

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE) DIA NO. 95DPHMB-10
COMPLAINT AND STATEMENT) CASE NO. 02-95-004
OF CHARGES AGAINST)
)
PAUL L. LOWINGER, M.D.) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
Respondent) DECISION AND ORDER

TO: PAUL L. LOWINGER, M.D.

On February 23, 1995, a Complaint and Statement of Charges was filed against Paul L. Lowinger, M.D. (Respondent) by the Iowa Board of Medical Examiners (Board) charging him with having his license to practice medicine and surgery revoked by the licensing authority of another state, in violation of Iowa Code section 148.6(2)(d) (1995) and 653 IAC 12.4(28). An Original Notice and Order for Hearing set the hearing for May 17, 1995.

The hearing was rescheduled and was held before the full Board on May 18, 1995 at 9:20 a.m. in the Urbandale-Johnston room, Merle Hay Holiday Inn, Des Moines, Iowa. The Respondent did not appear, nor was he represented by counsel. The State was represented by Heather Adams, Assistant Attorney General. The hearing was recorded by a certified court reporter and was open to the public. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided.

After hearing the testimony and examining the exhibits, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f) (1995) to deliberate. They directed the administrative law judge to prepare the written decision, in accordance with their deliberations.

THE RECORD

The record includes the Complaint and Statement of Charges; Original Notice and Order for Hearing; the returned restricted certified mailing to Respondent marked "Unclaimed"; two affidavits of Dennis Carr dated 3/28/95; and the following exhibits:

- State Exhibit A: Accusation, Before the Medical Board of California, Division of Medical Quality, 8/31/92.
- State Exhibit B: Stipulation and Waiver, Before the Medical Board of California, Division of Medical Quality, 7/27/93.

- State Exhibit C: Decision, Before the Medical Board of California, Division of Medical Quality, 9/14/93.
- State Exhibit D: Complaint and Statement of Charges, Before the Board of Medical Examiners of the State of Iowa, 2/23/95.
- State Exhibit E: Proof of Service.

FINDINGS OF FACT

1. The Respondent was issued license number 14245 to practice medicine and surgery in Iowa on July 6, 1950. The Respondent's Iowa license is valid and will expire on November 1, 1995. (Board file; State Exhibit D)
2. On August 31, 1992, the Medical Board of California initiated a license disciplinary action against the Respondent alleging that the Respondent:
 - a) committed acts of sexual abuse, misconduct, or relations with four women, which were substantially related to his qualifications, functions, and duties as a psychiatrist.
 - b) committed acts involving corruption and dishonesty when he billed Medi-Cal and was paid for psychotherapy sessions when in fact:
 1. he used the sessions to socialize with and/or have sexual relations with the patient, or
 2. there were no psychotherapy sessions.
 - c) committed unprofessional conduct and gross negligence and/or repeated negligent acts and/or incompetence when he encouraged and engaged in several inappropriate dual relationships by having personal and sexual relationships with patients and by employing one patient as his assistant while she was still his patient.
 - d) issued prescriptions to patients without a good faith prior examination and medical indication therefor, and without a legitimate medical purpose, as part of a pattern of repeated, clearly excessive prescribing.
 - e) committed a dishonest or corrupt act when he:
 1. provided drugs to a patient in exchange for sex.

2. obtained a disability placard for a patient and certified under penalty of perjury to facts he knew to be false.

3. provided SSI eligibility to a patient in exchange for sex and offered to certify the patient's husband for disability insurance even though he knew that her husband was not eligible for such benefits.

4. took Medi-Cal stickers from a patient when, in fact, he had provided no services to her.

(Testimony of Dennis Carr; State Exhibit A)

3. On July 27, 1993, the Respondent entered into a Stipulation and Waiver with the Medical Board of California providing for the revocation of the Respondent's California medical license. (Testimony of Dennis Carr; State Exhibit B)

4. On September 14, 1993, the Medical Board of California adopted the Stipulation and Waiver and issued a Decision revoking the Respondent's license, effective October 14, 1993. (Testimony of Dennis Carr; State Exhibit C)

5. The Board sent its Complaint and Statement of Charges, Original Notice, and Order for Hearing to the Respondent at his last known address by restricted certified mail, return receipt requested. The documents were returned to the Board by the post office several weeks later, stamped "unclaimed." The Board sent the same documents to the Respondent by ordinary mail. The documents were not returned to the Board. (Testimony of Dennis Carr)

6. After filing the required affidavits, the Board published notice in the Des Moines Register on April 3, April 10, and April 17, 1995. (Testimony of Dennis Carr; State Exhibit E)

CONCLUSIONS OF LAW

1. 653 IAC 12.50(9) provides that a written notice of hearing together with a statement of charges shall be served upon the licensee at least 30 days before the hearing in the manner required for the service of an original notice or by restricted certified mail, return receipt requested.

653 IAC 12.50(10) provides that if licensees have absented or removed themselves from the state, the notice and statement of the charges shall be so served at least 30 days before the date of the hearing, wherever the licensee may be found. If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit

required by the rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in said notice, the board shall proceed with the hearing as hereinafter provided.

653 IAC 12.50(21) provides that if a respondent, upon whom a proper notice of hearing has been served, fails to appear either in person or by counsel at the hearing, the board or hearing panel shall proceed with the conduct of the hearing, and the respondent shall be bound by the results of such hearing to the same extent as if the respondent were present.

The Respondent was properly served with the Complaint and Statement of Charges by publication, but failed to appear. He is bound by the decision of the Board to the same extent as if he had appeared.

2. Iowa Code section 148.6(1) and (2)(d) (1995) provide in relevant part:

148.6 Revocation.

1. The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

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

...

d. Having the license to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy revoked or suspended, or having other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is prima facie evidence.

3. 653 IAC 12.4(28) provides in relevant part:

653-12.4(272C) Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2(272C), including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts or offenses:

12.4(28) Violating any of the grounds for the revocation or suspension of a license listed in Iowa Code sections 147.55 and 148.6.

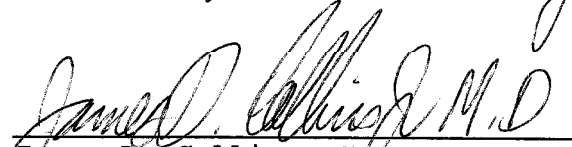
4. The preponderance of the evidence established that the Respondent's license to practice medicine and surgery in the state of California has been revoked. Iowa Code section 148.6(2)(d) (1995) and 653 IAC 12.4(28) authorize the Board to take disciplinary action against the Respondent.

DECISION AND ORDER

IT IS THEREFORE ORDERED, that the medical license of Paul L. Lowinger, M.D., license number 14245, shall be permanently revoked.

IT IS FURTHER ORDERED, in accordance with 653 IAC 12.51, that the Respondent shall pay a disciplinary hearing fee of \$75.00. In addition, the Respondent shall pay any costs certified by the executive director and reimbursable pursuant to subrule 12.51(3). All fees and costs shall be paid in the form of a check or money order payable to the state of Iowa and delivered to the department of public health, within thirty days of the issuance of a final decision.

Dated this *22nd* day of *May*, 1995.



James D. Collins, Jr., M.D.
Chairperson
Iowa Board of Medical Examiners

cc: Heather Adams, Assistant Attorney General

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

IN THE MATTER OF THE COMPLAINT *
AND STATEMENT OF CHARGES AGAINST * COMPLAINT AND STATEMENT
PAUL L. LOWINGER, MD, * OF CHARGES
RESPONDENT * 02-95-004

COMES NOW Ann M. Martino, PhD, Executive Director of the Iowa State Board of Medical Examiners (hereafter the Board), on February 23, 1995 and at the direction of the Board, files this Complaint and Statement of Charges against Paul L. Lowinger, MD, (hereafter the Respondent), a physician licensed pursuant to Chapter 147 of the Code of Iowa and alleges:

1. That James D. Collins, Jr., MD, Chairperson; George G. Spellman, Sr., MD, Vice Chairperson; Laura Stensrud, Secretary; Edra Broich; James M. Caterine, MD; Eddie D. DeHaan, MD; Mary C. Hodges; Teresa A. Mock, MD; Donna M. Norman, DO; and Roger F. Senty, DO, are the duly appointed, qualified and acting officers and members of the Board.
2. That the Respondent was issued license number 14245 to practice medicine and surgery in Iowa on July 6, 1950.
3. That the Respondent's Iowa license is valid and will next expire on November 1, 1995.
4. That on or about August 31, 1992, the Medical Board of California initiated a license disciplinary action against the Respondent alleging that the Respondent had committed certain acts and offenses which constituted grounds for such action. A copy of the Accusation initiating the action is attached as Exhibit A.

COMPLAINT AND STATEMENT OF CHARGES
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5. That on or about July 27, 1993, the Respondent entered into a Stipulation and Waiver with the Medical Board of California providing for the revocation of the Respondent's California medical license. A copy of the Stipulation and Waiver is attached as Exhibit B.

6. That on or about September 14, 1993, the Medical Board of California adopted the Stipulation and Waiver referred to in paragraph 5 herein and issued a Decision in conformance thereto. The Decision became effective on October 14, 1993. A copy of the Decision is attached as Exhibit C.

7. That the Board is authorized to take disciplinary action against the Respondent pursuant to the provisions of sections 148.6(1), 148.6(2), 148.6(2)d of the 1995 Code of Iowa, which state in whole or part:

148.6(1) - The medical examiners, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection.

148.6(2) - Pursuant to this section, the Board of medical examiners may discipline a licensee who is guilty of any of following acts or offenses:

148.6(2)d - Having the license to practice medicine and surgery ... revoked, suspended, or having other disciplinary action taken by a licensing authority of another state ...

8. That the Board is authorized to take disciplinary action against the Respondent pursuant to the provisions of 653 IAC 12.4 and 12.4(28) which state in whole or in part:

653-12.4 - Grounds for discipline. The board may impose any of the disciplinary sanctions set forth in rule 12.2, including civil penalties in an amount not to exceed \$10,000, when the board determines that the licensee is guilty of any of the following acts of offenses:

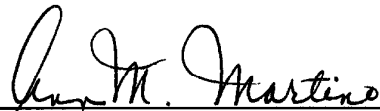
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**653-12.4(28) - Violating any of the grounds for the
revocation or suspension of a license listed in Iowa Code sections
... 148.6.**

9., That paragraphs 7 and 8 constitute grounds for the Board to revoke, suspend or otherwise discipline the license to practice medicine and surgery issued to the Respondent on July 6, 1950.

WHEREFORE the undersigned charges that the Respondent is subject to disciplinary action pursuant to the provisions of sections 148.6(1), 148.6(2) and 148.6(2)d of the 1995 Code of Iowa and 653 IAC 12.4 and 12.4(28). 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 revoke, suspend or otherwise discipline the license to practice medicine and surgery issued to the Respondent on July 6, 1950, and for such other relief as the Board deems just in the premises.

IOWA STATE BOARD OF MEDICAL EXAMINERS



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DMC/dc 02-21-95

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