

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF STATEMENT OF CHARGES AGAINST

FREDERICK W. STRICKLAND, Jr., D.O., RESPONDENT

FILE No. 03-01-1494

09-24-08A11:58 RCVD

REINSTATEMENT ORDER

COMES NOW the Iowa Board of Medicine (the Board), and Frederick W. Strickland, Jr., D.O., (Respondent), on October 23, 2008, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this Reinstatement Order in the above matter.

1. Respondent was issued Iowa medical license no. 01782 on November 19, 1979.
2. Respondent's license is active and will next expire on August 1, 2010.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.
4. On October 12, 2005, the Board ordered Respondent to complete a comprehensive clinical competency evaluation, pursuant to Iowa Code section 272C.9 (1), at a Board-approved professional competency assessment program after the Board received and investigated information which indicated that Respondent had failed to provide appropriate evaluation and treatment to numerous patients.

5. On December 7, 2005, Respondent filed an objection to the Board's confidential evaluation order and requested a hearing. A closed hearing was held before the Board on April 26, 2006. On June 22, 2006, the Board issued a Decision and Order concluding that there was probable cause for an evaluation and requiring Respondent to complete the comprehensive clinical competency evaluation at a Board-approved program within sixty (60) days.

6. Respondent failed to complete the comprehensive clinical competency evaluation at a Board-approved program within sixty (60) days.

7. On October 12, 2006, the Board filed formal disciplinary charges against Respondent for failing to comply with an order of the Board requiring him to submit to comprehensive clinical competency evaluation.

8. A hearing was held on January 7, 2008, before a panel of the Board. On January 28, 2008, the Board issued a Proposed Decision of the Panel. The panel concluded that the preponderance of the evidence established that Respondent violated a lawful order of the Board, in violation of Iowa Code section 148.6(2)(i)(2005) and 653 IAC 23.1(11) and 23.1(13), by failing to complete a comprehensive clinical evaluation at a Board-approved program within sixty days of the Board's final order. The panel ordered Respondent to pay a \$5,000 civil penalty and indefinitely suspended Respondent's Iowa medical license until he successfully completes a Board-approved comprehensive clinical competency examination.

9. Respondent appealed the Proposed Decision of the Panel. Both parties filed written briefs and arguments. On May 14, 2008, the Board heard oral argument.

10. On June 12, 2008, the Board issued a Final Order affirming the Proposed Decision of the Panel and Respondent's Iowa medical license was indefinitely suspended. Respondent's Iowa medical license until he successfully completed a Board-approved comprehensive clinical competency examination.

11. On June 9-10, 2008, Respondent completed a comprehensive clinical competency evaluation at the Physician Assessment and Clinical Education Program (PACE) at the University of California, San Diego, Medical Center. Respondent completed further assessment at the PACE program on July 8-11, 2008. PACE identified professional competency deficiencies during the competency evaluation and recommended that Respondent complete a structured remediation program.

12. **CITATION AND WARNING:** Respondent is hereby **CITED** for failing to complete a Board-ordered competency evaluation in a timely manner as ordered and for demonstrating competency deficiencies during the comprehensive competency evaluation at PACE. Respondent is hereby **WARNED** that failure to comply with a Board order and/or evidence of such deficiencies in the future may result in further formal disciplinary action, including suspension or revocation of his Iowa medical license.

13. **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.

14. **FIVE YEARS PROBATION:** Respondent's Iowa medical license shall be reinstated and placed on probation for a period of five years subject to the following terms and conditions:

- A. **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 all requirements of the monitoring program.
- B. **PACE Remediation Plan:** Respondent shall fully comply with all recommendations made by PACE. Respondent shall successfully complete the PACE Intensive Program in Primary Care Education, including the following:
- 1) A PACE developed **Educational Mentorship** with a board-certified, general practitioner to serve as his educational mentor. The educational mentor shall provide a written statement indicating that he/she agrees to serve as the educational mentor under the terms of this Order. The educational mentor shall submit written quarterly reports to the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
 - 2) A PACE developed **Continuing Medical Education Program**.
 - 3) A PACE developed **Self-Study Program**.
 - 4) PACE developed **Clinical Performance Improvement Activities**.

- C. **Practice Monitoring Plan:** Respondent shall submit a practice monitoring plan for Board approval with an Iowa-licensed, board-certified, physician who will serve as practice monitor. The practice monitor shall agree to serve under the terms of this Order. The practice monitor shall review medical records for selected patients and meet regularly with Respondent to review cases, review specific topics and engage in a quality improvement processes. Respondent shall fully comply with all recommendations of the practice monitor. The practice monitor 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.
- D. **Worksite Monitor:** Respondent shall submit for Board approval the name of a physician or other Board-approved healthcare professional who regularly observes and/or supervises Respondent in a practice setting to serve as worksite monitor. The Board shall provide the worksite monitor a copy of all Board orders relating to this matter. The worksite monitor shall provide a written statement indicating that the monitor has read the 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 professional incompetence or a violation of the terms of this Order. The worksite monitor shall agree to submit written quarterly reports to the Board concerning Respondent's progress not later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.

- E. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms of his probation. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of this Order.
- F. **Board Appearances:** Respondent shall appear before the Board annually or upon request of the Board during the duration of this Order. Respondent shall be given notice of the date, time and location of the appearances. The appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(2).
- G. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of his probation to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with all quarterly reports required during his probation. 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.

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

16. In the event Respondent fails to comply with any of the terms of this Order, the Board may initiate action to suspend or revoke Respondent's license or to impose other license discipline as authorized in Iowa Code chapters 148 and 272 and 653 IAC 25.

17. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless Respondent obtains written approval of the Board.

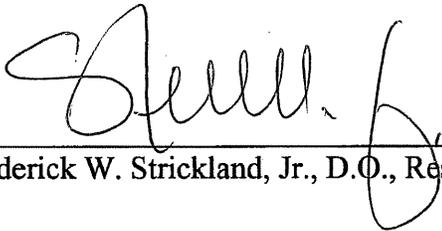
18. This Order constitutes the resolution of a contested case proceeding.

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

20. By entering into this Order, Respondent 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.

21. 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.

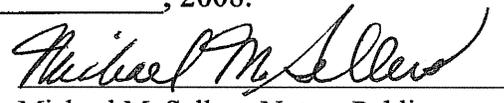
22. The Board's approval of this Order shall constitute a **Final Order** of the Board.



Frederick W. Strickland, Jr., D.O., Respondent

Subscribed and sworn to before me on September 23, 2008.

Notary Public, State of Iowa.



Michael M. Sellers, Notary Public

This Order is approved by the Board on October 23, 2008.



Yashn Lee, M.D., Chairperson
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	)	FILE NO. 03-01-1494
STATEMENT OF CHARGES	)	DIA NO. 06DPHMB028
AGAINST:)	
)	
FREDERICK W. STRICKLAND D.O.,	)	FINAL ORDER ON
	)	RESPONDENT'S APPEAL
Respondent.)	

Date June 12, 2008.

STATEMENT OF THE CASE

On October 12, 2006, the Iowa Board of Medicine (Board) filed formal disciplinary charges against Respondent alleging that he failed to complete a comprehensive evaluation in violation of a lawful Board Order. A hearing was held before a panel of the Board on January 7, 2008. On January 28, 2008, the panel issued a Proposed Decision of the Panel. The panel concluded that Respondent violated the Board's statutes and regulations when he failed to comply with a lawful order of the Board to submit to an evaluation. The panel also ordered sanctions, including the indefinite suspension of respondent's license until he successfully completes a Board-approved comprehensive clinical competency examination.

Respondent appealed the decision of the Board. Both parties filed written briefs and arguments. On May 14, 2008, the Board heard oral argument. Attorney Michael Sellers represented respondent. Assistant Attorney General Theresa Weeg represented the State.

Respondent moved to continue the appeal hearing to allow respondent time to complete a evaluation from the PACE program in San Diego. The Board's staff has approved the PACE program. Respondent's attorney stated that respondent has been admitted to begin the program to begin on June 9, 2008. Respondent has paid for the program. Respondent argued that the Board should continue the case to give respondent a change to complete the evaluation before entering a final order on discipline.

The State resisted the motion. The Board issued its first evaluation order on October 12, 2005. The Board reaffirmed its order on June 22, 2006, after respondent filed an objection and participated in a contested case hearing to determine whether there was probable cause for the order. The State argued that Respondent has had more than enough time to complete the Board-ordered evaluation and asked the Board to issue a final order.

Respondent previously filed a motion to continue that was referred by the Board to Administrative Law Judge (ALJ) Jeffrey Farrell. The ALJ denied the motion. The ALJ noted that respondent has had more than sufficient opportunity to comply with the evaluation order. The ALJ noted that there was no evidence to indicate that respondent sought out an evaluation program until after the panel issued its decision in January of 2008. The ALJ found that the hearing should proceed to enforce the Board's order. The Board considered the motion and voted to deny the request to continue.

The Board then considered the appeal on the merits. Upon review of the entire record, and the arguments made by both parties on review, the Board voted to adopt the panel's decision in its entirety.

ORDER

It is hereby ordered that the proposed decision of the panel, issued on January 28, 2008, is hereby affirmed.

Dated this 12th day of June, 2008.


Yasyn Lee, M.D.
Chairperson
Iowa Board of Medicine

cc: Theresa O'Connell Weeg
Michael Sellers

BEFORE THE IOWA BOARD OF MEDICINE

In the Matter of the Statement of	)	File No. 03-01-1494
Charges Against:	)	Case No. 06DPHMB028
)	
)	
Frederick W. Strickland, D.O.,	)	ORDER REGARDING REQUEST
	)	TO RECONSIDER
Respondent.)	

On May 9, 2008, respondent filed a request for reconsideration of a denial of his motion to continue. Respondent contended that I misunderstood the facts, as set forth in the motion. He cited no legal authority supporting a request for reconsideration of a denied motion to continue. In any event, I reviewed the additional information from the request for reconsideration. I found no information that changes the conclusion I reached in my prior order.

ORDER

Respondent's request for reconsideration is denied. The hearing remains set for May 14, 2008, as previously scheduled.

Dated this 12th day of May, 2008.



Jeffrey D. Farrell
Administrative Law Judge
Wallace State Office Building – Third Floor
Des Moines, Iowa 50319
515-281-6870 (phone)
515-281-4477 (fax)

cc: Theresa O'Connell Weeg (by fax: 281-7551)
Michael Sellers (by fax: 515-221-2702)
Iowa Board of Medical Examiners (by fax: 281-8641)

BEFORE THE IOWA BOARD OF MEDICINE

In the Matter of the Statement of	)	File No. 03-01-1494
Charges Against:	)	Case No. 06DPHMB028
)	
)	
Frederick W. Strickland, D.O.,	)	ORDER REGARDING MOTION
	)	TO CONTINUE and REQUEST
Respondent.	)	FOR HEARING

INTRODUCTION

This matter is set for an appeal hearing before the Iowa Board of Medicine on May 14, 2008. The appeal concerns a decision by a panel of the Board finding him in violation of a Board order to attend a competency evaluation at the Colorado Personalized Education for Physicians (CPEP). On April 15, 2008, respondent Frederick Strickland filed a motion to continue. Respondent asked to have the appeal hearing delayed until he could complete an assessment at the PACE Program in San Diego, CA. Respondent has applied to the program, which has been approved by the Board. There is no indication he has been approved for, or actually attended the program. Respondent stated PACE will not be able to issue a report prior to the Board hearing on May 14. Respondent admitted in his motion that he previously sought an alternative evaluation from a program in Wisconsin, but that program was not approved by the Board.

On May 1, 2008, the State filed a resistance. The State argued that the motion is intended to delay implementation of the panel's disciplinary sanctions. The parties have fully briefed the case for the Board. The State contended that respondent is free to seek a reevaluation, but it should not delay the Board's final decision.

On May 2 and 6, 2008, the Board provided copies of the motion, resistance, and other associated documents to the undersigned administrative law judge (ALJ) to enter a decision on the motion. Respondent requested a hearing. After reviewing the materials submitted, I found that a hearing is not necessary.

DISCUSSION

The Board or presiding officer is authorized by regulation to continue contested case hearings. 653 IAC 25.16. An ALJ may rule on prehearing matters on the Board's behalf. 653 IAC 25.6. The presiding officer may consider the following factors:

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- a. prior continuances,
- b. the interests of all parties,
- c. the public interest,
- d. the likelihood of informal settlement,
- e. the existence of an emergency,
- f. any objection,
- g. any applicable time requirements,
- h. the existence of a scheduling conflict,
- i. the timeliness of the request,
- j. other relevant factors.

Respondent argued that the State's response was not timely. A response is due within ten days after the motion is served, unless more time is allowed by the presiding officer. 653 IAC 25.14(2). The State is also allowed three additional days from the original due date to accommodate mailing. Iowa R. Civ. P. 1.443(2). Respondent's motion was filed on April 15, 2008. The State's resistance was due on April 28. It was not filed until May 1, 2008. The resistance was not filed in a timely manner.

However, I will consider the State's resistance notwithstanding that it was filed late. The rules allow the presiding officer to consider the resistance even if filed late. Further, the rules do not require me to grant a continuance, even if there is no resistance at all. See 653 IAC 25.16. I must apply the factors to consider the interest of the parties, the Board, and the general public. The State's resistance was part of the packet provided to me, and there is no real prejudice to respondent.

Respondent's arguments do not justify a continuance. The very point of the disciplinary action was to enforce respondent's refusal to comply with the Board's order to attend an evaluation. After the panel decision, he began to explore programs other than CPEP. He first sought to attend a non-approved program in Wisconsin. The Board denied that request. He then applied to attend a Board-approved program in San Diego, but has yet to attend. There is no basis for belief that respondent will diligently seek out and attend a Board-approved evaluation unless the Board continues its disciplinary process. The disciplinary case has been on file since October of 2006, and the evaluation order that served as the basis of the disciplinary case was filed in 2005. The hearing should proceed as scheduled.

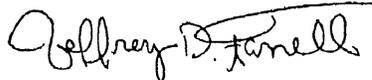
ORDER

Respondent's motion to continue is denied. The hearing remains set for May 14, 2008, as previously scheduled. The request for hearing is denied as unnecessary.

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Dated this 7th day of May, 2008.



Jeffrey D. Farrell
Administrative Law Judge
Wallace State Office Building – Third Floor
Des Moines, Iowa 50319
515-281-6870 (phone)
515-281-4477 (fax)

cc: Theresa O'Connell Weeg (by fax: 281-7551)
Michael Sellers (by fax: 515-221-2702)
Iowa Board of Medical Examiners (by fax: 281-8641)

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT	)	FILE NO. 03-01-1494
OF CHARGES AGAINST:	)	CASE NO. 06DPHMB028
)	
FREDERICK W. STRICKLAND, JR., D.O.	)	PROPOSED DECISION
RESPONDENT	)	OF THE PANEL

TO: FREDERICK W. STRICKLAND, JR., D.O. DATE: January 28, 2008.

On October 12, 2006, the Iowa Board of Medicine (Board) filed a Notice of Hearing and Statement of Matters Asserted (Confidential) against Frederick W. Strickland, Jr., D.O. (Respondent), charging him with two counts:

Count I: Violating a lawful order of the Board, in violation of Iowa Code section 148.6(2)(i)(2005) and 653 IAC 23.1(11).

Count II: Failing to comply with an order of the Board requiring him to submit to evaluation, in violation of Iowa Code section 148.6(2)(h) and (i), 272C.9(1), and 653 IAC 23.1(13).

The hearing was initially scheduled for December 13, 2006, but was continued. The state filed a Motion for Leave to Amend, which was resisted by Respondent and was denied by the Board on December 17, 2007. A hearing was held on January 7, 2008, before the following panel of the Board: Yasyn Lee, M.D., Chair; Siroos Shirazi, M.D.; and Janece Valentine, public member. Respondent appeared and was represented by attorney Michael Sellers. Assistant Attorney General Theresa O'Connell Weeg represented the state. The hearing was closed to the public, pursuant to Iowa Code section 272C.6(1). A certified court reporter recorded the hearing. Administrative Law Judge Margaret LaMarche assisted the panel in conducting the hearing and was later instructed to prepare their written decision, in accordance with their deliberations.

THE RECORD

The record includes the testimony of Respondent and the following exhibits:

State Exhibit 1: Confidential Evaluation Order, 10/12/05
State Exhibit 2: Objection to Evaluation Order and Request for Hearing, 12/7/05

State Exhibit 3: Findings of Fact, Conclusions of Law,
Decision and Order, 6/22/06
State Exhibit 4: Ruling on Demand for Vacated Final
Order and Demand for New Hearing/
Ruling on Stay Motion, 9/21/06
State Exhibit 5: Statement of Charges, 10/12/06
State Exhibit 6: Statement of Matters Asserted, 10/12/06

FINDINGS OF FACT

1. Respondent was issued Iowa medical license number 01782 on November 19, 1979. On October 12, 2005, the Board ordered Respondent to complete a Board-approved comprehensive clinical competency evaluation, pursuant to Iowa Code section 272C.9(1), at the Center for Personalized Education for Physicians (CPEP) in Aurora, Colorado. The confidential clinical competency evaluation order was issued after the Board received and investigated information indicating that Respondent had been terminated from his employment as a physician after his employer received many serious complaints that Respondent failed to provide appropriate evaluation and treatment to numerous patients. (State Exhibits 1, 5).

2. On December 7, 2005, Respondent filed an objection to the Board's confidential evaluation order and requested a hearing. A closed hearing was held before the Board on April 26, 2006. On June 22, 2006, the Board issued a Decision and Order concluding that there was probable cause for an evaluation and requiring Respondent to complete the comprehensive clinical competency evaluation at a Board-approved program within sixty (60) days. (State Exhibit 3)

3. On August 4, 2006, Respondent filed a Demand For Vacated Final Order and Demand for New Hearing. On August 17, 2006, Respondent filed a Motion for Stay. On September 21, 2006, Rulings were issued denying the Demand For Vacated Final Order, Demand for Hearing, and the Motion for Stay. (State Exhibit 4) Respondent filed an appeal with the District Court, which granted the state's Motion to Dismiss the appeal. In September 2007, the District Court denied Respondent's Motion to Reconsider. Respondent appealed the District Court Order to the Iowa Supreme Court. The appeal is pending assignment, and the trial transcript has not yet been prepared. The attorneys agree that it could be several years before the appeal is concluded. (Professional Statements of the attorneys)

4. Respondent continues to practice medicine in a solo family practice and has not complied with the Board's Evaluation Order. When asked why he has not complied, the only reason provided by Respondent was that he has heard that no Iowa physician has ever passed the CPEP competency evaluation. Respondent obtained this information from "some doctors" and has not consulted the CPEP or the Board's websites.

Respondent obtained lifetime board-certification as a family physician with the American Osteopathic Association (AOA) in 1982. In lieu of complying with the evaluation order at this time, Respondent proposed that the Board allow him to demonstrate his clinical competence by retaking the day-long multiple choice AOA certification examination when it is next offered at the annual AOA convention. Respondent testified that he would be willing to submit to evaluation if he loses his appeal to the Supreme Court. (Testimony of Respondent; State Exhibit 3)

CONCLUSIONS OF LAW

Iowa Code section 272C.9(1)(Supp. 2005) provides, in relevant part:

Each licensee of a licensing board, as a condition of licensure, is under a duty to submit to a physical, mental, or clinical competency examination when directed in writing by the board for cause...The licensing board, upon probable cause, shall have the authority to order a physical, mental, or clinical competency examination, and upon refusal of the licensee to submit to the examination the licensing board may order that the allegations pursuant to which the order of physical, mental, or clinical competency examination was made shall be taken to be established.

Iowa Code section 148.6(2)(h) and (i)(2005) provide in relevant part:

148.6 Revocation

2. Pursuant to this section, the board of medical examiners may discipline a licensee who is guilty of any of the following acts or offenses:

...

h. Inability to practice medicine and surgery, osteopathic medicine and surgery or osteopathy with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition...

i. ...violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing...

653 IAC 23.1(11) and (13) provide in relevant part:

653-23.1(272C) The board has authority to impose discipline for any violation of Iowa Code chapter 147, 148,... or 272C, or the rules promulgated thereunder. ...The board may impose any of the disciplinary sanctions set forth in 653-subrule 25.25(1), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses...

...
23.1(11) Violation of a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing,...

...
23.1(13) Failure to comply with an evaluation order. Failure to comply with an order of the board requiring a licensee to submit to evaluation under Iowa Code section 148.6(2)"h" or 272C.9(1).

The preponderance of the evidence established that Respondent violated a lawful order of the Board, in violation of Iowa Code section 148.6(2)(i)(2005) and 653 IAC 23.1(11) and 23.1(13), by failing to complete a comprehensive clinical evaluation at a Board-approved program within sixty days of the Board's final order. The Board ordered the evaluation due to serious concerns about Respondent's clinical competency in numerous areas of his practice, including physical examinations, medical records, allowing medical students to treat patients without proper supervision, prescription of medications, response to patient concerns and complaints, response to other healthcare professionals, and rude and unprofessional behavior. Respondent has continued to practice medicine in a solo family practice since the Board's Final Order on June 22, 2006. Respondent has

not yet complied with the required competency evaluation, even though he has not obtained a Stay of the Board's Order.

Respondent's proposals for further delaying the evaluation are not acceptable. The multiple choice AOA family practice recertification examination is not an acceptable alternative to a comprehensive evaluation at a Board-approved program because it will not test Respondent's application of his medical knowledge. In addition, it is not in the public interest to defer Respondent's compliance with the evaluation order indefinitely, as suggested by Respondent, while he pursues his appeal in the Supreme Court.

ORDER

IT IS THEREFORE ORDERED that when this proposed decision of the panel becomes a final decision, medical license number 01782, issued to Frederick W. Strickland, Jr., D.O., will be **INDEFINITELY SUSPENDED** until Respondent successfully completes a Board-approved comprehensive clinical competency examination, as required by the Board's Final Order issued June 22, 2006. Respondent shall fully comply with all recommendations made by the Center for Personalized Education for Physicians (CPEP), including any program of remediation.

IT IS FURTHER ORDERED that Respondent shall pay a civil penalty of five thousand dollars (\$5,000) within thirty (30) days of the issuance of the final decision.

IT IS FURTHER ORDERED, in accordance with 653 IAC 25.33, that Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 12.43(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

Dated this 28th day of January, 2008.

THE PANEL:



Yasyn Lee, M.D.
Chairperson



Siroos Shirazi, M.D.



Janece Valentine

cc: Theresa O'Connell Weeg
Office of the Attorney General
Hoover Building
Des Moines, Iowa 50319

Michael Sellers
One Corporate Place
1501 42nd St., Suite 380
West Des Moines, IA 50266-1005

A proposed panel decision may be appealed to the full board by either party by serving on the executive director, either in person or by certified mail, a notice of appeal within 30 days after service of the proposed decision on the appealing party. 653 IAC 25.24(2)"c."

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE	)	FILE NO. 03-01-1494
STATEMENT OF CHARGES	)	DIA NO. 06DPHMB028
AGAINST:)	
)	
FREDERICK STRICKLAND, D.O.,	)	ORDER ON THE STATE'S
	)	APPEAL OF DENIAL OF STATE'S
RESPONDENT.	)	MOTION FOR LEAVE TO AMEND

Date: December 17, 2007.

STATEMENT OF THE CASE AND DISCUSSION

On July 5, 2007, the State of Iowa filed a motion for leave to amend notice hearing and statement of charges. The State sought to amend the statement of charges to add a section asserting factual allegations relating to the charges. The factual allegations were previously provided to respondent, but withheld from the public after a district court ruled in a different case that the factual allegations in a statement of charges were confidential. The State's motion is responsive to the Iowa Court of Appeals decision in *Reveiz v. Iowa Board of Medical Examiners*, 735 N.W.2d 203 (Iowa App. 2007), which reversed the district court decision in the other case.

The Board referred the motion and Respondent's resistance to the Department of Inspections and Appeals to assign the case to an administrative law judge. On August 30, 2007, Administrative Law Judge Jeffrey Farrell issued an order denying the motion. The State appealed the ALJ's order to the Board.

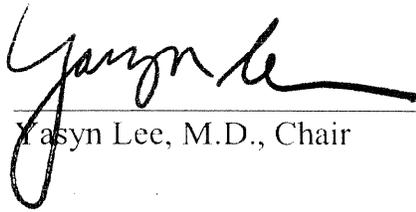
On November 8, 2007, the Board heard argument on the appeal. Attorney Michael Sellers represented Respondent. Assistant Attorney General Theresa Weeg represented the State. The Board included the following members: Dr. Yasn Lee, Dr. Siroos Shirazi, Dr. Rod Zeitler, Dr. Colleen Kennedy, Sally Schroeder, and Tom Drew. ALJ Farrell assisted the Board during deliberations and drafting of this order.

After considering the arguments of the parties, the Board decided to affirm the ALJ's order. There is no due process ground to amend the statement of charges because the statement of factual assertions was provided to Respondent at the time the charges were filed. The statement of factual assertions is an existing document, so the Board can consider releasing that document under *Reveiz* and other applicable law in the event a public records request is made.

ORDER

The ALJ's order denying the State's motion for leave to amend is affirmed.

Dated this 17th day of December, 2007.



Yasyn Lee, M.D., Chair

cc: Theresa O'Connell Weeg
Michael Sellers

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF STATEMENT OF CHARGES AGAINST

FREDERICK W. STRICKLAND, Jr., D.O., RESPONDENT

FILE No. 03-01-1494

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medical Examiners on October 12, 2006, and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2) (2005). Respondent was issued Iowa medical license no. 01782 on November 19, 1979. Respondent's license is active and will next expire on August 1, 2008.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on December 13, 2006, before the Iowa Board of Medical Examiners. The hearing shall begin at 8:00 a.m. and shall be located in the conference room at the Iowa Board of Medical Examiners 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 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 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.

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 Statement of Charges. 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 (2005).

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 (2005) and 653 Iowa Administrative Code Chapter 25.4.

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 Iowa Administrative Code 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

10. Respondent is charged under Iowa Code section 148.6(2)(i), (2005) and 653 Iowa Administrative Code 23.1(11) for violating a lawful order of the Board.

COUNT II

11. Respondent is charged under Iowa Code section 148.6(2)(h) and (i), 272C.9(1), and 653 IAC 23.1(13), with failing to comply with an order of the Board requiring him to submit to evaluation.

D. STATEMENT OF MATTERS ASSERTED

12. A short and plain Statement of the Matters Asserted was reviewed and approved by the Board at the time this Notice of Hearing was filed. A Statement of the Matters Asserted shall be furnished to Respondent as an attachment to this Notice. However, this short and plain statement of the matters asserted is not a public record.

E. SETTLEMENT

13. 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 25.17. 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

14. On this 12th day of October, 2006, the Iowa Board of Medical Examiners found probable cause to file this Notice of Hearing.



Yasyn Lee, M.D.,
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686