationship with a female mental health patient he was treating.

#### **E. SETTLEMENT**

16. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 Iowa Administrative Code 12.25. If you are interested in pursuing settlement of this matter, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

## F. PROBABLE CAUSE FINDING

17. On June 3, 2011, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



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Siroos S. Shirazi, M.D., Chairman  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686