

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

JOHN B. BYRD, M.D., RESPONDENT

FILE NO. 02-08-569

DISMISSAL ORDER

Date: December 18, 2008.

1. Respondent was issued Iowa medical license no. 30890 on October 26, 1995.
2. Respondent's Iowa medical license went inactive due to non-renewal on November 1, 2008.
3. Respondent formerly practiced family medicine in Northwood, Iowa.
4. On November 13, 2008, the Board filed formal disciplinary charges against Respondent charging him with substance abuse and violating an Initial Agreement that he entered into with the Iowa Physician Health Program (IPHP) in violation of the laws and rules governing the practice of medicine in Iowa.
5. The Board subsequently received information which indicates that Respondent died on October 27, 2008.

THEREFORE IT IS ORDERED: that the Board hereby **DISMISSES** the Statement of Charges filed against Respondent in this matter.



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

December 18, 2008
Date

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STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine on November 13, 2008, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2)(2007). Respondent was issued Iowa medical license no. 30890 on October 26, 1995. Respondent's Iowa medical license went inactive due to non-renewal on November 1, 2008.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on January 14, 2009, before the Board. The hearing shall begin at 8:30 a.m. and shall be located in the conference room at the Board office at 400 SW 8th Street, Suite C, Des Moines, Iowa.

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

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

4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 653 IAC 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 IAC 25.16. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

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

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

B. LEGAL AUTHORITY AND JURISDICTION

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

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

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

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

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

COUNT II

11. Respondent is charged pursuant to Iowa Code sections 147.55(4), 148.6(2)(h) and 272C.10(4) and 653 IAC 23.1(8) with substance abuse which includes, but is not limited to, the excessive use of alcohol, drugs, narcotics, chemicals or other substances in a manner which may impair his ability to practice medicine with reasonable skill and safety.

STATEMENT OF THE MATTERS ASSERTED

12. Respondent is an Iowa-licensed physician who formerly practiced family medicine in Northwood, Iowa.

13. On April 2, 2008, Respondent was arrested and charged with operating a motor vehicle while under the influence of alcohol (OWI) in violation of Iowa law.

14. On May 8, 2008, Respondent entered into an Initial Agreement with the Iowa Physician Health Program (IPHP) for substance abuse assessment and monitoring. Respondent agreed to fully comply with the requirements of the IPHP Initial Agreement.

15. Recently, the IPHP voted to refer Respondent to the Board for formal disciplinary action after Respondent violated the terms and conditions of the Initial Agreement that he entered into with the IPHP when he refused to complete residential substance abuse treatment.

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 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 November 13, 2008, the Iowa Board of Medicine found probable cause to file this Statement of Charges.


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