

BEFORE THE BOARD OF MEDICAL EXAMINERS
STATE OF IOWA

IN THE MATTER OF THE COMPLAINT AND STATEMENT OF CHARGES AGAINST

RONALD L. LACEY, M.D., RESPONDENT

PO-85-206

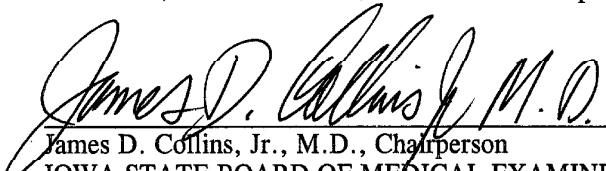
TERMINATION ORDER

NOW ON August 8, 19 96 BE IT REMEMBERED:

1. That an Order was issued by the Director of Public Health of the State of Iowa, placing the license to practice medicine and surgery, number 21756 issued to Ronald L. Lacey, M.D. (hereafter the Respondent) on September 6, 1979, on probation under certain terms and conditions; and,
2. That the Respondent has filed an application with the Iowa State Board of Medical Examiners (hereafter the Board), seeking termination of his probation.
3. That the Board having directed that the probation placed upon the Respondent's license to practice medicine and surgery should be terminated:

IT IS HEREBY ORDERED:

That the probation placed upon the Respondent's license to practice medicine and surgery is terminated, and the license is returned to its full privileges free and clear of all restrictions.


James D. Collins, Jr., M.D., Chairperson
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, Iowa 50319-0180

**BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA**

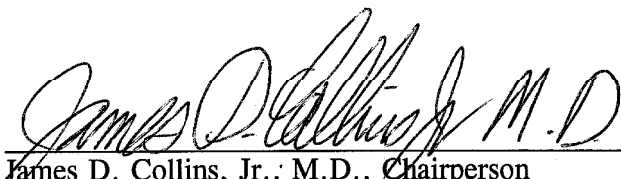
IN THE MATTER OF THE COMPLAINT *
*
AND STATEMENT OF CHARGES AGAINST * **ORDER**
*
RONALD L. LACEY, M.D. * **PO-85-206**
*
RESPONDENT *

NOW ON December 10, 1994 BE IT REMEMBERED:

1. That on October 19, 1994, Ronald L. Lacey, M.D., (hereafter the Respondent) appeared at a committee of the Iowa State Board of Medical Examiners (hereafter the Board), wherein he made a verbal request seeking amendments to a medical board disciplinary Order issued in the above entitled action on August 3, 1990 a copy of which is attached as Exhibit A.

2. That on December 1, 1994, the Board considered the Respondent's request and voted to authorize that the provisions of Exhibit A be deleted in their entirety and that the following be inserted in lieu thereof:

"IT IS HEREBY ORDERED that Iowa license number 28058 issued to the Respondent to practice medicine and surgery in Iowa on April 30, 1991 is restricted to allow the Respondent to provide health care services to male patients only."


James D. Collins, Jr., M.D., Chairperson
IOWA STATE BOARD OF MEDICAL EXAMINERS
1209 East Court Avenue
Des Moines, Iowa 50319-0180

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE COMPLAINT :

AND STATEMENT OF CHARGES AGAINST : ORDER

RONALD L. LACEY, M.D. : 02-85-206

RESPONDENT :

* * * * *

NOW on August 3, 1990, the above
entitled matter having been filed with the Director of Public
Health of the State of Iowa, and the said Director of Public
Health having reviewed the file, and being fully advised in the
premises FINDS:

1. That on February 2, 1987, an Order was issued by the
Director of Public Health of the State of Iowa, revoking Iowa
license number 21756 issued to Ronald L. Lacey, M.D. (hereafter
the Respondent), on September 6, 1979, to practice medicine and
surgery in the state of Iowa. The said license revocation was
ordered at the direction of the Iowa State Board of Medical
Examiners (hereafter the Board), pursuant to a final decision
rendered in a disciplinary action taken by the Board, against the
Respondent, in the above entitled matter.

2. That the Respondent filed both a petition for reinstatement
of license on April 16, 1990, and, a recast petition for
reinstatement of license on April 30, 1990.

3. That on May 30, 1990, a hearing on the Respondent's petitions for license reinstatement was held before a three member panel of the Board.

4. That on June 7, 1990, a Findings of Fact, Conclusions of Law, Decision and Order of the Panel was issued. On June 14, 1990, a copy of the said Findings of Fact, Conclusions of Law, Decision and Order of the Panel was served upon the Respondent via U.S. First Class, Restricted, Certified mail, return receipt requested.

5. That on June 21, 1990, the said Findings of Fact, Conclusions of Law, Decision and Order of the Panel was accepted by the Board.

6. That on July 14, 1990, thirty (30) days having passed and no appeal of the said Findings of Fact, Conclusions of Law, Decision and Order of the Panel having been filed, on July 14, 1990, the said Findings of Fact, Conclusions of Law, Decision and Order of the Panel became a final order of the Board.

7. Pursuant to rule 653-12.50(31) of the Iowa Administrative Code, the Director of Public Health of the State of Iowa is authorized to issue an Order herein.

THEREFORE IT IS HEREBY ORDERED that upon receipt of a completed application for licensure, including documentation of 100 hours of continuing education credit and payment of fees, the Board will issue to the Respondent a license to practice medicine and surgery. Said license will be immediately placed on indefi-

nite probation, subject to the following restrictions, terms and conditions:

1. The Respondent's license is restricted to allow him (the Respondent) only to participate in an ACGME approved psychiatric residency program involving close supervision. The Board shall be supplied with the residency program's plan of supervision and the program director shall make quarterly reports to the Board regarding the Respondent's progress.
2. The Respondent shall continue psychotherapy for a minimum of three years, and his (the Respondent's) therapist shall make quarterly reports to the Board.
3. It is the licensee's (Respondent's) responsibility to ensure that the residency program director and his (the Respondent's) therapist send the requisite quarterly reports.
4. The Respondent must make a personal appearance before the Board upon completion of his (the Respondent's) residency, at which time the Board will consider modifications to the restrictions on his (the Respondent's) license.

Ronald D Eckoff MD

Ronald D. Eckoff M.D., M.P.H.,
Acting Director
Iowa Department of Public Health
Lucas State Office Building
Des Moines, Iowa 50319-0075

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

| | | |
|-------------------------|---|---------------------|
| IN THE MATTER OF THE |) | NO. 02-85-206 |
| COMPLAINT AND STATEMENT |) | DIA NO. 90DPHMB-21 |
| OF CHARGES AGAINST |) | |
| |) | FINDINGS OF FACT, |
| RONALD L. LACEY, M.D., |) | CONCLUSIONS OF LAW, |
| |) | DECISION AND ORDER |
| Respondent |) | OF THE PANEL |

On February 2, 1987 the Iowa Board of Medical Examiners (Board) revoked the license to practice medicine and surgery of Ronald L. Lacey, M.D. (Respondent) because of his improper sexual contact with a 16 year old female patient. On April 16, 1990 Respondent filed a Petition for Reinstatement. On April 24, 1990, the State filed a Motion to Dismiss or Motion to Recast Petition. On April 26, 1990 the Board issued an Order. On April 30, 1990 Respondent filed a Recast Petition for Reinstatement.

A hearing was held before a panel of the Board on May 30, 1990 at 3:15 p.m. in the east conference room, Iowa State Board of Medical Examiners, 1209 East Court Avenue, Des Moines, Iowa. The Board panel included: Donna Drees, M.D., Charlotte Cleavenger, D.O., and John W. Olds, M.D. Respondent appeared in person, but was not represented by counsel. The State was represented by Julie Pottorff, Assistant Attorney General. Also present were the Executive Director of the Board, Respondent's wife and mother, and a court reporter. The hearing was closed at the written request of the Respondent, pursuant to Iowa Code Section 258A.6(1) and 653 Iowa Administrative Code 12.50(23)d. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided and was directed to prepare the panel's order.

THE RECORD

The record includes the Commissioner's Order, the Proposed Decision of the Panel, the Petition for Reinstatement, Order for Hearing on Petition for Reinstatement of Licensure, Motion to Dismiss or Motion to Recast Petition, Order, Recast Petition for Reinstatement, the testimony of the witness at the hearing, and the following Exhibits:

Respondent's Exhibit 1: Medical Reports

Respondent's Exhibit 2: Letter from George Lind dated May 14, 1990

Respondent's Exhibit 3: Performance Evaluations dated December 9, 1980, April 14, 1983, and April 9, 1984

Respondent's Exhibit 4: April 10, 1990 letter from NAPA
State Hospital.

State's Exhibit A: Proof of Publication in Ottumwa Courier,
dated December 18, 1988.

FINDINGS OF FACT

1. Respondent's license to practice medicine and surgery was revoked by the Board on February 2, 1987 because of his improper sexual contact with a 16 year old female patient. Respondent surrendered his Colorado medical license in 1987, and Hawaii revoked his medical license for failure to report the disciplinary action in Iowa. (Commissioner's Order and Proposed Decision of the Panel; testimony of Respondent)
2. Respondent has not practiced medicine and surgery since January 1986. He has worked on a research project for two and a half years developing a disability insurance project for medical professionals and has also done administrative and organizational work for the American Society for Handicapped Physicians. He has not kept current on his continuing medical education credits. He is married and resides in Englewood, Colorado. (Testimony of Respondent)
3. Respondent sought therapy at the Colorado Psychiatric Hospital, Adult Outpatient Clinic. Following an initial psychiatric evaluation on January 2, 1990, Respondent began psychodynamic psychotherapy with Steven H. Baker, M.D. As of April 27, 1990 Respondent had had 13 fifty minute sessions. The evaluation did not reveal any evidence of substance abuse, psychosis, organicity or antisocial personality. Dr. Baker concluded that Respondent has a narcissistic disturbance in his personality with the most significant feature being his grandiosity. He does not meet the DMS-III-R diagnostic criteria for Narcissistic Personality Disorder, but Dr. Baker has used this as a working diagnosis. The therapy has focused on these issues and Respondent has begun to show insight into himself and his problems, has benefited from psychotherapy, and is motivated to continue treatment. Dr. Baker states that Respondent is in the beginning stages of treatment, and he should continue psychotherapy for an extended period, probably greater than two to three years. Dr. Baker states that if Respondent enters a residency program with close supervision and continues intensive psychotherapy, then he would support Respondent's application for reinstatement of his license. (Respondent's Exhibit 1; testimony of Respondent)
4. For the past nine months, Respondent has been involved in plans for retraining and re-entry into the psychiatric field. Respondent has completed one year of a psychiatric residency at the University of Iowa and has applied to psychiatric residency programs at the PG2 level. None of the programs that he has

applied for are in Iowa. Respondent believes that before another state will grant him licensure his license must be reinstated by the Iowa Board. (Testimony of Respondent)

5. The basis for the revocation of Respondent's license has been sufficiently addressed at this time to allow Respondent to re-enter a psychiatric residency program with close supervision. Based upon the report of Respondent's psychiatrist, Respondent's willingness to practice only in a closely supervised residency program, and his plan to continue his psychotherapy, the panel concludes that it will be in the public interest for Respondent's license to be reinstated, subject to restrictions.

CONCLUSIONS OF LAW

1. 653 Iowa Administrative Code 12.50(36) provides:

12.50(36) Reinstatement. Any person whose license to practice medicine and surgery, osteopathic medicine and surgery or osteopathy, has been revoked, or suspended by the board may apply to the board for reinstatement in accordance with the terms and conditions of the order of revocation or suspension.

a. If the order of revocation or suspension did not establish terms and conditions upon which reinstatement might occur, or if the license was voluntarily surrendered, an initial application for reinstatement may not be made until one year has elapsed from the date of the director's order or the date of voluntary surrender.

b. All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of their license. Such application shall be docketed in the original case in which the license was revoked, suspended, or relinquished. All proceedings upon the petition for reinstatement, including all matters preliminary and ancillary thereto, shall be subject to the same rules of procedure as other cases before the board.

c. An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation or suspension of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish such facts shall be on the respondent.

d. An order of reinstatement shall be based upon a decision which incorporates findings of facts and conclusions of law, and must be based upon the affirmative vote of not fewer than five members of the board. This order will be published as provided for in subrule 12.50(35).

2. The Respondent has established that the basis for the revocation of his license no longer exists and it will be in the public interest for his license to be reinstated, subject to restrictions as set out below.

DECISION AND ORDER

It is therefore ORDERED that upon receipt of a completed application for licensure, including documentation of 100 hours of continuing education credit and payment of fees, the Board will issue to Respondent a license to practice medicine and surgery. Said license will be immediately placed on indefinite probation, subject to the following restrictions, terms and conditions:

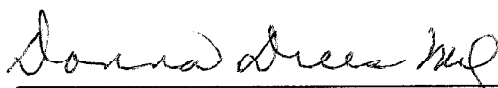
1. The Respondent's license is restricted to allow him only to participate in an ACGME approved psychiatric residency program involving close supervision. The Board shall be supplied with the residency program's plan of supervision and the program director shall make quarterly reports to the Board regarding Respondent's progress.

2. The Respondent shall continue psychotherapy for a minimum of three years, and his therapist shall make quarterly reports to the Board.

3. It is the licensee's responsibility to ensure that the residency program director and his therapist send the requisite quarterly reports.

4. Respondent must make a personal appearance before the Board upon completion of his residency, at which time the Board will consider modifications to the restrictions on his license.

Dated this 11th day of June, 1990.



Donna Drees, M.D.


Charlotte Cleavenger, D.O.


John W. Olds, M.D.

ML/jmm

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

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| | | |
|-------------------------|---|-----------------------------------|
| IN THE MATTER OF THE |) | NO. 02-85-82060 OF MED. EXAMINERS |
| COMPLAINT AND STATEMENT |) | DIA NO. 90DPHMB-21 |
| OF CHARGES AGAINST |) | |
| RONALD L. LACEY, M.D., |) | ORDER |
| Respondent |) | |


The Respondent, Ronald L. Lacey, M.D., filed a Petition for Reinstatement of his license on April 19, 1990.

The State, through its attorney, Assistant Attorney General Julie F. Pottorff, filed a Motion to Dismiss or Recast Petition.

A petition for reinstatement of a medical license "shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the revocation . . . of the respondent's license no longer exists and that it will be in the public interest for the license to be reinstated." 653 Iowa Admin. Code § 12.50(36).

It is hereby ORDERED that the Respondent will file with the Iowa Board of Medical Examiners a statement alleging such facts by Friday, May 11, 1990.

Dated this 26th day of April, 1990.



Amy Christensen Couch
Administrative Law Judge

ACC/jmm

Copy to:
Medical Examiners
Ronald L. Lacey, M.D.
Julie F. Pottorff

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : COMMISSIONER'S ORDER
RONALD L. LACEY, M.D. : 02-85-206
RESPONDENT :

* * * * *

NOW on this 2nd day of February, 1987, the above entitled matter having been filed with the Director of Public Health, of the State of Iowa, and the said Director of Public Health having reviewed the file, and being fully advised in the premises FINDS:

1. The Respondent, Ronald L. Lacey, M.D., was issued license number 21756 to practice medicine and surgery in the State of Iowa, on September 6, 1979, as evidenced in Book 4, Page 1046, of the permanent records in the Office of the Iowa State Board of Medical Examiners.

2. A proposed decision of panel was presented on September 25, 1986. Said proposed decision was appealed by the respondent to the full Board of the Iowa Board of Medical Examiners and herein held on that appeal January 22, 1987.

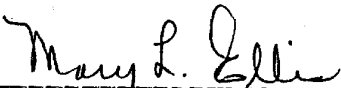
3. The decision of the Board on Appeal of the proposed decision reaffirmed in all respects the proposed decision of the panel previously issued which ordered the revocation of the respondents license to practice medicine and surgery in the State of Iowa.

4. The Iowa State Board of Medical Examiners has jurisdiction of the parties and subject matter herein.

5. Pursuant to Sections 148.6(1) and 148.7(7)(C) of the Code of Iowa, and the Rule 470-135.301(31), of the Iowa Administrative Code, the Director of Public Health is authorized to enter an Order herein.

6. ~~WHEREFORE~~ IT IS HEREBY ORDERED:

1. That license number 21756 issued to the Respondent, Ronald L. Lacey, M.D., on September 6, 1979, to practice medicine and surgery in the State of Iowa, is hereby revoked.



Mary L. Ellis, Director
Iowa Department of Health
Lucas State Office Building
Des Moines, Iowa 50319

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

* * * * *

IN THE MATTER OF THE COMPLAINT : DECISION OF THE BOARD
AND STATEMENT OF CHARGES AGAINST : ON THE APPEAL OF THE
RONALD L.LACEY,M.D., : PROPOSED DECISION
RESPONDENT : 02-85-206

* * * * *

This matter came on for hearing before the Iowa State Board of Medical Examiners on January 22, 1987, on appeal by the Respondent, Ronald L. Lacey, M.D., of the Proposed Decision of the Panel, issued September 25,1986 in the above entitled action.

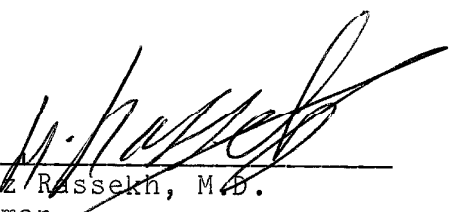
Board members present were, Hormoz Rassekh, M.D., Chairman, Richard L. Carruthers, D.O.,Vice-Chairman, Marian Bourek, Secretary, John Anderson, M.D., Elizabeth Coyte, P.A.,Dorothy J. Gildea, M.D., Reid E. Motley, M.D., Ann O'Neill, Norman Rose, D.O., and Robert B. Stickler, M.D.

Board Executive, Director William S. Vanderpool, advised the Board that he had received a telephone call from the Respondent on January 21, 1987, stating that he, the Respondent, was in the state of Colorado, and was unable to appear personally to present oral arguments, and requesting a continuance of the appeal hearing until he could personally be present. The Board, acting pursuant to Rule 470-135.301(29)(d), which concerns oral argument, denied the request for a continuance and proceeded with the appeal hearing.

The Respondent was not personally present, nor was the state represented. The appeal was heard by the Board on written briefs

and arguments previously filed by the Respondent acting pro se, and by Assistant Attorney General Julie Pottorff, on the behalf of the state. Additionally, each member of the Board was provided a copy of the complete transcript of the hearing held before the Panel.

Following consideration of the briefs and arguments submitted by all parties and after review of the transcript, the Board affirmed the proposed decision of the Panel, issued September 25, 1986, and the proposed decision of the Panel, issued September 25, 1986, a copy of which is attached hereto and made a part hereof, is hereby made a final decision of the Board, this 22nd day of January, 1987.



Hormoz Rassekh, M.D.
Chairman
Iowa State Board of
Medical Examiners

BEFORE THE BOARD OF MEDICAL EXAMINERS
FOR THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT
AND STATEMENT OF CHARGES

AGAINST RONALD L. LACEY, M.D.,
RESPONDENT

PROPOSED DECISION OF THE
PANEL

A Complaint and Statement of Charges was filed against Ronald L. Lacey, M.D., on January 23, 1985 by Ronald V. Saf, Executive Director of the Iowa State Board of Medical Examiners. The Complaint and Statement of Charges alleged, in pertinent part, the following:

1. Ronald L. Lacey, M.D. (hereinafter referred to as "Respondent") was a resident of Ottumwa, Iowa and was issued license number 21756 to practice medicine and surgery in the State of Iowa on September 6, 1979, as recorded in Book 4, Page 1046 of the permanent records in the office of the Iowa Board of Medical Examiners.
2. The Respondent's license was current until March 31, 1986.
3. Between January 2, 1984 and November 15, 1984, the Respondent engaged in inappropriate, excessive and indiscriminate prescribing of narcotics and

tranquilizers when he prescribed 12,546 doses of narcotics and tranquilizers for Male Patient #1, who had a medical diagnosis of depression, personality disorder, headaches, back pain and arthritis.

4. Between February 9, 1984 and August 9, 1985, the Respondent engaged in inappropriate and indiscriminate prescribing of scheduled drugs when he prescribed 3,567 doses of narcotics and tranquilizers for Female Patient #1 who had a medical diagnosis of depression anxiety, chronic back pain, chemical dependence on narcotics and tranquilizers and obesity.
5. Between January 3, 1985 and November 5, 1985, the Respondent engaged in excessive and indiscriminate prescribing of scheduled drugs when he prescribed 3,218 doses of narcotics and tranquilizers for Male Patient #2 who had a medical diagnosis of adjustment disorders with marked emotional features, chemical dependence on ethanol, heart problems, back pain, status post L4-5 discectomy, chronic pain syndrome and hemorrhoids.
6. Between December 11, 1984 and October 10, 1985, the Respondent engaged in excessive and indiscriminate prescribing of schedule drugs when he prescribed 1,610 doses of narcotics and tranquilizers for Female Patient #2 who had a medical diagnosis of depression,

arthritis, chronic back and shoulder pain. The patient's medical record did not reflect a physical examination, evaluation or consultation, that would confirm the medical diagnosis or verify arthritic disease.

7. Between May, 1983 and November, 1985, the Respondent was the treating psychiatric physician for Female Patient #3, currently sixteen years old, date of birth August 13, 1969.
8. Female Patient #3 was hospitalized between October 7, 1985 and November 4, 1985.
9. Respondent, on the following dates took Female Patient #3 out of the hospital: October 10, 1985, October 15, 1985, October 22, 1985, October 27, 1985 and November 2, 1985.
10. On one occasion, when Respondent took Female Patient #3 out of the hospital, Respondent made improper sexual contact with Female Patient #3.
11. Respondent is guilty of violation of Section 147.55(3), Code of Iowa, (1985), which states:

Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

12. Respondent is guilty of violation of Section 148.6(g),

Code of Iowa, (1985), which states:

Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice, or good morals, whether the same is committed in the course of his practice or otherwise and whether committed within or without this state.

13. That the Respondent is guilty of violation of Rule

470-135.204(12), (17) and (18) of the Iowa Administrative Code, which states:

135.204(12) Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice or good morals, whether the same is committed in the course of his/her practice or otherwise, and whether committed within or without this state.

135.204(17) Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

135.204(18) Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose. Indiscriminately or promiscuously prescribing, administering or dispensing includes, but is not limited to:

a. The prescribing, administering or dispensing for the treatment of obesity any stimulant anorectic agent classified as Schedule II in section 204.206, Code of Iowa (1985), or Schedule IIN of the Federal Controlled Substance Act. An anorectic agent includes, but is not limited to:

(1) Amphetamine, its salts, and salts of its optical isomers, as a single agent or in combination with other agents.

(2) Methamphetamine, its salts, and salts of its isomers, as a single agent or in combination with other agents.

(3) Phenmetrazine and its salts, as a single agent or in combination with other agents.

(4) Methylphenidate as a single agent or in combination with other agents.

(5) Any other stimulant anorectic agents added to the above schedules.

14. Respondent's violations of Iowa Code (1985), Chapters 147.55(3) and 148.6(g) and Iowa Administrative Code, 470-135.204(12), (17) and (18), constitute grounds for revocation of the license to practice medicine and surgery issued to the Respondent on September 6, 1979.

15. In light of the violation of the above-cited charges against the Respondent, the Complaint and Statement of Charges contained a prayer for an order fixing a time and place of hearing for the Hearing on the matters to be considered.

16. The Complaint and Statement of Charges further contained a prayer that the Board enter a Findings of Fact and Decision

to suspend or revoke the license to practice medicine and surgery issued to Ronald L. Lacey, M.D., Respondent, and for such other relief that the Board would deem just in the premises.

Hearing on this matter was originally scheduled for April 2, 1986 and later continued, by Order of Ronald V. Saf, Executive Director of the Iowa State Board of Medical Examiners (hereinafter referred to as "Board"), to be held on June 11, 1986. Said Order, continuing the Hearing was issued on May 30, 1986, and set a new date for the Hearing to be held on August 6, 1986, at 9 o'clock A.M., in the large conference room of the Iowa Medical Society, 1001 Grand Avenue, West Des Moines, Iowa. The Order further stated that "...no further continuances shall be granted." The Order also contained other required actions to be taken by the Respondent, such requirements being irrelevant to the proceedings under consideration at this time.

On August 5, 1986, Respondent submitted an oral application for continuance of the Hearing scheduled for August 6, 1986. The Executive Director, William S. Vanderpool, Mr. Saf's successor, heard the Respondent's and Ms. Pottorff's evidence and arguments. All three parties participated in the telephonic conference. An Order was issued on August 5, 1986, by the Executive Director,

denying Respondent's request for continuance based, in part, on the following pertinent findings:

1. The Board's Complaint and Statement of Charges was filed on January 23, 1985.
2. The original Hearing was scheduled for April 2, 1986, continued and rescheduled for June 11, 1986 and continued and rescheduled, again, upon request of the Respondent to August 6, 1986.
3. The Order setting the date of Hearing for August 6, 1986 was issued by Ronald V. Saf, Executive Director of the Board and said Order directed that "no further continuances shall be granted."
4. Notice of withdrawal of counsel for Respondent was filed with the Board on June 26, 1986 and contained a statement indicating that the Respondent was notified of the August 6, 1986 Hearing date and was also informed that no further continuances would be granted.
5. Respondent had not established good cause for the continuance of the Hearing in the matter under consideration scheduled for August 6, 1986.
6. It would be appropriate for the Executive Director of the Board to inform the Hearing Panel of the Respondent's request that the record of the Hearing

remain open for additional evidence and testimony beyond the date of the August 6, 1986 Hearing.

7. Respondent was informed that the matter of whether or not the record would remain open, pursuant to Respondent's request was within the discretion of the Hearing Panel and that any arguments or reasons for leaving said record open must be presented to the Hearing Panel by the Respondent or his representative.

A prehearing conference, dealing with the aforementioned preliminary matters was held. Upon receipt of the State's and Respondent's motions, objections and requests, the Hearing Panel deliberated in closed session. The Order coming forth from the deliberation of the Hearing Panel can be found in the attached document captioned IN THE MATTER OF THE COMPLAINT AND STATEMENT OF CHARGES AGAINST RONALD L. LACEY, M.D., FINDINGS, CONCLUSIONS OF LAW, DECISIONS AND ORDER IN RESPONSE TO PREHEARING MATTERS RAISED BY PARTIES. The document and relevant Orders are incorporated as a part of this Proposed Decision of the Panel.

The Hearing was convened after the above-mentioned deliberation of the prehearing conference. The Hearing was held in the downstairs conference room of the Iowa Medical Society, at 1001 Grand Avenue, West Des Moines, Iowa. The matters raised at the

Hearing were based on the Complaint and Statement of Charges issued by the Board on January 23, 1985.

A three-member Panel was appointed by the Board to hear this matter, pursuant to Iowa Administrative Code 470-135.301(22). The following individuals were present as member of the Panel: Dr. Richard Carruthers, D.O., Dr. Hormoz Rassekh, M.D. and Dr. Norman Rose, D.O.. Also present were Julie Pottorff, Assistant Attorney General and counsel for the Board, the Respondent, Dr. Ronald L. Lacey, M.D., William S. Vanderpool, Executive Director of the Board, Dennis Carr, Investigator for the Board, a certified court reporter and the undersigned independent Administrative Hearing Officer. The Hearing was closed.

After hearing the testimony and examining the exhibits, the Hearing Panel convened in closed session to deliberate. William S. Vanderpool was present but had no part in formulating the outcome of the deliberations. The Administrative Hearing Officer was instructed to prepare a Findings of Fact, Conclusions of Law and Orders at the completion of the deliberations.

EVIDENTIARY RECORD

The record includes the Complaint and Statement of Charges issued on January 23, 1985 by Ronald Saf, a letter from Assistant

Attorney General Pottorff to the Respondent, dated July 3, 1986 with an attached affidavit dated August 6, 1986, Order denying Respondent's request for continuance dated August 5, 1986 issued by William S. Vanderpool, the recorded testimony including oral testimony of the State's witnesses and the Respondent, and the following Exhibits:

STATE'S EXHIBITS:

1. Letter written by Barbara Howar, R.N., to Dennis Carr dated November 6, 1985. (3 pages) Admitted without objection.
2. Medical records in an attached binder containing the records and pharmaceutical audits for Male Patients #1 and #2 and Female Patients #1 and #2. Admitted without objection.
3. Medical records in an attached binder containing the following information regarding Female Patient #3: Admission Forms (8/23/'85); Discharge Summary; Admission Notes; History; Progress Notes; Admission (10/7/'85); Release Forms; Discharge Summary; History; Progress Notes and Nurse's Notes. Admitted with no objection.
4. Letter dated December 5, 1985, addressed to the Board

of Medical Examiners. (11 pages) Admitted with no objection.

5. Letter from Michael Abrams, M.D., to Dr. H. Rassekh, dated December 20, 1985. (2 pages) Admitted with no objection.

RESPONDENT'S EXHIBITS:

NONE

FINDINGS OF FACT

The Respondent, at the time of the Hearing, was residing in Texas, with no permanent address to provide the Hearing Panel, to ensure proper opportunity for Notice, receipt of the Decision of the Panel and adequate opportunity to appeal. The Respondent was present at the Hearing, pro se, in light of the fact that his counsel withdrew on June 26, 1986 and no other arrangement was made for representation.

The Respondent is approximately 33 years old. He is a non Board Certified Psychiatrist, who was residing in Ottumwa, Iowa at the time of the investigation. Respondent was a member of neither the American nor Iowa Psychiatric Association. The Respondent practiced as a Psychiatric Consultant to three mental health centers and did a limited amount of private practice.

Respondent's mental health center practice extended into ten counties, including Marion, Mahaska, Keokuk, Wapello, Davis, Van Buren, Appanoose, Wayne, Lucas and Monroe. At the time of the investigation under consideration Respondent maintained a private office in Ottumwa, but had not maintained a regular private practice since May, 1983. At the time of the Hearing, the Respondent was also licensed to practice medicine in Hawaii and Colorado.

Dennis Carr, Investigator for the Board, was duly sworn in to testify as a witness for the Board. The Witness testified that he had prepared and executed the investigation leading up to this Hearing under consideration. According to the Witness, the initial complaint brought to the Board's attention, related to the death of one of Respondent's patients in Oskaloosa. During that investigation, the Witness consulted with police, detectives and the Medical Examiner. The pathology report showed that the patient's death was not caused by drug overdose and the Respondent was vindicated.

During the initial investigation, however, the Witness received complaints from both physicians and law enforcement personnel in Oskaloosa regarding Respondent's practices of prescribing narcotics. As a result, the Witness did a ten-county area

investigation in order to gather raw data directly related to Respondent's patients' profiles and the number of prescriptions received. Records of the examined prescriptions are contained in the Pharmacy audits in State's Exhibit 2, as Respondent's prescribing practices relate specifically to Female Patients #1 and #2 and Male Patients #1 and #2.

The Witness contacted the Respondent on October 28, 1985 and discussed the records of the four patients mentioned in the previous paragraph. The Respondent stated that he had not seen any of those patients as part of his private practice. The Witness testified that there was a discrepancy between the Pharmacy audit and the Respondent's medical records on the four patients.

The Witness subsequently received a complaint from Dr. Donald Emerson. The essence of the complaint was that Dr. Emerson had treated a patient who had been previously treated by the Respondent. The patient was addicted at the time of the patient's contact with Dr. Emerson. Dr. Emerson treated the patient for the addiction and the treatment was, in Dr. Emerson's opinion, successful. Dr. Emerson alleged that his patient returned to the Respondent after receiving the treatment for addiction and became addicted once again.

On November 1, 1985, the Witness was contacted telephonically by Barbara Howar, Head of Nursing at Mahaska County Hospital. Ms. Howar stated that she was contacting the Witness upon the instruction of the Hospital's Chief of Staff, Dr. Smith. The Witness met with Ms. Howar to discuss the matter initially raised during the telephone conversation. Ms. Howar stated that the respondent was spending an "inordinate amount of time" with a juvenile female patient (hereinafter referred to as "Female Patient #3"). Respondent had signed Female Patient #3 out of the hospital on several occasions. The Patient's foster relatives and personnel at Lutheran Social Services had expressed concern regarding Respondent's "unprofessional conduct" toward the Patient and that it was their belief that Respondent has "lost the proper doctor/patient relationship." Respondent allegedly gave Female Patient #3 gifts of clothing, jewelry, cash and electronic equipment, such as a stereo and television.

On May 8, 1985, the Board received a report from the Pharmacy Board concerning possible indiscriminate prescribing practices on the part of the Respondent.

The Witness met, again, after receiving the aforementioned reports, with the Respondent and discussed Respondent's

relationship with Female Patient #3. Respondent stated that he had been the patient's psychiatrist for three years and that her initial contact with him was in the nature of her seeking treatment, having been a victim of parental sexual abuse.

Respondent admitted that he had taken the patient out of the hospital. He took her to Des Moines, Ottumwa and Pella. On one occasion, Respondent took the patient for an optometric appointment and had dinner with her afterwards.

Respondent told the Witness that he had given the patient gifts and began paying for her tuition for school in Pella. Respondent said that the electronic equipment was only loaned to the patient and not given as a gift. The Witness asked the Respondent if his relationship with the patient "had become sexual." Respondent denied any sexual involvement. Respondent did, however, tell the Witness that he planned to "reward (Female Patient #3) with a trip to Hawaii, if she showed him a diploma."

The Witness then met with Female Patient #3, along with her court appointed Guardian Ad Litem. The Guardian Ad Litem told the Witness that the Respondent admitted to having "committed a sexual indiscretion (with Female Patient #3) that did not include coitus." The Witness asked female patient #3 if the Respondent

handled the patient's breasts...handled patient's vaginal area...or inserted his finger in her vagina." In response to the Witnesses' inquiries, Female Patient #3 answered in the affirmative and stated that such conduct took place while patient was signed out of the Hospital by the Respondent and on an out-trip.

The Witness, again, contacted the Respondent at the Southcentral Medical Clinic in Oskaloosa, Iowa. The Respondent had "hired an attorney and was told not to answer any questions."

Dr. Michael Abrams, M.D. was called as an expert Witness to testify. The Witness was sworn in. The Witness is the Director of Ambulatory Care at Broadlawns Hospital in Des Moines, Iowa. He is in charge of the emergency room, out-patient care, and the chemical dependency unit. He is also involved in Polk County Medical Services. The Witness has been serving at Broadlawns Hospital since 1972.

The Witness had been asked, by the Board, to review State's Exhibit 2 and perform a drug utilization evaluation on the records contained therein. Dr. Abrams submitted a summary of his evaluation to the Board (State's Exhibit 5).

The Witness was asked if, in his opinion, the Respondent could have taken steps to treat Female Patients #1 and #2 and Male Patients #1 and #2, that would have been more appropriate than the treatment indicated in the audit contained in State's Exhibit 2. The Witness stated that other non-narcotic drugs and physical therapy could have been utilized. Witness could not find medical consultations or other criteria for the use of drugs for the length of time that the drugs were administered.

The Witness could not justify the use of narcotics for Female Patient #1, in light of the fact that there was an indication of chemical dependency, in addition to chronic back pain. The Witness stated that a consultation should have been in the record. The Witness's preferred choice of treatment options for this patient would have included involving the patient in a drug treatment program, family involvement and abstinence from narcotics. In response to a question as to whether or not, in the Witness's opinion, the Respondent exercised the minimal standard of acceptable and prevailing practice of medicine, the Witness responded in the negative. Respondent's treatment was "not acceptable."

Male Patient #2's record indicated chemical dependency, alcohol abuse and chronic pain syndrome. The Witness stated that the

Respondent's treatment was not the "preferred avenue of treatment." Rather, the Witness stated that other options, such as, participation in a pain clinic (on an in-or out-patient basis) and family therapy were indicated. The Respondent's treatment program was not the Witness's "treatment of choice."

Female Patient #2 had no physical examination or consultation in the record reviewed by the Witness. The Witness indicated that there were "better drugs of choice" than those prescribed by the Respondent.

On cross-examination, the Respondent asked the Witness if there were other treating physicians involved in the treatment of the patients that were discussed. The Witness answered in the affirmative.

The Respondent asked the Witness if the Witness knew that the patients took all of the medication prescribed to them. The Witness did not know the answer to that question.

The Respondent asked the Witness about the patients' drug abuse profile. "Was there any evidence that patients became increasingly dysfunctional over time?" The Witness did not know the answer to Respondent's question.

Barbara Howar, R.N., Nursing Service Administrator at Mahaska County Hospital was called to testify for the State. The Witness was sworn in. The Witness testified that the Respondent had Hospital privileges at the Mahaska County Hospital. Dr. Argo and the Respondent were Female Patient #3's treating physicians in the fall of 1985. Dr. Argo is a family practice, primary care physician. The Witness testified further that Female Patient #3 was admitted as a patient to the Hospital. While a patient in the hospital, the nursing service noticed that Respondent's visits to the patient were longer and more frequent than other instances in the past, when Respondent was treating the patient. The visits were documented in the Nursing Notes (State's Exhibit 3). Dr. Smith, the Hospital's Chief of Staff, was notified and became concerned, according to the Witness. Smith's concern focused on whether or not the Respondent's care of Female Patient #3 was "proper." State's Exhibit #1, is a document prepared by the Witness, documenting Respondent's visits with the patient as excerpted from the Nursing Notes (State's Exhibit 3).

Scott Campbell, Attorney at Law in Oskaloosa and court appointed Guardian Ad Litem for Female Patient #3, was called to testify and sworn in. The Witness was appointed the patient's Guardian Ad Litem in 1984. The patient was being treated by the

Respondent at the time of the Witness's appointment. Social workers, according to the Witness, had expressed concern regarding Respondent's relationship with Female Patient #3. The Witness was contacted by Dennis Carr, the Board's Investigator, by telephone regarding the Witness's knowledge of the circumstances surrounding the relationship between Female Patient #3 and the Respondent.

On November 21, 1985, the Witness had a private conference with the Respondent, at which time the Respondent advised the Witness that Respondent had, in fact, been involved in "sexual improprieties that did not include coitus." On November 22, 1985, the Witness dictated a memorandum regarding the meeting with the Respondent. Further, the Witness contacted a Des Moines psychologist, Dr. Barbara Cavallin, PhD. Dr. Cavallin treated Female Patient #3, while the patient was hospitalized in the Iowa Lutheran Hospital Eating Disorders Unit. The Witness wanted to obtain Dr. Cavallin's opinion as to how to handle the situation regarding Female Patient #3's relationship with the Respondent and provide the patient with most proper and appropriate care that would not be harmful.

Female Patient #3, met with her Guardian Ad Litem and told him that she had gone on an out-trip with the Respondent. That on

one occasion, the patient alleged that the Respondent "touched her in the area of her vagina under her clothing." The patient said that this was the only instance wherein the Respondent conducted himself in this manner.

Female Patient #3's natural mother was called to testify and sworn in. The Witness resides in Oskaloosa. The Witness provided background information regarding the Respondent's relationship with her family. The Respondent had been a "psychiatrist to the family", having treated the patient's siblings, in the past. The Witness indicated that Female Patient #3 had a history of having been "molested by her [natural] father."

In the fall of 1985, the Witness met with the Respondent. The Respondent "apologized" to the Witness for his "indiscretion." The Witness stated that her daughter, the patient, is "touchy on the subject of [the Respondent] and loves him with all her heart...and believes that when she turns eighteen, [the Respondent will] come and get her." The Witness said her daughter spends a great deal of time alone crying--"waiting for [the Respondent]."

The Respondent, Dr. Lacey, having been previously sworn in during the prehearing conference, presented his case. He served as his own counsel and only Witness. As to the issue of over-prescribing, the Respondent indicated that the cases were "very complex" and that the testimony of Dr. Abrams was based on rudimentary records. Respondent stated that he "supervised at least 1,000 clients--seeing at least 150 patients per week." Respondent asserted that his patients were "functional" and that his "treatment was justifiable."

Dr. Lacey shared his view of what occurred between Female Patient #3 and him. As close to verbatim as possible, the Respondent stated that he had invested five years with the patient's family. There was complex emotional over-involvement. Dr. Lacey wanted to resolve the situation with the patient, but court action precluded such resolution by barring him from being in contact with the patient. "I'm paralyzed to assist her...[Patient #3] and I are both victims of the situation. The relationship was deeply emotional--never purely sexual."

The Respondent was asked to provide the panel with information regarding his future plans. In response, Dr. Lacey said that he had not practiced medicine since January, 1986. He had formed a holding company called Professional Courtesy Corporation, a

Colorado insurance company. He indicated that he is not ready to return to the practice of medicine. "I was damaged badly by medicine or control demands of medicine. I lost all of my finances and licensure. I would like time to recover from my losses, before reentry to clinical practice." He had no idea of how long the recovery might take.

The Respondent was asked if he believed that he treated patients in less than an acceptable standard of practice. In response, Dr. Lacey stated that "in retrospect, I may have done things differently with a couple of people. I monitored as closely as possible."

On cross examination, the Respondent stated that it would be a "simplistic approach to agree with the facts as given in testimony [given by the State's witnesses]." Ms. Pottorff inquired as to the details of one of the meetings between Investigator Carr and the Respondent. Respondent said he "did not deny, but did not advise" Mr. Carr of Respondent's involvement with Female Patient #3. When asked if he lied to the Investigator, Respondent asserted that he "chose not to tell...it was an omission of the truth."

The Respondent currently has no permanent mailing address other than a Post Office Box that he checks on a monthly basis. Therefore, Respondent agreed to contact the Executive Director of the Board on a weekly basis to ensure Respondent's receipt of any document, including the Decision of the Panel. The major concern is that the Respondent's right of appeal be protected.

At the close of the Hearing, the Hearing Panel went into deliberation. Members of the Hearing Panel, including the undersigned Hearing Officer, and William S. Vanderpool, the Board's Executive Director were present for the deliberation. Mr. Vanderpool observed, but had no part in the Panel's ultimate decision.

CONCLUSIONS OF LAW

Although the Findings of Fact are rather complex and lengthy, the Conclusions of Law are quite straightforward. At the outset, there are two issues. One issue involves the alleged inappropriate, excessive and indiscriminate prescribing of narcotics and tranquilizers to Female Patients #1 and #2 and Male Patients #1 and #2. The second issue involves the allegation and admission of the Respondent relating to his emotional and sexual involvement with a juvenile female patient, Female Patient #3.

The Respondent was afforded an opportunity for hearing after receiving sufficient notice in writing containing all of the elements required by The Iowa Code, Chapter 17A.12 and the Iowa Administrative Code, 135.301(9), 135.301(11), and 135.301(13).

It is the opinion of the undersigned Administrative Hearing Officer that waiver of the prehearing conference requirements set forth in Iowa Administrative Code 135.301(16), did not prejudice either party. Further, it is the opinion of the undersigned Administrative Hearing Officer that the Order issued by William S. Vanderpool, the Board's Executive Director on August 5, 1986, denying a continuance was correctly issued in light of the history of this case involving Respondent's previous continuances and the warning that no further continuances would be granted after the August 6, 1986, date was set.

The law, as set forth in the Iowa Administrative Code states that a violation of chapters 470-135.204(18)a.(1), (2), (3), (4) and (5) involves the following:

135.204(18) Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose. Indiscriminately or promiscuously prescribing, administering or dispensing includes, but is not limited to:

a. The prescribing, administering or dispensing for the treatment of obesity any stimulant anorectic agent classified as Schedule II in section 204.206, The Code, of Schedule IIN of the Federal Controlled Substance Act. An anorectic agent includes, but is not limited to:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers as a single agent or in combination with other agents.

(2) Methamphetamine, its salts, and salts of its isomers, as a single agent or in combination with other agents.

(3) Phenmetrazine and its salts, as a single agent or in combination with other agents.

(4) Methylphenidate as a single agent or in combination with other agents.

(5) Any other stimulant anorectic agents added to the above schedules.

(EMPHASIS WAS ADDED TO THE TERM "ANORECTIC" IN ORDER TO INDICATE THAT THE SPELLING OF THE TERM, IN THE ADMINISTRATIVE CODE IS INCORRECT AND THAT THE LANGUAGE SHOULD READ AS FOLLOWS: "ANORECTIC AGENT")

It is the opinion of this Hearing Panel, that the evidence substantiating the Board's allegations of the above-cited violations were not convincing to the degree necessary to justify the severe sanctions against the Respondent, prayed for by the Board in its Complaint and Statement of Charges. There were unanswered questions which rendered the evidence inconclusive.

The expert Witness', Dr. Abrams', testimony was inadequate by virtue of its lack of thoroughness. The testimony of the expert Witness and the evidence presented in State's Exhibit 2, indicate that the Respondent's prescribing practices were, at the very least, of questionable quality. However, Dr. Abrams' oral and written testimony (State's Exhibit 5), lacked the degree of conclusiveness to warrant sanctions on that evidence, alone.

It is crucial that the parties involved, understand that if the allegations contained in the Complaint and Statement of Charges issued by the Board against the Respondent addressed only the matter of the Respondent's involvement with Female Patient #3, the second issue raised in this Hearing, disciplinary action would be justified, if the allegations were proven to be true. There is no question of fact regarding the admissions by the Respondent, that his conduct with Female Patient #3 was as described in the Finding of Fact contained herein. Such conduct, alone, stands on its own as a ground for sanctions, including but not limited to, those set forth in Iowa Administrative Code, Rule 470-135(25)f.(1)-(11). Rule 470-135(25)f.(12) permits the Board to issue "such other sanctions allowed by law as may be appropriate."

It is the conclusion of the undersigned Hearing Panel that the Respondent should be found guilty of violating the following Iowa Administrative Code Rules and section of The Iowa Code:

Iowa Administrative Code 470-135.204(12).
Being guilty of a willful or repeated departure from, or the failure to conform to, minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice or good morals, whether the same is committed in the course of his/her practice or otherwise, and whether committed within or without this state.

Iowa Administrative Code 470-135.204(17).
Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

The Iowa Code 147.55. A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses: (3) Knowingly making misleading, deceptive untrue or fraudulent representations in the practice harmful or detrimental to the public. Proof of actual injury need not be established.

The Iowa Code 148.6(g). Being guilty of a willful or repeated departure from, or the failure to conform to, minimal standard of acceptable and prevailing practice of medicine and surgery...in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice, or good morals, whether the same is committed in the course of his practice or otherwise, and whether committed within or without this state.

This Hearing Panel restates that the violations alleged by the Board and admitted by the Respondent concerning his treatment of and relationship with Female Patient #3. are grounds, in and of themselves, to justify these conclusions and the Orders which are to follow.

Finally, it is the conclusion of this Panel that the overwhelming evidence substantiating the Board's allegations relating to Respondent's relationship to Female Patient #3, preclude the necessity of keeping the record open for a specified period of time after the close of the Hearing. The Board's allegations and evidence pertaining to Female Patient #1, Female Patient #2, Male Patient #1 and Male Patient #2, while having some foundation were inconclusive, and therefore, not factors used by the Panel in determining the Orders as set forth herein. As a result, it would be unnecessary to keep the record open, to allow the Respondent to provide further evidence, on his behalf, to dispute the State's evidence. The Respondent did not offer to provide further evidence pertaining the State's case against him relating to Female Patient #3.

ORDER

IT IS HEREBY ORDERED that no civil penalty be imposed upon the Respondent.

IT IS FURTHER ORDERED that the record of evidence be closed, and no further evidence be accepted after the close of the Hearing on August 6, 1986.

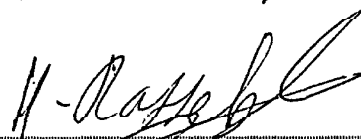
IT IS FURTHER ORDERED that the Respondent not be permitted to Voluntarily Surrender his license to practice medicine and surgery in the State of Iowa.

IT IS FINALLY ORDERED that the Respondent's license to practice medicine and surgery in the State of Iowa be revoked.

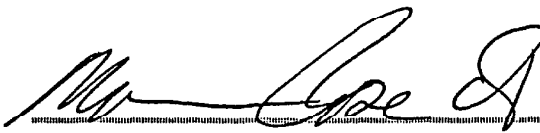
ORDERED this 25th day of SEPTEMBER, 1986.



Dr. Richard Carruthers, D.O.



Dr. Hormoz Bassekh, M.D.



Dr. Norman Rose, D.O.

A handwritten signature in cursive script, appearing to read 'R. Cheryl Friedman', written in black ink.

R. Cheryl Friedman, Attorney at
Law, Independent Administrative
Hearing Officer

BEFORE THE BOARD OF MEDICAL EXAMINERS
FOR THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT
AND STATEMENT OF CHARGES
AGAINST RONALD L. LACEY, M.D.,
RESPONDENT

FINDINGS, CONCLUSIONS OF LAW,
DECISIONS AND ORDER IN RESPONSE
TO PREHEARING MATTERS RAISED BY
PARTIES

On the 6th day of August, 1986, the undersigned independent Administrative Hearing Officer and Panel were asked to grant a request to consider certain prehearing matters. Such request was granted. Present during the aforesaid considerations were the Panel members, Richard Carruthers, D.O., Hormoz Rassekh, M.D., Norman Rose, D.O. and the undersigned independent Administrative Hearing Officer. In addition to the Panel, the following persons were present: Julie Pottorff, Assistant Attorney General/counsel for the Iowa State Board of Medical Examiners; William Vanderpool, Executive Director of the Iowa State Board of Medical Examiners; Dr. Ronald L. Lacey, Respondent; Dennis Carr,

Investigator for the Iowa State Board of Medical Examiners; and a certified court reporter.

On August 5, 1986, William S. Vanderpool, Executive Director of the Iowa State Board of Medical Examiners, received an oral application from Dr. Lacey, for a continuance of the hearing scheduled for August 6, 1986. Vanderpool received evidence and arguments by telephonic conference from Dr. Ronald L. Lacey, M.D. and Julie F. Pottorff, Assistant Attorney General/counsel for the Iowa State Board of Medical Examiners. After having heard the arguments and evidence presented, the Executive Director denied Dr. Lacey's request for continuance and Ordered that the Hearing be held at the previously established time and place as set forth in the Notice for Hearing. Such denial was based on the following findings:

1. A Complaint and Statement of Charges against Respondent was filed on January 23, 1986.
2. Hearing was originally scheduled for April 2, 1986, but continued to June 11, 1986. The June 11, 1986 Hearing was continued, upon request of Dr. R. Lacey, M.D., to August 6, 1986 by Order of Ronald Saf, Executive Director of the Iowa State Board of Medical Examiners, filed on May 30, 1986.
3. The May 30, 1986 Order for continuance directed that no further continuances shall granted.

4. Notice of withdrawal of counsel by Johnathan C. Wilson and Diane M. Stahle, filed June 26, 1986 states that Dr. R. Lacey, M.D. was notified of the Hearing date set for August 6, 1986 and was informed that the Board would grant no further continuances of the Hearing.
5. Dr. Lacey indicated that he had not, as of August 5, 1986, retained counsel to represent him at the Hearing, but indicated no intention to seek counsel if extra time were allowed.
6. Dr. Lacey did not establish good cause for the continuance of the Hearing set for August 6, 1986.
7. Dr. Lacey's request that the record be left open if the Hearing be conducted as scheduled on August 6, 1986, be a matter directed to the Hearing Panel.
8. It would be appropriate for the Executive Director to inform the Hearing Panel of Dr. Lacey's request that the record remain open for additional evidence and testimony beyond the date of the Hearing.
9. Dr. Lacey was informed by the Executive Director that any reason or argument for leaving the record open after the hearing scheduled for August 6, 1986, must be presented to the Hearing Panel, in person or by his representative. Such decision would ultimately be within the discretion of the Hearing Panel.

FINDINGS OF FACT

Dr. Lacey (hereinafter referred to as "Respondent") requested that a continuance be granted, or in the alternative, that the record of the proceedings remain open for an unspecified period of time after the close of the Hearing. Respondent claimed to be at a disadvantage on the date of the Hearing, in that he was not represented by counsel (counsel having withdrawn on June 26, 1986). Respondent claimed that he did not have an adequate opportunity to prepare to defend himself, in light of the evidence that would be presented by the State.

Respondent further claimed that he had not practiced medicine since January, 1986 and had no intention of practicing any form of medicine or surgery until the matter under consideration in this proceeding was resolved.

The Respondent was sworn in and testified that he wanted to Voluntarily Surrender his license and dispense with the Hearing. He exhibited some confusion regarding the content of the Complaint and Statement of Charges and indicated that he had not been given an opportunity to study the evidence that would be introduced by the State, and therefore could not adequately

present his case. Ms. Pottorff, as counsel for the Iowa State Board of Medical Examiners (hereinafter referred to as "Board"), offered a notarized affidavit and a letter dated July 3, 1986, attached thereto. The letter notified Respondent of his opportunity to Voluntarily Surrender his license at that time. The letter further stated: "If you do not choose to surrender your license, the Board will proceed with the hearing as scheduled. If you do not appear the hearing will be held in your absence."

Respondent requested, again, that the Panel accept the Voluntary Surrender of his license. As a final prehearing matter Respondent raised the issue as to whether his presence at the Hearing was necessary, should the Hearing Panel decide to proceed pursuant to the August 5, 1986 Order denying a continuance.

The Hearing Panel recessed at the close of the Prehearing conference, in order to give the Panel an opportunity to deliberate the issues raised. William S. Vanderpool was present, but had no part in the ultimate outcome of the Panel's deliberation.

CONCLUSIONS OF LAW

In deference to the Respondent's right to a fair hearing, the two-day notice for prehearing conference, pursuant to Iowa Administrative Code, Rule 470-135.301(16), was waived by the Hearing Officer.

All parties were provided with proper Notice of hearing, pursuant to Iowa Administrative Code, Rule 470-135.301(13). Therefore, it is the opinion of the undersigned, that the State's case was not prejudiced by granting Respondent's request for an opportunity to be heard prior to the scheduled formal hearing.

Respondent's request for continuance, orally presented on August 5, 1986 and again on August 6, 1986, was properly denied in that he had received more than adequate Notice of Hearing, pursuant to Iowa Administrative Code, Rule 470-135.301(9) and 470-135.301(13). Such Notice of Hearing was given in a timely manner and contained all of the necessary elements as set forth in the Iowa Administrative Code Rules set forth in this paragraph. Further, if there be any question as to the fairness and or prejudicial nature of the denial for continuance, the undersigned were satisfied that the previous continuances granted to the Respondent, provided adequate preparation time for him to serve as his own representative or find counsel to represent him. The foundation for this conclusion is well supported by the Findings of Fact set forth herein.

The Respondent was given adequate and appropriate notice with regard to his opportunity to Voluntarily Surrender his license prior to the date of the Hearing. At the scheduled date and time of the hearing, Iowa Administrative Code, Rule 470-135.301(22)b. states that:

....The presiding officer of Hearing officer shall be in control of the proceedings and shall have the authority to administer oaths, to admit or exclude testimony or other evidence and to rule on all motions and objections.

The undersigned Hearing Officer sustained the objection, set forth by the counsel for the Board, and ruled to deny Respondent's request to Voluntarily Surrender his license to practice medicine and surgery in the State of Iowa prior to a Hearing on the merits of the Complaint and Statement of Charges.

Finally, the existing law as interpreted by the undersigned Hearing Officer, does not require that the Board accept a Respondent's offer to Voluntarily Surrender a license to practice medicine and surgery in the State of Iowa. I refer to the language set forth in Iowa Administrative Code, Rules 470-135.301(9), empowering the Board to Order a Hearing. I refer to the language set forth in Iowa Administrative Code, Rule 470-135.301(11), empowering the Board to issue a Statement of Charges. I refer to the language set forth in Iowa

Administrative Code, Rule 470-135.301(13), instructing the Board with regard to required elements of the Notice for Hearing. Further, The Code of Iowa, Chapter and Section 148.8, pertaining to the Voluntary Surrender of a physician's license, states that the "commissioner of public health is authorized to accept the Voluntary Surrender (emphasis added)." This Hearing Officer does not interpret the "authorization" to accept Voluntary Surrender as a requirement to do so. The Board, has therefore, fulfilled its statutory obligation as set forth in the aforementioned Rules and statutory provision.

ORDER

IT WAS THEREFORE ORDERED that Respondent's request for a continuance was appropriately denied by the Executive Director of the Iowa State Board of Medical Examiners and that the Hearing would proceed as ordered and scheduled.

IT WAS FURTHER ORDERED that Respondent did not respond in a timely manner to his opportunity to Voluntarily Surrender his license to practice medicine and surgery in the State of Iowa prior to the scheduled Hearing and that the Panel should hear the evidence presented by all parties before considering whether acceptance of a Voluntary Surrender of Respondent's license to

practice medicine and surgery in the State of Iowa would be in the best interest of the public and appropriate.

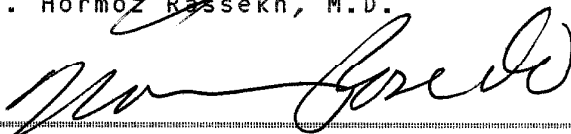
IT WAS FURTHER ORDERED that the Presiding Administrative Hearing Officer request, but not require, that the Respondent be present at the proceedings to ensure a full and fair presentation of the State's case and Respondent's defense in the proceedings.


IT WAS FINALLY ORDERED that the determination regarding whether the record of the Hearing remain open for a specified period of time after hearing the evidence be reserved until the close of the Hearing.

ORDERED THIS 25TH day of SEPTEMBER, 1986.


Dr. Richard Carruthers, D.O.


Dr. Hormoz Rassekh, M.D.


Dr. Norman Rose, D.O.


R. Cheryl Friedman, Attorney at
Law, Independent Administrative
Hearing Officer

IOWA BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE COMPLAINT :
AND STATEMENT OF CHARGES AGAINST : COMPLAINT AND STATEMENT
RONALD L. LACEY, M.D. : OF CHARGES
RESPONDENT :

COMES NOW Ronald V. Saf, Executive Director of the Iowa State Board of Medical Examiners on the 23rd day of JANUARY, 1985, and files this Complaint and Statement of Charges against Ronald L. Lacey, M.D., a physician licensed pursuant to Chapter 147, Code of Iowa and alleges:

1. That Paul F. Carlson is the duly appointed, qualified and acting Commissioner of Public Health of the state of Iowa.

2. That Hormoz Rassekh, M.D., Chairman, Dorothy J. Gildea, M.D., Vice Chairman, Marian C. Bourek, Secretary, John R. Anderson, M.D., William R. Bliss, M.D., Richard L. Carruthers, D.O., Reid E. Motley, M.D., Ann O'Neill and Norman Rose, D.O., are the duly appointed qualified and acting officers and members of the Iowa State Board of Medical Examiners.

3. That the Respondent is a resident of Ottumwa in Iowa and was issued license number 21756 to practice medicine and surgery in the State of Iowa on September 6, 1979, as recorded in Book 4, Page 1046 of the permanent records in the office of the Iowa Board of Medical Examiners.

4. That the Respondent's license is current until March 31, 1986.

5. That between January 2, 1984 to November 15, 1984, the Respondent engaged in inappropriate, excessive, and indiscriminate prescribing of narcotics and tranquilizers when he prescribed 12,546 doses of narcotics and tranquilizers for male patient #1 who had a medical diagnosis of depression, personality disorder, headaches, back pain and arthritis.

6. That between February 9, 1984 through August 9, 1985, the Respondent engaged in inappropriate and indiscriminate prescribing of scheduled drugs when he prescribed 3,567 doses of narcotics and tranquilizers for female patient #1 who had a medical diagnosis of depression anxiety, chronic back pain, chemical dependence on narcotics and tranquilizers and obesity.

7. That between January 3, 1985 through November 5, 1985, the Respondent engaged in excessive and indiscriminate prescribing of scheduled drugs when he prescribed 3,218 doses of narcotics and tranquilizers for male patient #2 who had a medical diagnosis of adjustment disorders with marked emotional features, chemical dependence on ethanol, heart problem, back pain, status post L4-5 discectomy, chronic pain syndrome and hemorrhoids.

8. That between December 11, 1984 to October 10, 1985 the Respondent engaged in excessive and indiscriminate prescribing of scheduled drugs when he prescribed 1,610 doses of narcotics and tranquilizers for female patient #2 who had a medical diagnosis of depression, arthritis, chronic back and shoulder pain. The patient's medical record does not reflect a physical examination, evaluation or consultation, that will confirm the medical diagnosis or verify arthritic disease.

9. That between May, 1983 and November 1985 the Respondent was the treating, psychiatric physician for female patient #3, currently sixteen years old.

10. That female patient #3 was hospitalized between October 7, 1985 and November 4, 1985.

11. That on the following dates Respondent took female patient #3 out of the hospital 10-12-85, 10-15-85, 10-19-85, 10-22-85, 10-27-85, 11-02-85.

12. That on one of the occasions, when Respondent had female patient #3 out of the hospital, Respondent made improper sexual contact with female patient #3.

13. That the Respondent is guilty of violation of Section 147.55(3) of the Code which states:

145.55(3) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

14. That the Respondent is guilty of violation of Section 148.6(g) of the Code which states:

148.6(g) Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice, or good morals, whether the same is committed in the course of his practice or otherwise, and whether committed within or without this state.

15. That the Respondent is guilty of violation of Rule 470-135.204(12), (17) and (18) of the Iowa Administrative Code which states:

135.204(12) Being guilty of a willful or repeated departure from, or the failure to conform, to, the minimal standard

of acceptable and prevailing practice of medicine and surgery, osteopathic medicine and surgery or osteopathy in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice or good morals, whether the same is committed in the course of his/her practice or otherwise, and whether committed within or without this state.

135.204(17) Making suggestive, lewd, lascivious or improper remarks or advances to a patient.

135.204(18) Indiscriminately or promiscuously prescribing, administering or dispensing any drug for other than lawful purpose. Indiscriminately or promiscuously prescribing, administering or dispensing includes, but is not limited to:

a. The prescribing, administering or dispensing for the treatment of obesity any stimulant anorectic agent classified as Schedule II in section 204.206, The Code, or Schedule IIN of the Federal Controlled Substance Act. An anorectic agent includes, but is not limited to:

(1) Amphetamine, its salts, and salts of its optical isomers, as a single agent or in combination with other agents.

(2) Methamphetamine, its salts, and salts of its isomers, as a single agent or in combination with other agents.

(3) Phenmetrazine and its salts, as a single agent or in combination with other agents.

(4) Methylphenidate as a single agent or in combination with other agents.

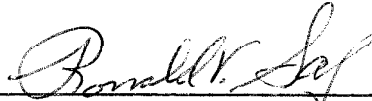
(5) Any other stimulant anorectic agents added to the above schedules.

16. That paragraphs 13, 14, and 15 constitute grounds for revocation of the license to practice medicine and surgery, issued to the Respondent on September 6, 1979.

WHEREFORE the undersigned charges that Ronald L. Lacey, M.D., has violated Section 147.55(3), and 148.6(g) of the Code of Iowa and rules 470-135.204(12), (17), and (18) of the Iowa Administrative Code and the undersigned prays that the Board enter an order fixing a time and place of hearing for the

Complaint and Statement of Charges. The undersigned further prays that upon final hearing, the Board enter its findings of fact and decision to suspend or revoke the license to practice medicine and surgery, issued to Ronald L. Lacey, M.D., on September 6, 1979, and for such other relief as the Board deems just in the premises.

IOWA BOARD OF MEDICAL EXAMINERS

A handwritten signature in cursive script, appearing to read "Ronald V. Saf", is written over a horizontal line.

Ronald V. Saf, Executive Director
State Capitol Complex
Executive Hills West
Des Moines, Iowa 50319
Telephone: (515) 281-6493