

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

TAMYRA L. MOUGINIS, M.D., RESPONDENT

File No. 02-08-312

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SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (Board), and Tamyra L. Mouginis, M.D., (Respondent), and on April 2, 2009, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this Settlement Agreement to resolve the contested case currently on file.

1. Respondent was issued Iowa medical license no. 37817 on May 15, 2008.
2. Respondent's Iowa medical license is active and will expire on June 1, 2009.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

CIRCUMSTANCES

4. Respondent is an Iowa-licensed physician who formerly practiced anesthesia in Waterloo, Iowa.
5. In 1996, Respondent was charged and convicted of driving under the influence of drugs or alcohol (DUI) in Northbrook, Illinois. Respondent was placed on probation and she was required to complete a substance abuse rehabilitation program.

6. On June 18, 2008, Respondent was arrested and charged with possession of marijuana and possession of drug paraphernalia in Waterloo, Iowa.

7. On November 13, 2008, the Board filed formal disciplinary charges against Respondent for engaging in 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 her ability to practice medicine with reasonable skill and safety.

8. Respondent was subsequently terminated from her employment in Waterloo, Iowa.

9. Respondent declined to self-report to the Iowa Physician Health Program.

SETTLEMENT AGREEMENT

10. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in substance abuse in violation of the laws and rules governing the practice of medicine in Iowa. Respondent is hereby **WARNED** that such conduct in the future may result in further disciplinary action, including suspension or revocation of her Iowa medical license.

11. **CIVIL PENALTY:** Upon her return to the practice of medicine, Respondent shall pay a civil penalty in the amount of **\$2,500**. 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.

12. **NOTICE TO HOSPITALS AND CLINICS:** Respondent shall provide the Board with the name, address and telephone number of the administrative director at all current and future hospitals, clinics and other healthcare facilities where Respondent practices medicine. The Board will provide the administrative director with all Board Orders relating to matter.

13. **EVALUATION:** At the direction of the Board, Respondent completed a comprehensive physical, neuropsychological and substance abuse evaluation under the direction of Resurrection Health Center. Respondent shall fully comply with all recommendations of Resurrection and the Board.

14. **PRACTICE PROHIBITION:** Respondent shall not engage in any aspect of the practice of medicine until she receives written approval from the Board. Respondent shall demonstrate that she is safe to return to the practice of medicine prior to receiving Board-approval to return to the practice of medicine.

15. **FIVE YEARS PROBATION:** Upon her return to the practice of medicine, 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 the monitoring program.

- B. **Alcohol and Drug Prohibition:** Respondent shall not consume alcohol or any illicit drugs.
- 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 health care provider of her substance abuse history prior to receiving any prescription drug.
- D. **Drug Screening Program:** Respondent shall fully comply with the Board's drug-screening program. Respondent shall provide random blood or urine specimens when required. 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. **Counseling:** Respondent shall submit to the Board for approval the name and CV of a physician or counselor to provide counseling.
- (1) The counselor shall submit written quarterly reports to the Board no 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 the Board-approved counselor as frequently as recommended by the counselor and approved by the Board.

F. **Substance Abuse Meetings:** Respondent shall attend at least three Alcoholics Anonymous (AA) or a similar substance abuse meetings each week, one of which is a home group meeting. Respondent shall obtain documentation of attendance and include copies of this documentation with his quarterly reports. Respondent shall contact her AA sponsor at least once each week.

G. **Psychiatric Care:** Respondent shall submit to the Board the name and curriculum vitae of a psychiatrist for Board approval to supervise Respondent's continued treatment and counseling, including management of medications. The Board shall share a copy of all Board orders, investigative materials and evaluation/treatment reports relating to this matter with the psychiatrist.

- 1) The psychiatrist shall submit written quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
- 2) Respondent shall continue treatment with the psychiatrist until discharged by the Board-approved psychiatrist and until Respondent's discharge from treatment is approved by the Board.

3) Respondent shall meet with his Board-approved psychiatrist as recommended by the psychiatrist and approved by the Board. All costs shall be the responsibility of Respondent.

H. **Women's Group Therapy:** Respondent shall participate in Board-approved women's group therapy.

I. **Physician Mentoring Plan:** Respondent shall submit a written physician mentoring plan for Board approval with the name and CV of a physician who regularly works with and observes Respondent in the practice of medicine to serve as her physician mentor. The Board shall share a copy of all Board orders relating to this matter with the physician mentor. The physician mentor shall provide a written statement indicating that the mentor has read and understands all Board orders in this matter and agrees to act as the physician mentor under the terms of this Order. The physician mentor shall agree to inform the Board immediately if there is evidence of substance abuse, impairment, professional misconduct, or a violation of this Order.

(1) The physician mentor shall submit written quarterly reports no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order;

(2) Respondent shall continue meeting with the physician mentor until discharge is approved by the Board; and

(3) Respondent shall meet with the physician mentor as frequently as approved by the Board.

- J. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to her compliance with all the terms and conditions of this Settlement Agreement no later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.
- K. **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).
- L. **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.

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

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

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

19. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order.

20. 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.

21. 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.

22. 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.

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


Tamyra L. Mouginis, M.D., Respondent

Subscribed and sworn to before me on March 19, 2009.

Notary Public, State of Ohio. 

JUDITH SUSAN KAMPFER
Notary Public, State of Ohio
My Commission Expires Oct. 8, 2013

This Order is approved by the Board on April 2, 2009.


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

TAMYRA L. MOUGINIS, M.D., RESPONDENT

File No. 02-08-312

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. 37817 on May 15, 2008. Respondent's Iowa medical license is active and will next expire on June 1, 2009.

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 Iowa Code section 148.6(2)(c) and 653 IAC 23.1(10) for violating a statute or law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of medicine.

COUNT II

11. 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 or practice harmful or detrimental to the public.

STATEMENT OF THE MATTERS ASSERTED

12. Respondent is an Iowa-licensed physician who formerly practiced anesthesia in Waterloo, Iowa.

13. In 1996, Respondent was charged and convicted of driving under the influence of drugs or alcohol (DUI) in Northbrook, Illinois. Respondent was placed on probation and she was required to complete a substance abuse rehabilitation program.

14. On June 18, 2008, Respondent was arrested and charged with Possession of Marijuana in violation of Iowa Code section 124.401(3) M and Possession of Drug Paraphernalia in violation of Iowa Code section 124.414, in Black Hawk County, Iowa.

15. Respondent was subsequently terminated from her employment in Waterloo, Iowa.

16. Respondent declined to self-report to the Iowa Physician Health Program.

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



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