BEFORE THE IOWA BOARD OF MEDICINE

****

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

MICHAEL L. MOELLER, M.D., RESPONDENT

FILE NO. 02-10-478

****

TERMINATION ORDER

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Date: November 18, 2014.

1. Respondent was issued Iowa medical license no. 31598 on December 2, 1996.

2. Respondent's Iowa medical license is active and will next expire on March 1, 2015.

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

4. **PRACTICE SETTING:** Respondent is an Iowa-licensed physician who currently practices psychiatry in Rock Valley and Le Mars, Iowa.

5. **DISCIPLINARY ACTION:** On August 18, 2011, the Board filed disciplinary charges against Respondent alleging that he engaged in unethical and/or unprofessional conduct and violated appropriate professional boundaries in violation of the laws and rules governing the practice of medicine in Spencer, Iowa, in 2010. On November 18, 2011, Respondent entered into a Settlement

Agreement with the Board and he was placed on probation subject to counseling and Board monitoring for a period of three years. On November 18, 2014, Respondent completed the terms of his probation.

THEREFORE IT IS HEREBY ORDERED: that Respondent has completed the terms of his probation and the terms of the November 18, 2011, Settlement Agreement are terminated and his license is returned to its full privileges, free and clear of all restrictions.

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This Order is effective on November 18, 2014.

Hamed H. Tewfik, M.D., Chairman
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

MICHAEL L. MOELLER, M.D., RESPONDENT

FILE NO. 02-10-478

****

SETTLEMENT AGREEMENT

****

COMES NOW the Iowa Board of Medicine (Board) and Michael L. Moeller, M.D., (Respondent), and on November 18, 2011, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this Settlement Agreement to resolve the pending charges in this matter.

1. Respondent was issued Iowa medical license no. 31598 on December 2, 1996.

2. Respondent's Iowa medical license is active and will next expire on March 1, 2013.

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

4. Respondent is an Iowa-licensed physician who currently practices psychiatry in Sioux Falls, South Dakota., northwest Iowa and southwest Minnesota.

5. On August 18, 2011, the Board filed disciplinary charges against Respondent alleging that he engaged in unethical and/or unprofessional conduct and violated appropriate professional boundaries in violation of the laws and rules governing the practice of medicine. Respondent allegedly made inappropriate statements to a patient being treated for anxiety and allegedly attempted to initiate an inappropriate relationship with the mother of a child to whom he had provided counseling. Both incidents reportedly occurred when he practiced in Spencer, Iowa, in 2010. Respondent also allegedly failed to disclose that he was the subject of an investigation by another state licensing board on a renewal application that he submitted to the Board on or about February 27, 2011.

SETTLEMENT AGREEMENT

6. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in unethical and/or unprofessional conduct and for violating appropriate professional boundaries in violation of the laws and rules governing the practice of medicine. Respondent is hereby **WARNED** that engaging in such conduct in the future may result in further disciplinary action, including suspension or revocation of his Iowa medical license.

7. **CIVIL PENALTY**: Respondent shall pay a **$5,000 civil penalty** 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.

8. **PROFESSIONAL BOUNDARIES EVALUATION:** Respondent shall complete a Board-approved comprehensive physical, neuropsychological, mental health and professional boundaries evaluation within thirty (30) days of the date of this order. If Respondent fails to complete the Board-approved evaluation within thirty (30) days of the date of this Order, the Board will issue a notice to Respondent that his license will be suspended within thirty (30) days of the date the notice is served. The suspension shall occur automatically and without further Board action, unless Respondent files a request for hearing on the notice within ten (10) days of the date the notice is served. Respondent shall fully comply with the recommendations of the evaluation program and the Board following completion of the evaluation.

9. **THREE YEARS PROBATION**: Respondent shall be placed on **probation for a period of three (3) years** subject to the following terms and conditions:

A. **Board Monitoring Program**: Within thirty (30) days of the date of this Order, Respondent shall establish a Board monitoring program with Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-3654. Respondent shall fully comply with all requirements of the monitoring program. If Respondent fails to establish a Board monitoring program within thirty days of the date of this Order or fails to fully comply with the Board monitoring plan, the Board will issue a notice to Respondent that the license will be suspended within

thirty (30) days of the date the notice is served on Respondent. The suspension shall occur automatically and without further Board action, unless Respondent files with the Board a request for hearing on the notice within ten (10) days of the date the notice is served.

B. **Professional Boundaries Program:** Respondent shall complete a professional boundaries program under the direction of John Hung, Ph.D., Health Psychology Consultants, 7300 France Avenue, Suite 420, Edina, Minnesota 55435, Ph. # 952-470-4177, within ninety (90) days of the date of this order. If Respondent fails to complete the Board-approved professional boundaries program within ninety (90) days of the date of this Order, the Board will issue a notice to Respondent that the license will be suspended within thirty (30) days of the date the notice is served on Respondent. The suspension shall occur automatically and without further Board action, unless Respondent files with the Board a request for hearing on the notice within ten (10) days of the date the notice is served.

C. **Professional Boundaries Counseling:** Respondent shall submit the name and CV of an Iowa-licensed counselor for Board-approval and complete Board-approved professional boundaries counseling under the following terms and conditions:

1) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board:

2) Respondent shall continue counseling until his discharge is approved by the Board;

3) The counselor shall agree to submit written quarterly reports to the Board concerning Respondent's progress no later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation; and

4) Respondent is responsible for all costs associated with the counseling.

D. **Polygraph Examinations:** Respondent shall submit to Board-approved polygraph examinations every six months.

E. **Principles of Medical Ethics, Staff Survey Forms and Patient Satisfaction Surveys:**

1) Respondent shall post the Principles of Medical Ethics in his medical practice as directed by the Board;

2) Respondent shall utilize Staff Survey Forms in his medical practice as directed by the Board; and

3) Respondent shall utilize Patient Satisfaction Surveys in his medical practice as directed by the Board.

F. **Worksite Monitoring Program**: Within thirty days of the date of this Order, Respondent shall establish a worksite monitoring program with the Board.

1) Respondent shall submit for Board approval the name of a physician other healthcare provider or administrator who regularly observes and/or supervises Respondent in the practice of medicine.

2) The Board shall provide a copy of all Board orders relating to this matter to the worksite monitor.

3) The worksite monitor shall provide a written statement indicating that they have read and understand this Order and agrees to serve under the terms of this Order. The worksite monitor shall agree to inform the Board immediately if there is evidence of professional misconduct, sexual misconduct, substance abuse or a violation of the terms of this Order. The worksite monitor shall submit quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order. The worksite monitor may be asked to appear before the Board in-person, or by telephone or video conferencing. The worksite monitor shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(d).

4) If Respondent fails to establish a worksite monitoring program within thirty days of the date of this Order or fails to fully comply with the worksite monitoring program, the Board will issue a notice to Respondent that the license will be suspended within thirty (30) days of the date the notice is served on Respondent. The suspension shall occur automatically and without further Board action, unless Respondent files with the Board a request for hearing on the notice within ten (10) days of the date the notice is served.

G. **Quarterly Reports**: Respondent shall file sworn quarterly reports attesting to his compliance with all the terms and conditions of this Order, including attendance at meetings with his counselor. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of Respondent's probation.

H. **Board Appearances**: Respondent shall make an appearance before the Board annually or upon request. Respondent shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(d).

I. **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 required under this Order. The monitoring fee shall be sent to:

Coordinator of Monitoring Programs, 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.

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

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

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

13. In the event Respondent violates or fails to comply with the terms of this Order, the Board may initiate action to suspend or revoke Respondent's Iowa license or impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 24.

14. Periods of residence or practice outside the state of Iowa shall apply to the duration of this Order provided Respondent continues to practice within the state of Iowa. Periods in which Respondent does not practice medicine in any state or fails to comply with the terms established in this Order shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.

15. This Order is subject to approval by 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.

Michael L. Moeller, M.D., Respondent

Subscribed and sworn to before me on Oct 14th, 2011.

Notary Public, State of South Dakota

SHARON LOKKE
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

Expires Aug 08, 2015

This Order is approved by the Board on November 18, 2011.

Siroos S. Shirazi, M.D., Chairman
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

MICHAEL L. MOELLER, M.D., RESPONDENT

FILE NO. 02-10-478

****

STATEMENT OF CHARGES

****

COMES NOW the Iowa Board of Medicine (Board) on August 18, 2011, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 31598 on December 2, 1996. Respondent's Iowa medical license is active and will next expire on next expire on March 1, 2013.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on October 20, 2011, 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 Notice of Hearing you are required by 653 Iowa Administrative Code 25.10 to file an Answer. In that Answer, you should also 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. Prehearing Conference. A prehearing conference will be held by telephone on September 7, 2011 at 9:30 a.m., before an Administrative Law Judge from the Iowa Department of Inspections and Appeals (ALJ). Please contact Kent M. Nebel, J.D., Legal Director, Iowa Board of Medicine, at 515-281-7088 with the telephone number at which you or your legal counsel can be reached. Board rules on prehearing conferences may be found at 653 Iowa Administrative Code 25.15.

5. 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.

6. 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.

7. 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 may contact Kent M. Nebel, J.D., Legal Director, at 515-281-7088 or to Assistant Attorney General Theresa O'Connell Weeg at 515-281-6858.

B. LEGAL AUTHORITY AND JURISDICTION

8. Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 17A, 147, 148, and 272C (2005).

9. 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 (2005) and 653 Iowa Administrative Code Chapter 25.25.

10. 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

11. **Sexual Misconduct:** Respondent is charged pursuant to Iowa Code section 148.6(2)(i) and 653 IAC 23.1(10), 23.1(5) and 13.7(4)(a)-(d) with engaging in sexual misconduct in violation of the laws and rules governing the practice of medicine in Iowa including, but not limited to, the following:

a. In the course of providing medical care, a physician shall not engage in contact, touching, or comments of a sexual nature with a patient or with the patient's parent or guardian if the patient is a minor.

b. A physician shall not engage in any sexual conduct with a patient when that conduct occurs concurrent with the physician-patient relationship, regardless of whether the patient consents to that conduct.

c. A physician shall not engage in any sexual conduct with a former patient unless the physician-patient relationship was completely terminated before the sexual conduct occurred. In considering whether that relationship was completely terminated, the board will consider the duration of the physician-patient relationship, the nature of the medical services provided, the lapse of time since the physician-patient relationship ended, the degree of dependence in the physician-patient relationship, and the extent to which the physician used or exploited the trust, knowledge, emotions, or influence derived from the physician-patient relationship.

d. A psychiatrist, or a physician who provides mental health counseling to a patient, shall never engage in any sexual conduct with a current or former patient, or with that patient's parent or guardian if the patient was a minor, regardless of whether the patient consents to that conduct.

COUNT II

12. **Unethical or Unprofessional Conduct:** Respondent is charged pursuant to Iowa Code sections 147.55(3) and 272C.10(3) and 653 IAC 23.1(4) with engaging in unethical or unprofessional conduct. Engaging in unethical or unprofessional conduct includes, but is not limited to, the committing by a licensee of an act contrary to honesty, justice or good morals, whether the same is committed in the course of the licensee's practice or otherwise and whether committed within this state or elsewhere; or a violation of the standards and principles of medical ethics.

STATEMENT OF THE MATTERS ASSERTED

13. Respondent is an Iowa-licensed physician who currently practices psychiatry in Sioux Falls, South Dakota.

14. The Board alleges that Respondent engaged in unethical or unprofessional conduct when, while providing mental health counseling to a patient who suffered from anxiety, in April 2010, in Spencer, Iowa, Respondent made an unprofessional statement to the patient which was perceived as threatening.

15. The Board alleges that Respondent engaged in unethical or unprofessional conduct and/or sexual misconduct when he made inappropriate sexual advances to, the mother of a child to whom Respondent was providing mental health counseling, in August 2010, in Spencer, Iowa.

16. The Board alleges that Respondent engaged in unethical or unprofessional conduct when he failed to disclose that he was the subject of an investigation by another state licensing board on an Iowa medical license renewal application that he submitted on or about February 27, 2011.

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 Iowa Administrative Code 12.25. 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 August 18, 2011, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

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