

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

STEVEN P. BREAU, M.D., RESPONDENT

FILE Nos. 02-09-143, 02-10-388, 02-11-110, 02-12-036, 02-12-151 & 02-12-339

SETTLEMENT AGREEMENT

COMES NOW the Iowa Board of Medicine (Board), and Steven P. Breau, M.D., (Respondent), on April 8, 2016, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this Settlement Agreement to resolve this matter.

STATEMENT OF MATTERS ASSERTED

1. Respondent was issued Iowa medical license No. 36950 on October 27, 2006.
2. Respondent's Iowa medical license is active and will next expire on January 1, 2018.
3. The Board has jurisdiction pursuant to Iowa Code Chapters 147, 148 and 272C.
4. **Practice Setting:** Respondent is an Iowa-licensed physician who practices obstetrics and gynecology in Clinton, Iowa.

5. **Statement of Charges:** On January 11, 2013, the Board filed a Statement of Charges against Respondent alleging that he violated the laws and rules governing the practice of medicine in Iowa.

6. **Dismissed Charges:** The State agrees to dismiss Counts II, III, and V of the Statement of Charges with prejudice. Respondent filed an Answer denying the remaining charges but agrees to the following settlement agreement to resolve the pending Statement of Charges.

7. **Remaining Charges:** The remaining charges allege the following:

A. **Failure to conform to the minimal standard of acceptable and prevailing practice of medicine and surgery in Iowa:** Respondent failed provide appropriate prenatal care to at least one patient in Clinton, Iowa, in 2011, when he failed to properly inform the patient that he did not have hospital delivery privileges, failed to make appropriate arrangements with other providers to deliver the baby and failed to timely transfer the prenatal records to the hospital where the baby was delivered.

B. **Failure to Report the Loss of Hospital Privileges:** Respondent failed to disclose the loss of his hospital privileges at Mercy Medical Center in Clinton, Iowa, on February 2, 2011, on the application for renewal of his Iowa medical license dated December 1, 2011. Respondent withdrew his privileges prior to a hearing on the hospital's suspension notice.

SETTLEMENT AGREEMENT

8. **CITATION AND WARNING:** Respondent is **CITED** for providing prenatal care to at least one patient in Clinton, Iowa, in 2011, without properly informing the patient that he did not have hospital delivery privileges, failing to make appropriate arrangements with other providers to deliver the baby, failing to timely transfer the prenatal records to the hospital where the baby was delivered and for failing to disclose the loss of his hospital privileges at Mercy Medical Center in Clinton, Iowa, on February 2, 2011, on the application for renewal of his Iowa medical license dated December 1, 2011. Respondent is **WARNED** that violating the laws and rules governing the practice of medicine in Iowa in the future may result in further disciplinary action against his Iowa medical license.

9. **CIVIL PENALTY:** Respondent shall pay a **\$2,500 civil penalty**. The civil penalty shall be paid by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

10. **PRENATAL CARE PROTOCOL:** Respondent shall establish appropriate prenatal care protocol to ensure that he:

- A. Provides proper notice to patients that he does not have hospital delivery privileges;
- B. Establishes formal arrangements with other providers to deliver the babies;
- C. Timely transfers prenatal records to the hospital where the babies are delivered.

11. Respondent shall submit a written statement to the Board which demonstrates that Respondent has shared a copy of this order with all medical licensing boards where Respondent holds a license, whether active or not, within thirty (30) days of the date of this order.

12. Respondent shall submit a written statement to the Board which demonstrates that he has shared a copy of this order with each hospital and clinic where Respondent practices medicine within thirty (30) days of the date of this order.

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

14. Respondent agrees that the State's counsel may present this Order to the Board for consideration.

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

16. Respondent understands that by entering into this Order, he has the right to legal counsel, 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.

17. 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.


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

19. Respondent understands that the Board is required by Federal law to report this Order to the National Practitioner Data Bank.

20. This Order becomes a public record available for inspection and copying upon execution in accordance with the requirements of Iowa Code Chapters 17A, 22 and 272C.

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.

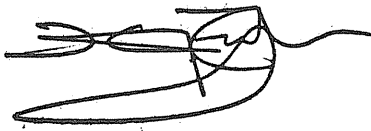
22. The Board's approval of this Order shall constitute a **Final Order** of the Board.

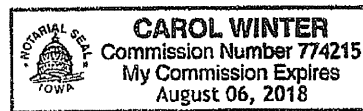

Steven P. Breaux, M.D., Respondent


Subscribed and sworn to before me on 3-18, 2016.

Notary Public, State of Iowa.

This Order is approved by the Board on April 8, 2016.


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





BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

STEVEN P. BREAU, M.D., RESPONDENT

FILE Nos. 02-09-143, 02-10-388, 02-11-110, 02-12-036, 02-12-151 & 02-12-339

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medicine on January 11, 2013, and files this Statement of Charges pursuant to Iowa Code section 17A.12(2). Respondent was issued Iowa medical license no. 36950 on October 27, 2006. Respondent's Iowa medical license is active and will next expire on January 1, 2014.

A. TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing shall be held on April 11-12, 2013, 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 pre-hearing matters, and be present to assist and advise the board at hearing.

4. Prehearing Conference. A prehearing conference will be held by telephone on February 6, 2013, at 9:00 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 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.

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 should direct any questions to Kent M. Nebel, J.D., the Board's Legal Director at 515-281-7088 or to Assistant Attorney General Julie Bussanmas 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 and 653 IAC 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 IAC 25.20.

C. SECTIONS OF STATUTES AND RULES INVOLVED

COUNT I

11. **Professional Incompetency:** Respondent is charged with professional incompetency pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and (i), and 272C.10(2) and 653 IAC 23.1(2)(a),(b),(c), (d), (e), (f), and (g) by demonstrating one or more of the following:

- a. Willful or repeated gross malpractice;
- b. Willful or gross negligence;
- c. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- d. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;
- e. A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances;
- f. A willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery in the state of Iowa; or
- g. Failure to meet the acceptable and prevailing standard of care when delegating or supervising medical services provided by another physician, health care practitioner, or other individual who is collaborating with or acting as an agent, associate, or employee of the physician responsible for the patient's care, whether or not injury results.

COUNT II

12. **Unethical or Unprofessional Conduct:** Respondent is charged pursuant to Iowa Code sections 148.6(2)(g) and (i) and 272C.10(3) and 653 IAC 23.1(4) with engaging in unethical or unprofessional conduct. Engaging in unethical or unprofessional

conduct includes, but is not limited to, the committing by a licensee of an act contrary to honesty, justice or good morals, whether the same is committed in the course of the licensee's practice or otherwise, and whether committed within this state or elsewhere; or a violation of the standards and principles of medical ethics or 653 IAC 13.7 or 13.20 as interpreted by the board.

COUNT III

13. **Fraud in Procuring a License:** Respondent is charged pursuant to Iowa Code sections 147.55(1) and 272C.10(1) and 653 IAC 23.1(15) with fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, an intentional perversion of the truth in making application for a license to practice medicine, and includes false representations of material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state, or attempting to file or filing with the board any false or forged document submitted with an application for a license in this state.

COUNT IV

14. **Knowingly Making Misleading, Deceptive, Untrue or Fraudulent Representations:** Respondent is charged pursuant to Iowa Code sections 147.55(3), 148.6(2)(a) and 272C.10(3) and 653 IAC 23.1(14) with knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a profession includes, but is not limited to, an intentional perversion of the truth, either

orally or in writing, by a physician in the practice of medicine and surgery or osteopathic medicine and surgery or by an acupuncturist.

COUNT V

15. **Practice Harmful or Detrimental to the Public:** Respondent is charged pursuant to Iowa Code section 147.55(3) and 653 IAC 23.1(3) with engaging in practice harmful or detrimental to the public. Practice harmful or detrimental to the public includes, but is not limited to, the failure of a physician to possess or exercise that degree of skill, learning and care expected of a reasonable, prudent physician acting in the same or similar circumstances in this state.

STATEMENT OF THE MATTERS ASSERTED

16. Respondent is an Iowa-licensed physician who practices obstetrics and gynecology in Clinton, Iowa.

17. Respondent is currently being monitored by the Iowa Physician Health Program (IPHP) for engaging in disruptive behavior. Disruptive behavior is defined as a pattern of contentious, threatening, or intractable behavior that interferes with, or has the potential to interfere with, patient care or the effective functioning of health care staff. Respondent engaged in a pattern of disruptive behavior when he treated nursing staff in a degrading and condescending manner in Clinton, Iowa, between November 2009 and February 2011.

18. The Board alleges that Respondent violated the laws and rules governing the practice of medicine in Iowa in his treatment of numerous patients in Clinton, Iowa, between 2008 and the present, including, but not limited to, the following:

- A. **Inappropriate Prescribing – Xanax:** Respondent prescribed excessive doses and amounts of Xanax (Alprazolam), a potentially addictive drug, to at least two patients without documenting the need for the excessive doses and amounts between September 2010 and December 2011, in Clinton, Iowa.
- B. **Inappropriate Prescribing – Phentermine:** Respondent prescribed excessive amounts of phentermine to patients for weight loss without appropriate documentation demonstrating that the patients met the criteria for the use of phentermine for weight loss between 2008 and the present in Clinton, Iowa.
- C. **Abnormal Pap Smear:** Respondent failed to provide appropriate treatment to a patient who had an abnormal pap smear in March 2008.
- D. **Improper Prenatal Care:** Respondent failed to provide appropriate treatment to patients from 2011 to the present in Clinton, Iowa, when he provided prenatal care without properly informing the patients that he did not have hospital delivery privileges, failed to make appropriate arrangements with other providers to deliver the babies and failed to timely transfer the prenatal records to the hospital where the babies were delivered.
- E. **Improper Management of Preeclampsia:** Respondent failed to provide appropriate treatment to a patient in early 2012, in Clinton, Iowa, when he failed to properly manage her preeclampsia, failed to perform fetal well-

being studies and failed to make appropriate arrangements for delivery of the baby.

- F. **Failure to Disclose Loss of Delivery Privileges:** On February 2, 2011, Mercy Medical Center in Clinton, Iowa, suspended Respondent's privileges due to serious quality of care concerns and disruptive behavior. Respondent failed to disclose the suspension of his hospital privileges on his Iowa medical license renewal application dated December 1, 2011.

SETTLEMENT

19. 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, please contact Kent M. Nebel, J.D., Legal Director at 515-281-7088.

F. PROBABLE CAUSE FINDING

20. On January 11, 2013, the Iowa Board of Medicine found probable cause to file this Statement of Charges.

A handwritten signature in black ink that reads "Colleen K. Stockdale MD MS". The signature is written in a cursive, flowing style.

Colleen K. Stockdale, M.D., M.S., Chairwoman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686