

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

DAVID J. HEINE, M.D., RESPONDENT

FILE NO. 02-07-393

TERMINATION ORDER

Date: October 29, 2010.

1. Respondent was issued Iowa medical license no. 32063 on September 9, 1997.
2. Respondent's Iowa medical license is active and will next expire on February 1, 2011.
3. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 148 and 272C.
4. On March 12, 2008, the Board charged Respondent with engaging in unprofessional conduct. Respondent was charged with Third Degree Burglary, Theft of Property (less than \$250.00) and Trespassing in Fillmore County, Minnesota, after he allegedly entered two Minnesota high schools in 2007 and stole sporting goods and apparel.
5. On May 15, 2008, Respondent entered into a Settlement Agreement with the Board to resolve the pending disciplinary charges. Respondent was placed on probation for a period of three years subject to counseling and Board monitoring, was ordered to pay a \$2,500 Civil Penalty and was issued a Citation and Warning for engaging in unprofessional conduct.

6. Recently, the Board voted to terminate the terms and conditions of Respondent's probation, based on the following:

- A. Respondent's compliance with the terms and conditions of his probation;
- B. Respondent's demonstration that he is safe to practice medicine in a competent manner; and
- C. Respondent's cooperation with the Board.

THEREFORE IT IS HEREBY ORDERED: that the terms and conditions of Respondent's probation are terminated and Respondent's Iowa medical license is returned to its full privileges, free and clear of all restrictions.

This Order is approved by the Board on October 29, 2010.



Siroos S. Shirazi, M.D., Chairman
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

05-09-08A10:26 RCVD

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

DAVID J. HEINE, M.D., RESPONDENT

FILE NO. 02-07-393

SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (the Board), and

David J. Heine, M.D. (Respondent), on May 15, 2008, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4)(2005), file this Settlement Agreement.

1. Respondent was issued Iowa medical license no. 32063 on September 9, 1997.

2. Respondent's Iowa medical license is currently active and will next expire on February 1, 2009.

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

4. On March 12, 2008, the Board charged Respondent with engaging in unprofessional or unethical conduct and/or practice harmful or detrimental to the public. Respondent was charged with Third Degree Burglary, Theft of Property (less than \$250.00) and Trespassing in Fillmore County, Minnesota. Respondent allegedly entered two Minnesota high schools in May 2007, and stole sporting goods and apparel.

5. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in unethical or unprofessional conduct. Respondent is hereby **WARNED** that such conduct in the future may result in further formal disciplinary action.

6. **CIVIL PENALTY:** Respondent shall be assessed a civil penalty in the amount of **\$2,500**. The civil penalty shall be paid within twenty (20) days of the date of this Order. The Civil Penalty shall be paid 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.

7. **THREE YEARS PROBATION:** Respondent shall be placed on **probation for a period of three 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. **Counseling:** Respondent shall submit to the Board for approval the name and CV of a counselor to provide ongoing counseling.

(1) The counselor shall submit written quarterly reports to the Board concerning Respondent's progress 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.

C. **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, unprofessional conduct 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.

D. **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.

- E. **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).
- F. **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.
8. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.
9. Respondent voluntarily submits this Order to the Board for consideration.
10. This Order constitutes the resolution of a contested case proceeding.
11. 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.
12. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order.

13. 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.

14. 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.

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

David L. Heine

David L. Heine, M.D., Respondent

David Heine

Subscribed and sworn to before me on 8th April, 2008.

Notary Public, State of

Kim Glock
KIM GLOCK
Clerk of District Court-Designee
Winnebago County

This Order is approved by the Board on May 15, 2008.

Yasyn Lee

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

DAVID J. HEINE, M.D., RESPONDENT

FILE NO. 02-07-393

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine on March 12, 2008, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 32063 on September 9, 1997. Respondent's Iowa medical license is active and will next expire on February 1, 2009.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on May 22, 2008, 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 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 Iowa Administrative Code 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 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.

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 (2007).

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 (2007) and 653 Iowa Administrative Code Chapter 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 Iowa Administrative Code 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

10. Respondent is charged under Iowa Code sections 147.55(3) and 272C.10(3) (2007) and 653 IAC sections 23.1(3) and (4) with engaging in unprofessional or unethical conduct and/or practice harmful or detrimental to the public.

STATEMENT OF THE MATTERS ASSERTED

11. Respondent is an Iowa-licensed physician who formerly practiced family medicine in Decorah, Iowa.

12. On June 11, 2007, Respondent was charged with Third Degree Burglary, Theft of Property (less than \$250.00) and Trespassing in Fillmore County, Minnesota. Respondent allegedly entered two Minnesota high schools on May 1 and May 30, 2007, and stole sporting goods and apparel.

13. At the direction of the Board, Respondent completed a comprehensive evaluation and the Board concluded that he does not pose an immediate risk to patients and he is safe to practice medicine.

E. SETTLEMENT

14. 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

15. On this 12th day of March 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