BEFORE THE IOWA BOARD OF MEDICINE

****

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

THOMAS R. BRANDT, M.D., RESPONDENT

FILE No. 02-05-410

****

STATEMENT OF CHARGES and SETTLEMENT AGREEMENT
(Combined)

****

COMES NOW the Iowa Board of Medicine (Board) and Thomas R. Brandt, M.D., (Respondent), on December 20, 2013, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) and 653 IAC 25.3, enter into this combined Statement of Charges and Settlement Agreement.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 29160 on February 24, 1993.

2. Respondent's Iowa medical license went inactive due to nonrenewal on June 1, 1998.

3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. **Discipline by Another Licensing Authority:** Respondent is charged pursuant to Iowa Code section 148.6(2)(d) and 653 IAC 23.1(1) with having a license to practice medicine and surgery or osteopathic medicine and surgery revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the order of disciplinary action is prima facie evidence.

STATEMENT OF THE MATTERS ASSERTED

5. Respondent is an Iowa-licensed physician who practiced cardiology in Norfolk, Nebraska. Respondent recently submitted an application for reinstatement of his permanent Iowa medical license.

6. **Nebraska Disciplinary Action:** On October 12, 2005, Respondent was disciplined by the Nebraska Department of Health and Human Services (Nebraska Board). The Nebraska Board concluded that Respondent violated the laws and rules governing the practice of medicine in Nebraska on April 23, 2005, when he performed a surgical procedure while intoxicated. On May 6, 2005, the Nebraska Board temporarily suspended Respondent's Nebraska medical license. See Attachment A. On October 12, 2005, the Nebraska Board placed Respondent on probation for a period of five years subject to substance abuse monitoring. See Attachment B. On October 13, 2010, Respondent successfully completed the terms of probation established by the Nebraska Board. See Attachment C.

SETTLEMENT AGREEMENT

7. **CITATION AND WARNING**: Respondent is hereby **CITED** for being disciplined by the Nebraska Board for violating the laws and rules governing the practice of medicine in Nebraska when he performed a surgical procedure while intoxicated on April 23, 2005. Respondent is hereby **WARNED** that being disciplined by another state licensing board and/or violating the laws and rules governing the practice of medicine in the future may result in further formal disciplinary action against his Iowa medical license.

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

9. Respondent agrees that the State's counsel may present this Order to the Board for consideration.

10. By entering into this Order, Respondent understands that he has a right to be represented by legal counsel in this matter, voluntarily waives any rights to a contested case hearing on the allegations in the Statement of Charges, and waives any objections to the terms of this Order. This Order constitutes the resolution of a contested case proceeding.

11. 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 the final resolution of those charges.

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

13. Respondent understands that the Board is required by Federal law (45 C.F.R. 60.8) to report this Order to the National Practitioner Data Bank.

14. The Order becomes a public record available for inspection and copying upon execution in accordance with the requirements of Iowa Code Chapters 17A, 22 and 272C.

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

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

Thomas R. Brandt M.D.

Thomas R. Brandt, M.D., Respondent

Subscribed and sworn to before me on 11-21, 2013.

Notary Public, State of Iowa.

NOTARIAL SEAL IOWA
LISA MORENO
Commission Number 730633
My Commission Expires
September 23, 2013

Lisa Moreno

This Order is approved by the Board on December 20, 2013.

Gregory B. Hoversten, D.O., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

Attachment A

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE
STATE OF NEBRASKA

CREDENTIALING DIVISION
MAY 13 2005
RECEIVED

STATE OF NEBRASKA, ex rel. JON BRUNING, Attorney General, Plaintiff,	)	ORDER FOR TEMPORARY LICENSE SUSPENSION AND NOTICE OF HEARING
vs.	)	
THOMAS BRANDT, M.D., Defendant.	)	

THIS MATTER, came on for consideration before the Director on the Plaintiff's Petition for Disciplinary Action and Temporary Suspension of Medical License ("Petition") and upon the Affidavit in Support of Temporary Suspension. The Director finds that reasonable grounds exist under Neb. Rev. Stat. Section 71-147.02 and 71-147 for the suspension of the medical license of the Defendant to practice as a physician on the basis that the Defendant's continued practice at this time would constitute an imminent danger to the public health and safety.

IT IS THEREFORE ORDERED:

1. The medical license of the Defendant, Thomas Brandt, M.D., to practice as a physician is suspended effective upon service of this Order upon the Defendant.

2. Pursuant to Neb. Rev. Stat. Section 71-147.02, the hearing on the merits of the allegations of the Petition shall be held on the 11th day of May, 2005, beginning at 1:00 o'clock p.m. The specific hearing room assignment can be determined by reporting to the Department's 3rd floor reception desk, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

3. Ronald J. Blankenau is designated as the Hearing Officer with authority over the hearing as provided by Title 184 - Nebraska Administrative Code, Chapter 1 - Rules of Practice and Procedure of the Department of Health for Administrative Proceedings.

4. The Defendant shall have the opportunity to appear and defend against the Petition at said time and place. The Defendant is further notified that he may present such witnesses and such evidence at said time and place as he may care to present in answer to the allegations of said Petition, and he may be represented by legal counsel at said hearing. Hearings are conducted according to Neb. Rev. Stat. Sections 71-155 and 84-901 et seq., and the Rules of Practice and Procedure of the Department, 184 NAC 1. If auxiliary aids or reasonable accommodations are needed for participation in the hearing, please call Jo Seefeld, (402) 471-0384, or for persons with hearing impairments, (402) 471-9570 TDD, or the Nebraska Relay System, (800) 833-7352 TDD, prior to the hearing date.

5. The Department's Division of Investigations is appointed, pursuant to 184 NAC 006.01E, to personally serve the Defendant with copies of this Order and the Petition.

Dated this 6th day of May, 2005.

HEALTH AND HUMAN SERVICES SYSTEM STATE OF NEBRASKA SEAL EST. JAN. 1, 1997

BY: _____
Richard Raymond, M.D.
Director

34-1310b-14

Attachment B

FILED
OCT 12 2005
HHS REGULATION AND LICENSURE

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE
STATE OF NEBRASKA

STATE OF NEBRASKA, ex rel. JON BRUNING, Attorney General, Plaintiff, vs. THOMAS BRANDT, M.D., Defendant.	CASE NO: 69-050597 AGREED SETTLEMENT

CREDENTIALING DIVISION
OCT 19 2005
RECEIVED

The Plaintiff and the Defendant, Thomas Brandt, M. D., in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Thomas Brandt, M. D., was issued a medical license (#15685) by the Nebraska Department of Health and Human Services Regulation and Licensure ("Department") to practice as cardiologist in the State of Nebraska, which license was temporarily suspended on May 6, 2005, by the Director of the Department.

2. Before disciplinary measures may be taken against the Defendant's license, the Defendant is entitled to a hearing as provided by law. The Defendant waives the right to a hearing. The Defendant waives any right to judicial review of an order by the Department's Director which approves the terms of this Agreed Settlement.

3. No coercion, threats, or promises, other than those stated herein, were made to the Defendant to induce him to enter into this Agreed Settlement.

4. The Defendant acknowledges that he is not licensed to practice as a medical doctor in any states other than Nebraska and Arizona.

5. The Defendant acknowledges that he has read the Amended Petition for Disciplinary Action filed by the Attorney General's Office. The Defendant admits the allegations of the Petition for Disciplinary Action.

6. The Director shall order the Defendant's license placed on probation for a period of five (5) years, commencing upon the entry of the order, on the following probationary conditions:

a. Defendant's license to practice as a medical doctor is suspended for a period of six (6) months. Said suspension shall commence the date an order is entered adopting this Agreed Settlement. The Defendant shall not engage in any conduct which constitutes the practice of medicine during the period of suspension of his license. The Defendant's six (6) month suspension is retroactive from May 6, 2005.

b. The Defendant shall immediately deliver his original license, if he has not already done so, to the Department and after suspension, the Department shall issue a license marked probationary in such manner as the Department shall determine.

c. The Defendant shall abstain from the use of alcohol.

d. The Defendant shall abstain from the personal use or possession of controlled substances and all other prescription drugs, unless prescribed for or administered to the Defendant by a licensed physician or authorized licensed practitioner for a current diagnosed medical condition.

e. During the first year of the Defendant's probation, the Defendant shall submit to either a breath alcohol test or a saliva swab test for the detection of alcohol usage each time he (1) reports to Faith Regional Health Services for patient care or leaves the Faith Regional Health Services campus (both east and west campuses) for a period of two (2) hours or more and returns to perform patient care; and (2) each time he reports to any other hospital where he intends to perform patient care. The testing shall be at his own expense. The Defendant shall not begin providing patient care until negative results of the test have been obtained. Said hospitals shall provide proof of each test result to the Department in such frequency as the Department determines. Any positive test results shall be immediately reported by the hospital to the Department.

f. The Defendant shall provide to the Department a list of all hospitals that he has staff privileges within ten (10) days from the date of the signing of the Order on Agreed Settlement by the Director in such manner as the Department directs.

g. The Defendant shall be subject to random body fluid or chemical testing at his expense at such time and places as the Department may direct. The Defendant shall follow the instructions and directives of the Department for body fluid/chemical testing.

h. The Defendant shall report to the Department as directed by the Department at least twenty-four (24) hours in advance of occasions when he will be leaving Norfolk for more than seventy-two (72) hours or does not intend to work at either his clinic/office or a hospital for a period of greater than seventy-two (72) hours.

i. The Defendant shall have his office staff submit to the Department by the first of each month his cardiology on-call schedule as well as the city on-call schedule as directed by the Department.

j. The Defendant shall not provide medical care to patients in excess of fifty-five (55) hours per week during the first year of his probation. The Defendant's office staff shall submit to the Department by the first of each month the number of hours he has provided medical care to patients for the previous month. If the Defendant exceeds the fifty-five (55) hours per week due to an emergency situation, a written explanation by the Defendant along with any documentation of said emergency requested by the Department shall be provided to the Board of Medicine and Surgery for their review and determination as to whether or not an emergency situation truly existed to warrant exceeding the allotted time.

k. The Defendant shall report the use of any controlled substances and prescription drugs to the Department on such frequency as is directed by the Department.

l. The Defendant shall advise all personal treating physicians and other treating practitioners, prior to treatment, of his history of chemical dependency/abuse and of all medications he is taking at the time of treatment. The Defendant authorizes all treating physicians and other treating practitioners to inform the Department of all conditions for which the Defendant is treated, including any drugs or medications, prescribed or over-the-counter, included in any treatment.

m. The Defendant shall comply with all aftercare treatment recommendations of Defendant's chemical dependency treatment provider, including any recommendations for counseling and attendance at support group meetings.

n. The Defendant shall attend a minimum of three (3) Narcotics Anonymous or Alcoholics Anonymous meetings per week during the first year of his probation. During the remaining probationary period the Defendant shall attend a minimum of two (2) Narcotics Anonymous or Alcoholics Anonymous meetings per week, unless more is recommended by his treatment provider. The Defendant shall maintain a sponsor during the complete probationary period. Said sponsor shall provide quarterly reports to the Department in such manner as the Department directs.

o. The Defendant shall provide notification of his disciplinary action to all employers, practice partners, hospitals with whom he has staff privileges and to the licensing authority in any state where he has or obtains an active medical license within five (5) days of the entry of the Order on Agreed Settlement by the Director and within five (5) days of any change in employment or any subsequent out-of-state licensure. Such notification shall include providing copies of the Petition for Disciplinary Action, this Agreed Settlement, and the Order on Agreed Settlement entered by Director. Written confirmation of this notification shall be provided by the Defendant to the Department within thirty (30) days of the entry of the Order on Agreed Settlement by the Director or change in employment or any subsequent out-of-state licensure.

p. If the Defendant becomes employed as a medical doctor by a clinic or facility, it shall be by only an employer who provides employer quarterly reports to the Department. Employer quarterly reports shall be submitted to the Department by the Defendant's supervisor. Reports shall include a description of the Defendant's work habits and continued abstinence from non-prescribed drugs and alcohol. Reports shall be due no later than the 10th day of the month following the end of each quarter. An initial employer report shall be submitted as directed by the Department. A final employer report shall be due not less than thirty (30) days before the expiration of the probationary period.

q. The Defendant shall submit written notification to the Department within seven (7) days of any change in employment, employment status, residence, or telephone.

r. All reports, notices, and other documentation requested by the Department shall be provided using report forms provided by the Department.

s. The Defendant shall promptly respond to all requests and inquiries by the Department concerning the Defendant's compliance with the terms of probation.

t. The Defendant shall obey all state and federal laws and the rules and regulations regarding the practice of medicine.

u. The Defendant shall provide such written authorizations which may be requested by the Department for all records, information, and reports concerning any alcohol or chemical dependency treatment or counseling including such forms of authorization to permit the obtaining and use of records, information and reports by the Department and by the Nebraska Attorney General in conformity with 42 Code of Federal Regulations, Part 2.

v. The Defendant shall pay any costs associated with insuring compliance with this Agreed Settlement to include, but not be limited to, the costs of all body fluid/chemical testing and breath alcohol testing.

w. The Defendant shall appear at any meetings of the Board of Medicine when requested.

x. Any period the Defendant may hold an inactive Nebraska license or any period that he is not working as a licensed physician shall not reduce the probationary period or satisfy the terms and conditions of probation except for that period of suspension served after the Order on Agreed Settlement is signed by the Director.

7. In the event the Defendant violates any of the above terms of probation, the Director, after motion by the Attorney General and a hearing, may take further disciplinary action against the Defendant's license to practice as a physician, including revocation of his license.

8. The Attorney General's Office has given notice of this Agreed Settlement to the Board of Medicine and Surgery and has received their input in accordance with Neb. Rev. Stat. § 71-161.03.

9. If this Agreed Settlement is not approved by the Director, this Agreed Settlement shall become null and void and will not be admissible for any purpose at any hearing that may be held on this matter.

AGREED TO:

BY: Thomas R. Brandt MD
Thomas Brandt, M.D.
Defendant.

State of Nebraska)
) ss.
County of Madison)

Acknowledged before me by Thomas Brandt, M.D., on this 4th day of October, 2005.

Mark D. Fitzgerald
Notary Public

GENERAL NOTARY - State of Nebraska
MARK D. FITZGERALD
My Comm. Exp. Sept. 5, 2009

THE STATE OF NEBRASKA, ex rel.
JON BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: Terri J. Nutzman
Terri J. Nutzman, #18623
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-9658

Attorneys for Plaintiff.

34-1472a.2-14

Attachment C

Division of Public Health, Licensure Unit
301 Centennial Mall South, 3rd Floor, P.O. Box 94986
Lincoln, NE 68509-4986
Phone (402) 471-2115 FAX (402) 471-3577

Nebraska Department of Health and Human Services

Division of Public Health

State of Nebraska

Dave Heineman, Governor

09-10-13A09:55 RCVD

October 14, 2010

Thomas Ray Brandt, MD
109 N 29th Street
Ste. #1
Norfolk NE 68701,

Dear Dr Brandt:

This letter is written to notify you that you have completed all terms and conditions of your "Probation" as specified in the Order on Agreed Settlement dated October13, 2005. Our records were changed to reflect the probation completion as being October 13, 2010

Please find enclosed an Original Wall License and a current License Card No. 15685 which do not have the term "Probation" imprinted on them. You may discard the licensing documents previously issued to you, which had the term "Probation" imprinted on them.

Please contact Ruth Schuldt, Compliance Monitor, at (402) 471-0313, if you have any questions.

Sincerely,

Helen L. Mecks, Administrator
Licensure Unit

HLM/dcp

Enclosures: Original Wall License
License Card No. 15685, Exp. Date 10/01/2012

cc: Ruth Schuldt, Compliance Monitor