

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

MICHAEL J. OURADA, M.D., RESPONDENT

File Nos. 02-07-453

TERMINATION ORDER

COMES NOW the Iowa Board of Medicine (Board) on October 30, 2013, and enters this Termination Order.

1. Respondent was issued Iowa medical license no. 34380 on November 8, 2001.
2. Respondent's Iowa medical license is active and will next expire on September 1, 2014.
3. On August 6, 2009, the Board filed formal disciplinary charges against Respondent for violating the terms and conditions of the Physician Health Contract that he entered into with the Iowa Physician Health Program and for engaging in substance abuse which may impair his ability to practice medicine with reasonable skill and safety.
4. On October 9, 2009, Respondent entered into a Settlement Agreement with the Board to resolve the pending disciplinary charges. Under the terms of the October 9, 2009, Settlement Agreement, the Board placed Respondent on probation for a period of five years subject to Board monitoring for substance abuse.

5. Respondent has fully complied with the terms and conditions of the October 9, 2009, Settlement Agreement.

6. On October 25, 2013, after careful consideration, the Board voted to terminate the terms and conditions of Respondent's probation.

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.



Gregory B. Hoversten, D.O., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

October 30, 2013

Date

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

MICHAEL J. OURADA, M.D., RESPONDENT

File Nos. 02-07-453

SETTLEMENT AGREEMENT

09-21-09P02:55 RCVD

COMES NOW the Iowa Board of Medicine (Board), and Michael J. Ourada, M.D., (Respondent), and on October 1, 2009, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this Settlement Agreement to resolve the pending contested case currently on file.

1. Respondent was issued Iowa medical license no. 34380 on November 8, 2001.
2. Respondent's Iowa medical license is active and will next expire on September 1, 2010.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

CIRCUMSTANCES

4. Respondent practices emergency medicine in Centerville, Iowa, and Omaha, Nebraska.

5. On December 7, 2006, Respondent entered into a combined Statement of Charges and Settlement Agreement with the Board. The Board charged Respondent for failing to perform an examination on a patient and documenting an examination that he had performed. Respondent was required to complete a Board-approved professional ethics program and he was issued a Citation and Warning and ordered to pay a \$2,500 Civil Penalty.

6. On January 31, 2008, Respondent entered into a Physician Health Contract with the Iowa Physician Health Program (IPHP) and agreed to fully comply with the IPHP requirements for substance abuse treatment, counseling and monitoring for five years.

7. On August 27, 2008, the IPHP noticed Respondent to the Board for violating the terms of his Physician Health Contract after he tested positive for alcohol on June 18, 2008, and for failing to provide urine samples for drug and alcohol testing on June 25, 2008 and July 3, 2008. Respondent admitted consuming alcohol. The IPHP continued to monitor Respondent.

8. On March 17, 2009, the IPHP sent Respondent a warning letter for not submitting required reports in a timely manner, delaying his participation in required substance abuse counseling services and providing non-witnessed urine samples in violation of the terms of his Physician Health Contract. The IPHP warned Respondent that he would be referred the Board for consideration of disciplinary action if there were any further violations of his Physician Health Contract.

9. On July 8, 2009, the IPHP referred Respondent to the Board for consideration of disciplinary action for violating the terms of his Physician Health Contract after he tested positive for alcohol on April 23, 2009.

10. On July 14, 2009, Respondent tested positive for alcohol.

11. On August 6, 2009, the Board filed formal disciplinary charges against Respondent charging him with violating the terms and conditions of the Physician Health Contract and engaging in substance abuse which may impair his ability to practice medicine with reasonable skill and safety.

12. Respondent tested positive for alcohol on August 21, 2009.

SETTLEMENT AGREEMENT

13. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating the terms and conditions of the Physician Health Contract and engaging in substance abuse which may impair his ability to practice medicine with reasonable skill and safety. 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.

14. **CIVIL PENALTY:** Prior to the Board's approval of this Order, Respondent shall pay a civil penalty in the amount of **\$7,500**. 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.

15. **SUBSTANCE ABUSE EVALUATION:** Respondent shall complete a Board-approved comprehensive substance abuse evaluation within thirty days of the date of this Order. Respondent shall ensure that a copy of the evaluation report is forwarded directly to the Board. Respondent shall fully comply with all recommendations of the assessment program and is responsible for all costs associated with the evaluation.

16. **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 the monitoring program.
- B. **Alcohol Prohibition:** Respondent shall not consume alcohol. Respondent shall not consume food containing poppy seeds and/or alcohol, and Respondent understands that the “incidental” use of alcohol or other mood-altering substances (e.g. mouthwash, hand cleaning gel, or over the counter medications containing alcohol) may cause a positive test that cannot be differentiated from intentional ingestion. Respondent agrees to avoid contact or ingestion of these substances.
- 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

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 his 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 ensure that authorized personnel visually witness the collection of all UA samples. Samples that are not visually witnessed shall be considered a violation of this Order. All confirmed, positive tests shall be presumed valid and shall constitute a violation of this Order. Respondent shall also provide random blood or urine specimens on demand by an agent of the Board. Respondent is responsible for all costs associated with the Board's drug screening program.

E. Substance Abuse Counseling: Respondent shall submit for approval the name and CV of a substance abuse counselor.

(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 two 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. **Mental Health Counseling:** Respondent shall submit to the Board for approval the name and CV of a counselor to provide ongoing mental health counseling.

(1) The counselor shall submit written quarterly reports to the Board concerning Respondent's progress 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 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. Respondent is responsible for all costs associated with the counseling.

- H. **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, 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.
- I. **Quarterly Reports:** Respondent shall file sworn quarterly reports with the Board attesting to his compliance with all the terms and conditions 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 this Order.
- J. **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).

K. **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.

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

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

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

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. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board. Periods in which Respondent does not practice medicine and/or he 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.

22. 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.

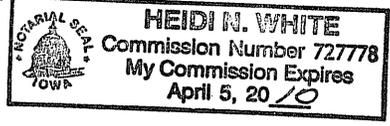
23. This Order is subject to approval by the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

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


Michael J. Ourada, M.D., Respondent

Subscribed and sworn to before me on September 18, 2009.

Notary Public, State of Iowa.

This Order is approved by the Board on October 1, 2009.


Siros 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 J. OURADA, M.D., RESPONDENT

File Nos. 02-07-453

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine (Board) on August 6, 2009, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license number 34380 on November 8, 2001. Respondent's Iowa medical license is active and will next expire on September 1, 2010.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on October 21, 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 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., 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 272C.3(k) and 653 IAC 23.1(35) with violating a Physician Health Contract that he entered into with the Iowa Physician Health Program (IPHP).

COUNT II

11. Respondent is charged pursuant to Iowa Code sections 147.55(4), 148.6(2)(h) and 272C.10(4) and 653 IAC 23.1(6) for engaging in substance abuse which may impair his ability to practice medicine with reasonable skill and safety.

D. STATEMENT OF MATTERS ASSERTED

12. Respondent practices medicine in emergency rooms in Centerville, Iowa, and Omaha, Nebraska.

13. On December 7, 2006, Respondent entered into a combined Statement of Charges and Settlement Agreement with the Board. The Board charged Respondent for failing to perform an examination on a patient that presented to the emergency room and falsifying the patient's medical record when he documented that he had performed an extensive patient examination when he had not examined the patient. Respondent was required to complete a Board-approved professional ethics program and issued a Citation and Warning and ordered to pay a \$2,500 Civil Penalty.

14. On January 31, 2008, Respondent entered into a Physician Health Contract with the Iowa Physician Health Program (IPHP) and agreed to fully comply with the IPHP requirements for substance abuse treatment, counseling and monitoring for five years.

15. On August 27, 2008, the IPHP noticed Respondent to the Board for violating the terms of his Physician Health Contract after he tested positive for alcohol on June 18, 2008, and for failing to provide urine samples for drug and alcohol testing on June 25, 2008 and July 3, 2008. Respondent admitted consuming alcohol. The IPHP continued to monitor Respondent.

16. On March 17, 2009, the IPHP sent Respondent a warning letter for not submitting required reports in a timely manner, delaying his participation in required substance abuse counseling services and providing non-witnessed urine samples in violation of the terms of his Physician Health Contract. The IPHP warned Respondent that he would be referred the Board for consideration of disciplinary action if there were any further violations of his Physician Health Contract.

17. On July 8, 2009, the IPHP referred Respondent to the Board for consideration of disciplinary action for violating the terms of his Physician Health Contract after he tested positive for alcohol on April 23, 2009.

18. On July 14, 2009, Respondent tested positive for alcohol.

19. The Board alleges that Respondent violated the terms and conditions of the Physician Health Contract that he entered into with the IPHP.

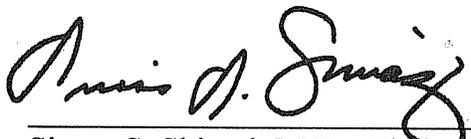
20. The Board alleges that Respondent engaged in substance abuse which may impair his ability to practice medicine with reasonable skill and safety.

E. SETTLEMENT

21. 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

22. On August 6, 2009, 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