

**BEFORE THE IOWA BOARD OF MEDICINE**

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

**TAMARA S. HLAVATY, M.D., RESPONDENT**

**FILE No. 02-2015-570**

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**STATEMENT OF CHARGES and SETTLEMENT AGREEMENT  
(Combined)**

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COMES NOW the Iowa Board of Medicine (Board) and Tamara S. Hlavaty, M.D., (Respondent), on July 29, 2016, 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. 29637 on November 23, 1993.
2. Respondent's Iowa medical license is active and will next expire on April 1, 2017.
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. **Practice Setting:** Respondent is an Iowa-licensed physician who practices radiology in Grand Island, Nebraska.

6. **Nebraska Disciplinary Action:** On November 5, 2014, Respondent was disciplined by the Nebraska Department of Health and Human Services (Nebraska Board) for substance abuse. Respondent was diagnosed with alcohol dependence and subsequently completed substance abuse treatment. Under the terms of the November 5, 2014, Agreed Settlement, Respondent's Nebraska medical license was placed on probation for a period of four years subject to monitoring for alcohol dependence. See Attachment A.

### SETTLEMENT AGREEMENT

7. **CITATION AND WARNING:** Respondent is hereby **CITED** for being disciplined by the Nebraska Board for substance abuse on November 5, 2014. Respondent is hereby **WARNED** that such conduct in the future may result in further disciplinary action against her Iowa medical license.

8. **CIVIL PENALTY:** Respondent shall pay a **\$1,000 civil penalty** 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.

9. **REFERRAL - IOWA PHYSICIAN HEALTH PROGRAM (IPHP):** Upon the Board's approval of this Order and pursuant to Iowa Code Chapter 272C and 653 IAC section 14, Respondent shall be referred to the IPHP for substance abuse assessment, monitoring and assistance. Prior to the Board's approval of this Order, Respondent shall enter into a Physician Health Contract with the IPHP. Respondent shall fully comply with all requirements established by the IPHP. Should Respondent violate the requirements established by the IPHP she may be subject to further disciplinary action by the Board, including suspension or revocation of her Iowa medical license.

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

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

12. 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.

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

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

15. Respondent understands that the Board is required by Federal law to report this Order to the National Practitioner Data Bank.

16. This 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.

17. 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.

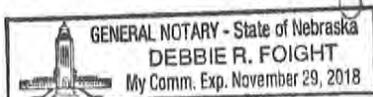
18. The Board's approval of this Order shall constitute a **Final Order** of the Board.



Tamara S. Hlavaty, M.D., Respondent

Subscribed and sworn to before me on July 18, 2016.

Notary Public, State of NE.

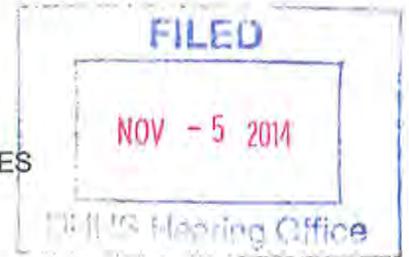


This Order is approved by the Board on July 29, 2016.

*Diane L. Clark*

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Diane L. Clark, R.N., M.A., Chair  
Iowa Board of Medicine  
400 SW 8<sup>th</sup> Street, Suite C  
Des Moines, Iowa 50309-4686



STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH

STATE OF NEBRASKA ex rel., JON BRUNING, Attorney General,  
Plaintiff,  
vs.  
TAMARA HLAVATY, M.D.,  
Defendant.

142662

ORDER ON  
AGREED SETTLEMENT

A proposed Agreed Settlement was filed with the Department on October 28, 2014.

ORDER

- 1. The Agreed Settlement is adopted, attached hereto and incorporated by reference.
- 2. The facts as set out in the Petition are taken as true and adopted herein.
- 3. The parties shall comply with all of the terms of the Agreed Settlement.

DATED this 5<sup>th</sup> day of November, 2014.

Joseph M. Acierno, MD, JD  
Chief Medical Officer  
Director, Division of Public Health  
Department of Health and Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 5<sup>th</sup> day of November 2014, a copy of the foregoing ORDER ON AGREED SETTLEMENT was sent certified United States Mail, postage prepaid, return receipt requested to attorney for defendant, James L. Quinlan, Fraser Stryker, 500 Energy Plaza, 409 South 17<sup>th</sup> Street, Omaha, NE 68102 and by e-mail to Julie Agena, Assistant Attorney General, at the e-mail address: ago.health@nebraska.gov.

DHHS Hearing Office  
P.O. Box 98914  
Lincoln, Nebraska 68509-8914  
P. (402) 471-7237 F. (402) 742-2376

**STATE OF NEBRASKA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
DIVISION OF PUBLIC HEALTH**

**STATE OF NEBRASKA ex rel.  
JON BRUNING, Attorney General,**

**Plaintiff,**

**v.**

**TAMARA HLAVATY, M.D.,**

**Defendant.**

**AGREED SETTLEMENT**

The Plaintiff and the Defendant, Tamara Hlavaty, MD, in consideration of the mutual covenants and agreements contained herein, agree as follows:

1. The Defendant, Tamara Hlavaty, was issued a license (#20038) to practice as a physician by the Nebraska Department of Health and Human Services Division of Public Health ("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 Chief Medical Officer 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 her to enter into this Agreed Settlement.
4. The Defendant acknowledges that she has read the Petition for Disciplinary Action filed by the Nebraska Attorney General's Office. The Defendant admits the allegations of the Petition for Disciplinary Action.

5. The Plaintiff and the Defendant consent to the Chief Medical Officer entering a final disciplinary order which finds that the allegations of the Petition for Disciplinary Action are true and which places the Defendant's physician license on probation for a period of four (4) years, commencing ten (10) days from the entry of the order, with the following probationary conditions:
- a. The Defendant shall abstain from the use of alcohol and shall not consume products or medications containing alcohol, to include but not limited to mouthwash and over the counter medications unless prescribed by a physician or authorized licensed practitioner for a diagnosed medical condition.
  - b. 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 diagnosed medical condition.
  - c. The Defendant shall be subject to random body fluid or chemical testing at her 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.
  - d. The Defendant shall provide a monthly listing of any and all prescriptions she has received from a physician or authorized licensed practitioner for a diagnosed medical condition. The Defendant shall report the use of any controlled substances and prescription drugs to the Department on a monthly basis.
  - e. The Defendant shall advise all personal treating physicians and other treating practitioners, prior to treatment, of her history of substance abuse and of all medications she 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.
  - f. The Defendant shall comply with all treatment recommendations made by the Defendant's substance abuse/dependency treatment provider(s), including any recommendations for counseling and attendance at support group meetings. If a specific type of support group is recommended, the Defendant may substitute an alternative type of support group approved in

advance in writing by the Department. The Defendant shall provide proof of compliance as the Department directs.

- g. The Defendant shall provide such written authorization which may be requested by the Department for all evaluation and treatment records to permit obtaining and use of records, information and such reports by the Department and the Nebraska Attorney General in conformity with 42 Code of Federal Regulations, Part 2.
- h. The Defendant shall provide notification of her disciplinary action to all employers and to the licensing authority in any state where she has or obtains an active physician license within five (5) days of the entry of the Order on Agreed Settlement by the Chief Medical Officer and within five (5) days of any changes in employment or 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 the Chief Medical Officer. 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 Chief Medical Officer and within thirty (30) days of any changes in employment or any subsequent out-of-state licensure.
- i. The Defendant shall only be employed as a physician by an employer who provides employer quarterly reports to the Department. Employer quarterly reports shall be submitted to the Department by the Defendant's employment supervisor. Reports shall include a description of the Defendant's work habits. Reports shall be due no later than the 10<sup>th</sup> 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.
- j. The Defendant shall submit written notification to the Department within seven (7) days of any changes in employment, employment status, residence or telephone number.
- k. All reports, notices and other documentation requested by the Department shall be provided using report forms provided by the Department.
- l. The Defendant shall promptly respond to all requests and inquiries by the Department concerning the Defendant's compliance with the terms of probation.
- m. The Defendant shall obey all state and federal laws and rules and regulations regarding the practice of medicine and surgery.

- n. The Defendant shall pay any costs associated with assuring compliance with this agreed settlement.
  - o. The Defendant shall appear at any meetings of the Board of Medicine and Surgery when requested.
  - p. Any period the Defendant may hold an inactive Nebraska credential shall not reduce the probationary period or satisfy the terms and conditions of probation. Practice in another jurisdiction that adopts the Nebraska probationary terms and conditions of licensure will serve to reduce the Nebraska probationary period.
6. In the event the Defendant violates any of the above terms of probation, the Chief Medical Officer, after motion by the Attorney General and a hearing, may take further disciplinary action against the Defendant's license, including revocation of her license.
7. 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. § 38-190 (Reissue 2008).
8. If this Agreed Settlement is not approved by the Chief Medical Officer, 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.

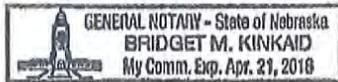
AGREED TO:

BY: *Tamara Hlavaty*  
Tamara Hlavaty, M.D.  
Defendant

State of Nebraska )  
                                  ) ss.  
County of Lincoln )

Acknowledged before me by Tamara Hlavaty, MD, on this 23<sup>rd</sup> day of October, 2014.

*Bridget M. Kinkaid*  
Notary Public  
My Commission Expires: 4.21.2018



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

BY: JON BRUNING, #20351  
Attorney General

BY: *Julie L. Agena*  
Julie L. Agena, #23187  
Assistant Attorney General  
2115 State Capitol  
Lincoln, NE 68509  
(402) 471-1815

Attorneys for the Plaintiff.