

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

LEE O. FAGRE, M.D., RESPONDENT

File No. 02-07-743

TERMINATION ORDER

Date: February 11, 2013.

1. Respondent was issued Iowa medical license no. 24990 on July 1, 1985.
2. Respondent's Iowa medical license is active and will next expire on July 1, 2013.
3. Respondent currently practices family medicine in Waverly, Iowa.
4. On March 18, 1992, the Board placed Respondent on probation for a period of five years subject to Board monitoring for substance abuse. The terms of probation were terminated on March 15, 1996.
5. On February 11, 2008, the Board again placed Respondent on probation subject to Board monitoring for substance abuse.
6. The Board subsequently received information which raised concerns that Respondent engaged in a pattern of professional incompetency in the practice of medicine in Iowa, including the following:
 - A. On January 2, 2006, Respondent failed to timely perform a newborn assessment and subsequently entered the wrong time in the patient's medical record at a

hospital in Waverly, Iowa. On April 13, 2007, Respondent resigned his obstetrical privileges while under investigation by the hospital; and

- B. On January 10, 2007, Respondent resigned his privileges at a hospital in Waverly, Iowa, to perform all endoscopic procedures, including colonoscopies and esophagogastric duodenoscopies, due to concerns that he experienced multiple perforation complications.

7. On August 6, 2008, the Board ordered Respondent to complete a comprehensive competency evaluation at the Center for Personalized Education for Physicians (CPEP) a Board-approved, nationally-recognized, physician competency assessment program. CPEP identified deficiencies in Respondent's medical knowledge concerning obstetrics, and concerning specific aspects of health maintenance, cardiovascular disease, pediatrics and low back pain; judgment; and documentation. Respondent indicated that he no longer plans to practice obstetrics and CPEP made recommendations in the event he returns to that practice in the future. CPEP recommended that Respondent complete a supervised educational program.

8. On October 21, 2009, Respondent entered into a combined Statement of Charges and Settlement Agreement with the Board. The Board charged Respondent with professional incompetency. The Board issued Respondent a Citation and Warning and Respondent agreed not to practice obstetrics unless he receives prior written approval from the Board after demonstrating that he is safe to return to the practice of obstetrics. The Board placed Respondent on probation for a period of five years subject to Board monitoring for professional incompetency. Respondent was also required to successfully complete an education program established by CPEP.

9. On February 11, 2013, Respondent successfully completed the terms and conditions of his probation for substance abuse.

10. Respondent remains on probation for professional incompetency.

THEREFORE IT IS HEREBY ORDERED: that the terms and conditions of Respondent's probation for substance abuse are terminated. Respondent remains on probation for professional incompetency.

This Order is effective on February 11, 2013.



Colleen Stockdale, M.D., M.S., Chairwoman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

LEE O. FAGRE, M.D., RESPONDENT

File No. 02-07-743

SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (Board), and Lee O. Fagre, M.D., (Respondent), and on February 11, 2008, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4)(2007), enter into this Settlement Agreement to resolve the contested case currently on file.

1. Respondent was issued Iowa medical license no. 24990 on July 1, 1985.
2. Respondent's Iowa medical license is active and will next expire on July 1, 2009.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

STATEMENT OF MATTERS ASSERTED

4. Respondent practices medicine in Waverly, Iowa.

5. On May 3, 2004, Respondent self-reported to the Board's Iowa Physician Health Program (IPHP).

6. On June 28, 2004, Respondent entered into a Physician Health Contract with the IPHP and agreed to fully comply with the recommendations of the IPHP, including appropriate assessment, counseling and monitoring for substance abuse.

7. Respondent failed to fully comply with the IPHP's drug screening program.

8. In March 2007, Respondent tested positive for Ultram, an abusable drug that was not properly prescribed to him.

9. On September 12, 2007, the IPHP concluded that Respondent violated the terms and conditions of his IPHP Physician Health Contract when he had an unexplained positive drug test and the IPHP referred the matter to the Board.

10. On December 12, 2007, the Board filed formal disciplinary charges against Respondent for violating the terms of his IPHP Physician Health Contract.

SETTLEMENT AGREEMENT

11. **CITATION AND WARNING:** Respondent is hereby **CITED** for failing to fully comply with the IPHP's drug screening program and for testing positive for an abusable drug that was not properly prescribed to him in violation of his IPHP Physician Health Contract. Respondent is hereby **WARNED** that such conduct in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

12. **CIVIL PENALTY:** Respondent shall pay a civil penalty in the amount of **\$2,500** within twenty (20) days of the date of this Order. The civil penalty shall be made payable to the Treasurer of Iowa and mailed to the Executive Director of the Board. The civil penalty shall be deposited into the State General Fund.

13. **FIVE YEARS PROBATION:** Respondent shall be placed on probation for a period of five years subject to the following terms and conditions:

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

- D. **Drug Screening Program:** Respondent shall continue to submit to the Board's drug screening program. Respondent shall provide random blood or urine specimens when required. Respondent agrees to comply with all requirements of the drug-screening program. Respondent shall also provide random blood or urine specimens on demand by an agent of the Board. The specimens shall be used for drug and alcohol screening, all costs of which shall be paid by Respondent.
- E. **Substance Abuse Counseling:** Respondent shall submit to the Board for approval the name and CV of a physician or counselor to provide substance abuse counseling.
- (1) The counselor shall submit written quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
 - (2) Respondent shall continue with counseling until discharged by the Board-approved counselor and until Respondent's discharge from counseling is approved by the Board.
 - (3) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board. All costs associated with the counseling shall be the responsibility of Respondent.

- F. **Substance Abuse Meetings:** Respondent shall attend at least three Alcoholics Anonymous (AA) or a similar substance abuse meetings each week. Respondent shall obtain documentation of attendance and include copies of this documentation with his quarterly reports. Respondent shall have at least weekly contact with his AA sponsor.
- G. **Worksite Monitor:** Respondent shall submit for Board approval the name of a physician who regularly observes Respondent in the practice of medicine to serve as worksite monitor. The Board shall share a copy of all Board orders relating to this matter with the worksite monitor. The worksite monitor shall provide a written statement indicating that the monitor has read and understands all Board orders relating to this matter and agrees to act as the worksite monitor under the terms of this agreement. The worksite monitor shall agree to inform the Board immediately if there is evidence of a mental health impairment or substance abuse or a violation of this Order. The monitor shall agree to submit quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
- H. **Quarterly Reports:** Respondent shall file sworn quarterly reports with the Board attesting to his compliance with the terms of this Settlement Agreement. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of the Order.

- I. **Board Appearances:** Respondent shall make appearances before the Board or a Board committee annually or upon request. Respondent shall be given reasonable notice of the date, time and location for the appearances. Said appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(d).
- J. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with each quarterly report from Respondent required by this Order. The monitoring fee shall be sent to: Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medicine. The Monitoring Fee shall be considered repayment receipts as defined in Iowa Code section 8.2.C.

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

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

16. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless Respondent receives prior written approval from the Board.

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

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

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

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

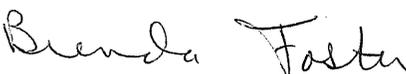
21. The Board's approval of this Order shall constitute a Final Order of the Board.



Lee O. Fagre, M.D., Respondent

Subscribed and sworn to before me on Jan. 17, 2008.

Notary Public, State of Iowa.



This Order is approved by the Board on February 11
~~Jan. 17~~, 2008.
KN - 2/11/08



Yasyn Lee, M.D., Chair
Iowa Board of Medicine

400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

LEE FAGRE, M.D., RESPONDENT

File No. 02-07-743

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine (Board) on December 12, 2007, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2)(2007). Respondent was issued Iowa medical license no. 24990 on July 1, 1985. Respondent's Iowa medical license is active and will next expire on July 1, 2009.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on February 7, 2008, 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 under Iowa Code section 272C.3(k) and 653 IAC 23.1(12) with violating a Physician Health Contract that he entered into with the Iowa Physician Health Program (IPHP).

COUNT II

11. Respondent is charged under Iowa Code section 147.55(4), 148.6(2)(h) and 272C.10(4)(2007) and 653 IAC 23.1(6) with substance abuse which impairs his ability to practice medicine with reasonable skill and safety.

D. STATEMENT OF MATTERS ASSERTED

12. Respondent practices medicine in Waverly, Iowa.

13. On May 3, 2004, Respondent self-reported to the Board's Iowa Physician Health Program (IPHP).

14. On June 28, 2004, Respondent entered into a Physician Health Contract with the IPHP and agreed to fully comply with the recommendations of the IPHP, including appropriate assessment, counseling and monitoring for substance abuse.

15. The IPHP concluded that Respondent violated the terms and conditions of his IPHP Physician Health Contract and referred the matter to the Board on September 12, 2007.

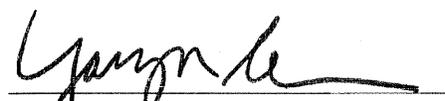
16. On December 12, 2007, the Board found probable cause that Respondent violated the terms of the Physician Health Contract that he entered into with the IPHP.

E. SETTLEMENT

17. Settlement. This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 653 IAC 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

18. On this 12th day of December 2007, the Iowa Board of Medicine found probable cause to file this Statement of Charges.


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