

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF THE) FILE NOS. 02-98-202,02-99-695
STATEMENT OF CHARGES AGAINST) DIA NO. 02DPHMB019
)
DEBRA K. RAINEY, M.D.) FINAL ORDER OF THE BOARD
)
Respondent)

TO: DEBRA K. RAINEY, M.D.

DATE: June 10, 2004.

I. Procedural History

On November 24, 2003, a panel of the Iowa Board of Medical Examiners (Board) issued a Proposed Decision in this disciplinary proceeding, following an evidentiary hearing. Debra K. Rainey, M.D. (Respondent) filed a timely appeal from the panel's Proposed Decision, pursuant to 653 IAC 12.32(2)(b)(2). A schedule was established for the parties to file briefs and present oral arguments to the full board. Both the Respondent and the state filed written briefs. Oral arguments were heard on May 12, 2004, by the following members of the Board: Bruce Hughes, M.D., Chairperson; Carole Frier, D.O., Vice-Chairperson; Yasyn Lee, M.D.; Russell Lee, M.D.; Blaine Houmes, M.D.; Janece Valentine, Sally Schroeder, and Paul Thurlow, public members. Following oral arguments, the Board convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate their final decision. The Board fully considered the evidentiary record, the panel's Proposed Decision, and the briefs and arguments of the parties. Following deliberations, the Board voted to affirm the decision of the panel in its entirety. Administrative Law Judge Margaret LaMarche was directed to prepare this Order, in conformance with their deliberations.

II. Discussion

A. Civil Penalty

The Respondent first argues that the \$5000 civil penalty for failure to comply with the Board's Order for Evaluation was too severe under the circumstances. The Respondent further argues that the civil penalty has a chilling effect on the Respondent's exercise of her due process rights because the amount in the Panel's Proposed Decision is substantially higher than a

