

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST
LUONG N. PHAM, M.D., RESPONDENT

File No. 02-11-614

DISMISSAL ORDER

Date: August 28, 2015.

1. Respondent was issued Iowa medical license no. 24767 on April 11, 1985.
2. Respondent's Iowa medical license has been inactive due to non-renewal since November 1, 2000.
3. **Practice Setting:** Respondent is an Iowa-licensed physician who formerly practiced medicine in Irvine, California.
4. **California Disciplinary Action:** On or about September 27, 2010, the Medical Board of California (California Board) filed an Accusation against Respondent alleging gross negligence, repeated negligent acts, incompetence and inadequate medical records. The California Board alleged that Respondent failed to provide appropriate care and treatment and failed to maintain appropriate medical records for six patients between 2003 and 2008 in Irvine, California. On or about July 6, 2011, Respondent entered into a Stipulated Surrender of License and Order with the California Board. Respondent surrendered his California medical license effective July 26, 2011, to resolve the pending disciplinary action. See Attachment A.

5. **Iowa Disciplinary Charges:** On August 30, 2013, the Iowa Board filed formal disciplinary charges against Respondent charging him with being disciplined by the licensing authority of another state in violation of the laws and rules governing the practice of medicine in Iowa. See Attachment B.

8. **Relinquishment of Iowa Medical License:** Effective July 1, 2015, pursuant to Iowa Code section 148.8A, Respondent's Iowa medical license was relinquished because he failed to apply for renewal or reinstatement of the license within five (5) years after its expiration. See Iowa Code section 148.8A. Respondent's Iowa medical license may not be reinstated, reissued, or restored once it has been relinquished. Therefore, Respondent no longer holds an Iowa medical license.

THEREFORE IT IS ORDERED: that the Board hereby **DISMISSES** the Statement of Charges currently pending against Respondent in this matter. However, should Respondent apply for a new Iowa medical license in the future, the Board will reopen this matter and take appropriate action necessary to protect the public.

This order becomes effective on August 28, 2015.



Hamed H. Tewfik, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation filed)
Against:)
)
LUONG PHAM, M.D.)
103 Briar Lane)
Irvine, CA 92602-0784)
)
Physician's and Surgeon's)
Certificate No.: A-44339)
)
Respondent)
_____)

Case No.: 06-2008-193684

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Medical Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on July 26, 2011.

IT IS SO ORDERED: July 19, 2011.

MEDICAL BOARD OF CALIFORNIA

By: _____

LINDA K. WHITNEY

Executive Director



1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA L. CASTRO
Supervising Deputy Attorney General
3 BENETH A. BROWNE
Deputy Attorney General
4 State Bar No. 202679
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-7816
6 Facsimile: (213) 897-9395
Attorneys for Complainant
7

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 06-2008-193684

11 **LUONG PHAM, M.D.**
12 **103 Briar Lane**
13 **Irvine, CA 92602**

OAH No. 2011010424

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 Physician's and Surgeon's Certificate
No. A 44339

15 Respondent.
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17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 PARTIES

21 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
22 California. She brought this action solely in her official capacity and is represented in this matter
23 by Kamala D. Harris, Attorney General of the State of California, by Beneth A. Browne, Deputy
24 Attorney General.

25 2. Luong Pham, M.D. (Respondent) is representing himself in this proceeding and has
26 chosen not to exercise his right to be represented by counsel.

27 3. On or about December 21, 1987, the Medical Board of California issued Physician's
28 and Surgeon's Certificate No. A 44339 to Respondent. The Physician's and Surgeon's Certificate

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 06-
2 2008-193684 and will expire on November 30, 2011, unless renewed.

3 JURISDICTION

4 4. Accusation No. 06-2008-193684 was filed before the Medical Board of California
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 June 27, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A copy
8 of Accusation No. 06-2008-193684 is attached as Exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 06-2008-193684. Respondent also has carefully read, and understands the effects
12 of this Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
17 the attendance of witnesses and the production of documents; the right to reconsideration and
18 court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 CULPABILITY

23 8. Respondent understands that the charges and allegations in Accusation No. 06-2008-
24 193684, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and
25 Surgeon's Certificate.

26 9. Respondent admits the truth of the Fourth Cause for Discipline (Inadequate Medical
27 Records) in Accusation No. 06-2008-193684.

1 15. Respondent shall lose all rights and privileges as a medical doctor in California as of
2 the effective date of the Board's Decision and Order.

3 16. Respondent shall cause to be delivered to the Board his pocket license and, if one was
4 issued, his wall certificate on or before the effective date of the Decision and Order.

5 17. If Respondent ever files an application for licensure or a petition for reinstatement in
6 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
7 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
8 effect at the time the petition is filed, and the Fourth Cause for Discipline (Inadequate Medical
9 Records) contained in Accusation No. 06-2008-193684 shall be deemed to be true, correct and
10 admitted by Respondent when the Board determines whether to grant or deny the petition.

11 18. If Respondent should ever apply or reapply for a new license or certification, or
12 petition for reinstatement of a license, by any other health care licensing agency in the State of
13 California, all of the charges and allegations contained in Accusation, No. 06-2008-193684 shall
14 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
15 Issues or any other proceeding seeking to deny or restrict licensure.

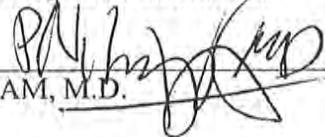
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17 ACCEPTANCE

18 I have carefully read the Stipulated Surrender of License and Order. I understand the
19 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
20 this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and
21 agree to be bound by the Decision and Order of the Medical Board of California.

22 DATED: _____

June 29/2011

23 _____
LUONG PHAM, M.D.
Respondent



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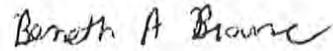
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: July 6, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GLORIA L. CASTRO
Supervising Deputy Attorney General



BENETH A. BROWNE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 06-2008-193684

1 EDMUND G. BROWN JR.
Attorney General of California
2 BENETH A. BROWNE
Deputy Attorney General
3 State Bar No. 202679
300 South Spring Street, Suite 1702
4 Los Angeles, California 90013
Telephone: (213) 897-7816
5 Facsimile: (213) 897-9395
Attorneys for Complainant

6
7 **BEFORE THE**
8 **MEDICAL BOARD OF CALIFORNIA**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 06-2008-193684

12 LUONG PHAM, M.D.

13 103 Briar Lane
14 Irvine, California 92602

ACCUSATION

15 Physician's and Surgeon's Certificate A 44339,
16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Director of the Medical Board of California (Board).

21 2. On or about December 21, 1987, the Board issued Physician's and Surgeon's
22 Certificate number A 44339 to Luong Pham, M.D. (Respondent). That license has been in full
23 force and effect at all times relevant to the charges brought herein and will expire on November
24 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

28 4. Section 2234 of the Code states:

1 "The Division of Medical Quality¹ shall take action against any licensee who is charged
2 with unprofessional conduct. In addition to other provisions of this article, unprofessional
3 conduct includes, but is not limited to, the following:

4 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
5 violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical
6 Practice Act].

7 "(b) Gross negligence.

8 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
9 omissions. An initial negligent act or omission followed by a separate and distinct departure from
10 the applicable standard of care shall constitute repeated negligent acts.

11 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate for
12 that negligent diagnosis of the patient shall constitute a single negligent act.

13 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
14 constitutes the negligent act described in paragraph (1), including, but not limited to, a
15 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
16 applicable standard of care, each departure constitutes a separate and distinct breach of the
17 standard of care.

18 "(d) Incompetence.

19 "(e) The commission of any act involving dishonesty or corruption which is substantially
20 related to the qualifications, functions, or duties of a physician and surgeon.

21 "(f) Any action or conduct which would have warranted the denial of a certificate."

22 5. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain
23 adequate and accurate records relating to the provision of services to their patients constitutes
24 unprofessional conduct."

25 //

26 _____
27 ¹ Pursuant to Business and Professions Code section 2002, "Division of Medical Quality"
28 or "Division" shall be deemed to refer to the Medical Board of California.

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence – 6 Patients)

3 6. Respondent is subject to disciplinary action for gross negligence under section 2234
4 (b) of the Code for his care and treatment of patients referred to as M.J., J.V., K.E., D.D.H., F.G.,
5 and T.D.,² who were all at the times mentioned inmate-patients at a state prison in Tehachapi,
6 California. The circumstances are as follows:

7 Patient M.J.

8 7. M.J. has a history of psychiatric interface with previous diagnoses of Major
9 Depression and Polysubstance Dependence with Antisocial Personality Traits. The records
10 indicate that M.J. saw Respondent on a total of four occasions on February 22, 2007, May 8,
11 2007, June 28, 2007, and October 30, 2007 for depressive symptoms. Respondent diagnosed
12 M.J. with a Depressive Disorder and treated M.J. with Remeron (an antidepressant) and Benadryl
13 (an allergy medicine) for sleep.

14 8. There is no documentation that Respondent appropriately evaluated M.J.'s depressive
15 symptoms including obtaining a history of changes in sleep, decreased interest in usual activities,
16 feelings of guilt, hopelessness, helplessness, decline in energy, decline in concentration, changes
17 in appetite, changes in psychomotor activity, and thoughts of suicide.

18 9. There is no documentation that Respondent documented subjective changes in M.J.'s
19 personal, interpersonal, social, and occupational functioning.

20 10. Moreover, there is no showing that Respondent performed an objective assessment of
21 M.J.'s condition, including conducting a thorough mental status examination and use of other
22 laboratory data, nor did Respondent perform an assessment including a differential diagnosis and
23 a biopsychosocial plan of action.

24 Patient J.G.

25 11. The record indicates that J.G. was evaluated by Respondent a total of nine times
26 between October 1, 2003 and December 27, 2007. Respondent diagnosed J.G. with having

27 _____
28 ² The patients' identities will be disclosed upon receipt of a proper discovery request.

1 Psychosis and treated J.G. with Risperdal (an antipsychotic drug commonly used to treat
2 schizophrenia and schizoaffective disorder), Benadryl, and Trazadone (an antidepressant). J.G.
3 was later diagnosed with Depressive Disorder and treated with Zoloft (an antidepressant) and
4 Remeron.

5 12. There is no evidence that Respondent evaluated J.G.'s psychosis and depressive
6 disorder appropriately by documenting a critical assessment of J.G.'s prior psychiatric history and
7 interval changes in his current functioning.

8 13. There is also no evidence of a critical and thoughtful, or even cursory assessment of
9 prior, current, and intervening symptoms as most of Respondent's progress notes are essentially
10 identical.

11 14. Moreover, the record does not indicate that Respondent comprehensively identified
12 J.G.'s previous and current psychiatric symptoms into an appropriate psychiatric diagnosis, nor is
13 there documentation that Respondent considered a differential diagnosis, since it is likely that
14 J.G. also had schizophrenia or schizoaffective disorder.

15 15. Also, Respondent failed to consider other more reasonable and appropriate
16 medications and doses since the records available to complainant indicate that Respondent
17 generally treated J.G. with Zoloft and Risperdal without implementing other antipsychotics and
18 antidepressants which are available and useful to treat this patient.

19 Patient K.E.

20 16. The record indicates that Respondent saw K.E. on December 4, 2007 and June 6,
21 2008. Respondent diagnosed K.E. with having Schizoaffective Disorder and prescribed Depakote
22 (a drug used to treat Major Depressive Disorder), Remeron, Geodon (an antipsychotic used in
23 treating schizophrenia and bipolar disorder), and Vistaril (an antihistamine for treatment of
24 allergies).

25 17. There is no documentation that Respondent assessed K.E.'s prior psychiatric
26 functioning, any response to previous psychiatric treatment, nor did Respondent conduct a
27 comprehensive current assessment of K.E.'s personal, interpersonal, social, and occupational
28 functioning.

1 18. The record does not indicate that Respondent considered a differential diagnosis,
2 which would include schizophrenia and mood disorder.

3 19. Although Respondent did order appropriate chemistries on December 4, 2007, it does
4 not appear that labs were drawn until five months later, on May 29, 2008. The Depakote level at
5 that time was 2.9, significantly sub therapeutic. On Respondent's follow-up appointment with
6 K.E. on June 6, 2008, the Depakote level was not documented as being reviewed and K.E. was
7 kept on a significantly sub therapeutic dose of mood stabilizer medication.

8 Patient D.D.H.

9 20. Respondent evaluated D.D.H. on one occasion on October 13, 2004. D.D.H.'s
10 medications included Lithium Carbonate (used to treat Mania and Bipolar Disorder), Zyprexa (an
11 antipsychotic drug used for treating schizophrenia and bipolar disorder), and Prozac (an
12 antidepressant). D.D.H. died while in custody on October 22, 2004.

13 21. Respondent's October 13, 2004 progress note included a cursory summary of
14 D.D.H.'s subjective complaints, as well as an incomplete and inadequate mental status
15 examination. Respondent also doubled the patient's Lithium dose/level from 450 mg po bid to
16 900 mg po bid without knowing the patient's prior Lithium dose/level.

17 22. There is also no documentation that Respondent questioned the patient regarding side
18 effects, assessed the patient's subjective symptoms and level of psychosocial functioning,
19 considered a possible differential diagnosis, a plan for psychiatric care, including medication
20 adjustments as required, and appropriate ancillary services.

21 Patient F.G.

22 23. Respondent evaluated this patient five times between September 19, 2006 and
23 December 12, 2007. F.G. was diagnosed with Major Depression with Psychotic features.

24 24. Respondent's documentation of the appointments appear to be repetitive and do not
25 contain updated, relevant, and interval information.

26 25. There is no documentation that Respondent considered a differential diagnosis,
27 especially when his medical treatment appeared to be unsuccessful.

28

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

LUONG N. PHAM, M.D., RESPONDENT

File No. 02-11-614

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine (Board) on August 30, 2013, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2). Respondent was issued Iowa medical license no. 24767 on April 11, 1985. Respondent's Iowa medical license went inactive due to nonrenewal on November 1, 2000.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on November 7, 2013, 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 11, 2013, 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: Julie Bussanmas, 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 Julie Bussanmas at 515-281-5637.

B. LEGAL AUTHORITY AND JURISDICTION

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

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. **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

12. Respondent is an Iowa-licensed physician who formerly practiced medicine in Irvine, California.

13. **California Disciplinary Action:** On or about September 27, 2010, the Medical Board of California (California Board) filed an Accusation against Respondent alleging gross negligence, repeated negligent acts, incompetence and inadequate medical records. The California Board alleged that Respondent failed to provide appropriate care and treatment and failed to maintain appropriate medical records for six patients between 2003 and 2008 in Irvine, California. On or about July 6, 2011, Respondent entered into a Stipulated Surrender of License and Order with the California Board. Respondent surrendered his California medical license effective July 26, 2011, to resolve the pending disciplinary action.

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 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

15. On August 30, 2013, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



Gregory B. Hoversten, D.O., 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

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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.

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

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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

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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 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

15. On August 30, 2013, the Iowa Board of Medicine found probable cause to file this Statement of Charges.



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