

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF STATEMENT OF CHARGES AGAINST

GAYLORD C. NORDINE, M.D., RESPONDENT

FILE No. 02-04-261

TERMINATION ORDER

Date: April 12, 2012.

1. Respondent was issued Iowa medical license number 20489 on January 10, 1977.
2. Respondent's Iowa medical license is active and will next expire on July 1, 2012.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.
4. On September 2, 2004, the Board filed formal disciplinary charges against Respondent alleging that he violated appropriate professional patient boundaries.
5. On November 15, 2005, Respondent entered into a Settlement Agreement with the Board. Under the terms of the Settlement Agreement, Respondent's Iowa medical license was indefinitely suspended, he received a

Citation and Warning and he was prohibited from entering into employment relationships with current or former patients. Respondent completed a comprehensive patient boundary evaluation at the Behavioral Medicine Institute (BMI) of Atlanta and he has complied with the recommendations made by BMI.

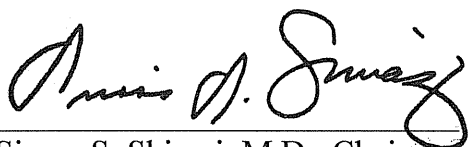
6. On April 9, 2010, Respondent entered into a Reinstatement Order with the Board, his Iowa medical license was reinstated and he was placed on probation for a period of five (5) years subject to certain terms and conditions.

7. Recently, Respondent requested termination of the terms of probation.

8. Recently, the Board reviewed Respondent's request for termination of the terms of his probation. After careful consideration, the Board voted to terminate the terms of Respondent's probation.

THEREFORE IT IS HEREBY ORDERED: that the terms and conditions of Respondent's probation are terminated and Respondent's Iowa medical license is returned to its full privileges, free and clear of all restrictions.

IOWA BOARD OF MEDICINE



Siroos S. Shirazi, M.D., Chairman
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

April 12, 2012
Date

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF STATEMENT OF CHARGES AGAINST

GAYLORD C. NORDINE, M.D., RESPONDENT

FILE No. 02-04-261

AMENDED ORDER

Date: September 23, 2011.

COMES NOW the Iowa Board of Medicine (Board) on September 23, 2011, and enters this Amended Order.

1. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.


2. On April 9, 2010, Respondent entered into a Reinstatement Order with the Board, his Iowa medical license was reinstated and he was placed on probation for a period of five (5) years subject to certain terms and conditions including, but not limited to, the following:

Group Practice Setting: Respondent shall practice in a Board-approved group practice setting only. Respondent shall obtain Board approval prior to practicing medicine.

3. On September 23, 2011, the Board voted to enter an Amended Order removing the Group Practice Setting requirement established in the April 9, 2010, Reinstatement Order.

THEREFORE IT ORDERED that the Group Practice Setting requirement established in the April 9, 2010, Reinstatement Order, is hereby removed from the provisions placed on Respondent's Iowa medical license.

This Order is approved by the Board on September 23, 2011.


Siroos S. Shirazi, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF STATEMENT OF CHARGES AGAINST

GAYLORD C. NORDINE, M.D., RESPONDENT

FILE No. 02-04-261

REINSTATEMENT ORDER

COMES NOW the Iowa Board of Medicine (the Board), and
Gaylord C. Nordine, M.D., (Respondent), on April 9, 2010, and enter into
this Reinstatement Order.

1. Respondent was issued Iowa medical license number 20489 on January 10, 1977.
2. Respondent's Iowa medical license expired on July 1, 2006.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.
4. **DISCIPLINARY CHARGES:** On September 2, 2004, the Board filed formal disciplinary charges against Respondent alleging that he:
 - A. Engaged an inappropriate sexual relationship with a psychiatric patient in violation of appropriate physician-patient boundaries, and

- B. Inappropriately permitted his office staff to refill a patient's psychotropic medications and he failed to ensure that the prescription refills were appropriately documented in the medical record.

5. **LICENSE SUSPENSION:** On November 15, 2005, Respondent entered into a Settlement Agreement with the Board. Under the terms of the Settlement Agreement, Respondent's Iowa medical license was indefinitely suspended, he received a Citation and Warning and he was prohibited from entering into employment relationships with current or former patients.

6. **CRIMINAL CHARGES:** On June 14, 2005, Respondent pleaded guilty to sexual exploitation by a counselor in Polk County District Court.

7. **PROFESSIONAL BOUNDARY EVALUATION AND TREATMENT:** Pursuant to the Settlement Agreement, Respondent completed a comprehensive patient boundary evaluation at Behavioral Medicine Institute (BMI) in Atlanta, Georgia, and has complied with the recommendations made by BMI. Respondent participated in individual counseling.

8. **CIVIL PENALTY:** Respondent shall pay a civil penalty in the amount of **\$5,000**. The civil penalty shall be made payable to the Treasurer of Iowa, and mailed to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

9. **FIVE YEARS PROBATION:** Respondent's Iowa medical license shall be placed on **probation for a period of five (5) years** subject to the terms and conditions imposed by the Board, including but not limited to the following:

- A. **Monitoring Program:** Respondent shall contact the Coordinator of Monitoring Programs, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-6491 to establish a Board monitoring program. Respondent shall fully comply with all requirements of the Board monitoring program.
- B. **Compliance with BMI Recommendations:** Respondent shall comply with all recommendations made by BMI following the evaluation.
- C. **Polygraph Examinations:** Respondent shall submit to Board-approved polygraph examinations every six months.
- D. **Principles of Medical Ethics, Staff Surveillance Forms and Patient Satisfaction Surveys:**
 - (1) Respondent shall post the Principles of Medical Ethics in his medical practice as directed by the Board.
 - (2) Respondent shall utilize Staff Surveillance Forms in his medical practice as directed by the Board.
 - (3) Respondent shall utilize Patient Satisfaction Surveys in his medical practice as directed by the Board.

- E. **Counseling:** Respondent shall continue Board-approved counseling under the following terms and conditions:
- (1) The counselor shall agree to submit written quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation.
 - (2) Respondent shall continue counseling until discharged by the Board-approved counselor and until Respondent's discharge from counseling is approved by the Board.
 - (3) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board. All costs shall be Respondent's responsibility.
- F. **Group Practice Setting:** Respondent shall practice in a Board-approved group practice setting only. Respondent shall obtain Board approval prior to practicing medicine.
- G. **Notice to Employers:** Respondent shall provide all present and future employers and employment supervisors where he practices medicine with a copy of all Board Orders relating to this matter. All such individuals shall provide a written statement to the Board indicating they have read and understand the Orders in this matter and shall agree to contact the Board immediately if there is evidence of unprofessional conduct.

- H. **Practice Monitoring Plan:** Respondent shall submit for Board approval the name of a physician who shall monitor Respondent's psychiatry practice in accordance with a practice monitoring plan approved by the Board. The practice monitor shall be an Iowa-licensed, board-certified, psychiatrist. The Board shall provide the practice monitor a copy of all Board orders, evaluation reports and the investigative files in this matter. The practice monitor shall review medical records for selected patients and meet regularly with Respondent to review cases, review specific topics and engage in a quality improvement process that addresses practice deficiencies and problems identified through the monitoring process based on the prevailing standard of care for psychiatric practice in Iowa. Respondent shall fully comply with all recommendations of the practice monitor. The practice monitor shall immediately notify the Board if he receives information which indicates that Respondent has violated the appropriate standard of care or has engaged in practice which is harmful or detrimental to the public. The practice monitor shall submit written quarterly reports to the Board no later than 1/20, 4/20, 7/20 and 10/20 of each year of this Order.
- I. **Worksite Monitor:** Respondent shall submit for Board approval the name of a physician who regularly observes and/or supervises Respondent in the practice of medicine to serve as worksite monitor.

The Board shall provide a copy of all Board orders relating to this matter with the worksite monitor. The worksite monitor shall provide a written statement indicating that they have read and understand all Board orders relating to this disciplinary action and agrees to act as the worksite monitor under the terms of this agreement. The worksite monitor shall agree to inform the Board immediately if there is evidence of professional misconduct, or a violation of the terms of this Settlement Agreement. The practice monitor shall agree to submit quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation.

- J. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms and conditions of this Order, including attendance at meetings with his counselor. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of Respondent's probation.
- K. **Board Appearances:** Respondent shall make an appearance before the Board annually or upon request. Respondent shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(d).

L. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with each quarterly report required under this Order. The monitoring fee shall be sent to: Coordinator of Monitoring Programs, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medicine. The monitoring fee shall be considered repayment receipts as defined in Iowa Code section 8.2.

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

11. In the event Respondent violates or fails to comply with any of the terms or conditions of this Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 24.

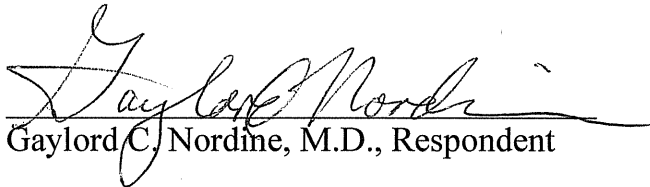
12. Periods of residence or practice outside the state of Iowa shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board. Periods in which Respondent does not practice medicine or fails to comply with the terms established in this Order shall not apply to the duration of this Order unless Respondent obtains prior written approval from the Board.

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

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

15. This Order is subject to approval by the Board. If the Board fails to approve this Order, it shall be of no force or effect to either party.


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


Gaylord C. Nordine, M.D., Respondent

Subscribed and sworn to before me on _____, 2010.

Notary Public, State of

This Order is approved by the Board on April 9, 2010.


Siroos S. Shirazi, M.D., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF STATEMENT OF CHARGES AGAINST

GAYLORD C. NORDINE, M.D., RESPONDENT

FILE No. 02-04-261

SETTLEMENT AGREEMENT and FINAL ORDER

COMES NOW the Iowa Board of Medical Examiners (the Board), and Gaylord C. Nordine, M.D., (Respondent), on November 15, 2005, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) (2005), enter into this Settlement Agreement and Final Order to resolve the contested case currently on file.

1. Respondent was issued Iowa medical license number 20489 on January 10, 1977.

2. Respondent's Iowa medical license is active and will next expire on July 1, 2006.

3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

4. **COMPREHENSIVE PATIENT BOUNDARY EVALUATION:**
Respondent successfully completed a comprehensive patient boundary evaluation at Behavioral Medicine Institute (BMI) in Atlanta, Georgia. Respondent shall fully comply with all recommendations made by BMI.

5. **CITATION AND WARNING:** Respondent is hereby **CITED** for engaging in patient boundary violations which constitute unethical or unprofessional conduct when he engaged in a romantic and/or sexual relationship with a patient to whom he had previously provided psychiatric care and for inappropriately hiring former patients to work in his medical practice and other business ventures. Respondent is hereby **WARNED** that engaging in such conduct in the future may result in further disciplinary action, including revocation of his Iowa medical license.

6. **PROHIBITION AGAINST ENTERING INTO INAPPROPRIATE EMPLOYMENT RELATIONSHIPS:** Respondent shall not enter into any inappropriate employment relationships with current or former patients either in his medical practice or any other business venture.

7. **INDEFINITE SUSPENSION:** Beginning January 1, 2006, Respondent's Iowa medical license shall be **indefinitely suspended**. During the period of suspension Respondent shall not engage in any aspect of the practice of medicine under his Iowa medical license. The Board will not consider reinstatement of Respondent's Iowa medical license, prior to January 1, 2007.

8. **TREATMENT:** Prior to seeking reinstatement of his Iowa medical license, Respondent shall successfully complete residential treatment at a Board-approved treatment program.

9. **CIVIL PENALTY:** Prior to seeking reinstatement of his Iowa medical license, Respondent shall pay a civil penalty in the amount of **\$5,000**. The civil penalty shall be made payable to the Treasurer of Iowa, and mailed to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

10. **FIVE YEARS PROBATION:** Upon reinstatement, Respondent's Iowa medical license shall be placed on **probation for a period of five (5) years** subject to the terms and conditions imposed by the Board, including but not limited to the following:

- A. **Monitoring Program:** Respondent shall contact the Coordinator of Monitoring Programs, Iowa Board of Medical Examiners, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-6491 to establish a Board monitoring program. Respondent shall fully comply with all requirements of the Board monitoring program.
- B. **Compliance with BMI Recommendations:** Respondent shall fully comply with all recommendations made by BMI following the evaluation.
- C. **Polygraph Examinations:** Respondent shall submit to Board-approved polygraph examinations every six months.

D. Principles of Medical Ethics, Staff Surveillance Forms and Patient Satisfaction Surveys:

- (1) Respondent shall post the Principles of Medical Ethics in his medical practice as directed by the Board.
- (2) Respondent shall utilize Staff Surveillance Forms in his medical practice as directed by the Board.
- (3) Respondent shall utilize Patient Satisfaction Surveys in his medical practice as directed by the Board.

E. Treatment: Respondent shall successfully complete Board-approved outpatient treatment under the following terms and conditions:

- (1) The counselor shall agree to submit written quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation.
- (2) Respondent shall continue counseling until discharged by the Board-approved counselor and until Respondent's discharge from counseling is approved by the Board.
- (3) Respondent shall meet with his Board-approved counselor as frequently as recommended by the counselor and approved by the Board. All costs shall be Respondent's responsibility.

- F. **Notice to Employers:** Respondent shall provide all present and future employers and employment supervisors where he practices medicine with a copy of all Board Orders relating to this matter. All such individuals shall provide a written statement to the Board indicating they have read and understand the Orders in this matter and shall agree to contact the Board immediately if there is any evidence of unprofessional conduct.
- G. **Worksite Monitor:** Respondent shall submit for Board approval the name of a physician who regularly observes and/or supervises Respondent in the practice of medicine to serve as worksite monitor. The Board shall provide a copy of all Board orders relating to this matter with the worksite monitor. The worksite monitor shall provide a written statement indicating that they have read and understand all Board orders relating to this disciplinary action and agrees to act as the worksite monitor under the terms of this agreement. The worksite monitor shall agree to inform the Board immediately if there is evidence of professional misconduct, or a violation of the terms of this Settlement Agreement. The practice monitor shall agree to submit quarterly reports to the Board concerning Respondent's progress. The reports shall be filed with the Board not later than 1/20, 4/20, 7/20 and 10/20 of each year of Respondent's probation.

- H. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms and conditions of this Order, including attendance at meetings with his counselor. The reports shall be filed not later than 1/10, 4/10, 7/10 and 10/10 of each year of Respondent's probation.
- I. **Board Appearances:** Respondent shall make an appearance before the Board annually or upon request. Respondent shall be given written notice of the date, time and location for the appearances. Such appearances shall be subject to the waiver provisions of 653 IAC 12.6(6)(d).
- J. **Monitoring Fee:** Respondent shall make a payment of \$100 to the Board each quarter for the duration of this Order to cover the Board's monitoring expenses in this matter. The Monitoring Fee shall be received by the Board no later than the 15 of the month three months after the date of this order and every quarter thereafter. The Monitoring Fee shall be sent to: Coordinator of Monitoring Programs, Iowa Board of Medical Examiners, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686. The check shall be made payable to the Iowa Board of Medical Examiners. The Monitoring Fee shall be considered repayment receipts as defined in Iowa Code section 8.2. (2005).

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

12. In the event Respondent violates or fails to comply with any of the terms or conditions of this Settlement Agreement and Final Order, the Board may initiate action to suspend or revoke Respondent's Iowa medical license or to impose other license discipline as authorized in Iowa Code Chapters 148 and 272 and 653 IAC 12.2.

13. In the event Respondent leaves Iowa to reside or practice outside the state, Respondent shall notify the Board in writing of the dates of departure and return. Periods of residence or practice outside the state of Iowa will not apply to the duration of the Settlement Agreement and Final Order.

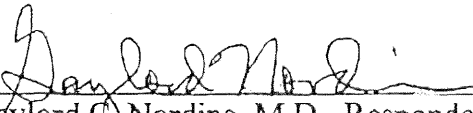
14. This Settlement Agreement and Final Order constitutes the resolution of a contested case proceeding.

15. By entering into this Settlement Agreement and Final Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations contained in the Statement of Charges and waives any objections to the terms of this Settlement Agreement.

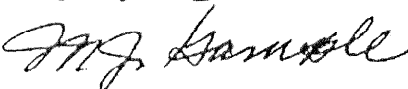
16. This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for consideration.

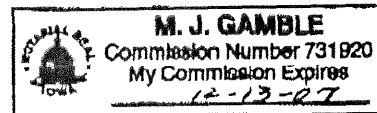
17. This Settlement Agreement and Final Order is subject to approval by the Board. If the Board fails to approve this Settlement Agreement and Final Order, it shall be of no force or effect to either party.

18. The Board's approval of this Settlement Agreement and Final Order shall constitute a **Final Order** of the Board.



Gaylord C. Nordine, M.D., Respondent

Subscribed and sworn to before me on 11-21, 2005.

Notary Public, State of Iowa




This Settlement Agreement and Final Order is approved by the Board on
November 15, 2005.


Bruce L. Hughes, M.D., Chairperson
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF IOWA

IN THE MATTER OF THE)	FILE NO. 02-04-261
STATEMENT OF CHARGES AGAINST)	CASE NO. 04DPHMB019
)	
GAYLORD NORDINE, M.D.)	RULING GRANTING MOTION
)	TO AMEND STATEMENT OF CHARGES
)	
Respondent)	RULING GRANTING MOTION
)	TO CONTINUE

On September 9, 2005, the state filed a Motion to Amend Statement of Charges and Respondent filed a Motion to Continue the above-captioned case. On September 20, 2005, the Board delegated these motions to the undersigned administrative law judge for hearing. Respondent filed a request for oral argument, and the parties were heard on September 22, 2005. Respondent was represented by Chester Woodburn, III. The state was represented by Theresa O'Connell Weeg.

Motion To Amend Statement of Charges

The Board of Medical Examiners (Board) filed a Statement of Charges against Gaylord Nordine, M.D. (Respondent) on September 2, 2004, charging him with the following two counts:

Count I: Respondent, a psychiatrist, is charged under Iowa Code section 147.55(3)(2003) and 653 IAC 12.4(3) and 12.4(36) with engaging in unethical or unprofessional conduct and/or practice harmful or detrimental to the public when he engaged in an inappropriate sexual relationship with a psychiatric patient in violation of appropriate physician-patient boundaries; and

Count II: Respondent is charged under Iowa Code section 147.55(3)(2003) and 653 IAC 12.4(3)(c) with engaging in practice harmful or detrimental to the public when he failed to possess and/or exercise that degree of skill, learning and care expected of a reasonable, prudent physician acting in the same or similar circumstances in this state when he inappropriately permitted his office staff to refill a patient's psychotropic medications and when he failed to ensure that the prescription refills were appropriately documented in the medical records.

The Board initially scheduled a disciplinary hearing on the Statement of Charges for November 17, 2004, but that hearing date was continued at Respondent's request. Criminal charges were subsequently filed against Respondent based on the same factual circumstances as those underlying Count I, and the Board chose not to reset the disciplinary hearing while the criminal charges were pending, due to constitutional considerations. In the meantime, the parties continued to discuss informal settlement.

On June 14, 2005, Respondent pled guilty to a violation of Iowa Code section 709.15(2)(b) and (4)(b)(Sexual exploitation by a counselor, therapist, or school employee). On July 25, 2005, the Board reset the disciplinary hearing for September 28, 2005. The parties continued to discuss informal settlement. On September 9, 2005, the state filed a Motion to Amend the Statement of Charges, asking to add the following count:

Count III: Respondent is charged under Iowa Code section 148.6(2)(c)(2005) with violating a statute or law of this state, without regard to its designation as either a felony or misdemeanor, which statute or law relates to the practice of medicine.

The state also moved to amend the Statement of Charges to add the following two paragraphs to the Circumstances:

13. On June 14, 2005, Respondent pled guilty in the Polk County District Court to a violation of Iowa Code §709(15)(2)(b) and (4)(b), engaging in sexually conduct with an emotionally dependent patient or former patient within one year of the termination of mental health services for the purpose of arousing or satisfying the sexual desires of the defendant. The crime is an aggravated misdemeanor.

14. Respondent was sentenced to a deferred judgment and a two-year probation. One of the terms of probation includes a requirement that "Defendant shall comply with all requirements of the Iowa Board of Medical Examiners for evaluation and treatment..."

The state argues that the Respondent will suffer no prejudice from the proposed amendments to the Statement of charges because

the facts underlying the criminal proceedings appear to be nearly identical to those underlying the original Statement of Charges, and the Respondent has been aware of the criminal charges since they were filed on November 22, 2004. The state further asserts that the motion is in the interest of justice because the criminal conviction for a sexual relationship with a patient affects Respondent's ability to safely practice medicine and therefore also affects the public health and welfare. The state asserts that its failure to file the motion at an earlier date was due to Respondent's counsel's representations that the case would be settled without a formal hearing.

The state's arguments in favor of the proposed amendments are persuasive. The amendments allege an additional legal basis for discipline but do not add any significantly new factual allegations. It would be an unnecessary duplication of time and resources to initiate a separate disciplinary proceeding for Count III.

ORDER

IT IS THEREFORE ORDERED that the state's Motion to Amend the Statement of Charges is hereby GRANTED.

Motion to Continue

Pursuant to the parties' settlement discussions, Respondent agreed to submit to evaluation at Behavioral Medicine Institute (BMI) in Atlanta, Georgia from July 18-July 20, 2005. Respondent was advised that an evaluation report would be forthcoming within a week following the evaluation. The BMI report was completed on July 25, 2005 and sent to the Board. However, Respondent's attorney did not receive a complete copy of the BMI evaluation report from the Board until August 22, 2005. It is not known when the Board or the state received the report. At oral arguments, the state's attorney did not have her copy of the report with her so could not check the date stamp. The Board's copy was apparently not date stamped.

The parties continued to discuss settlement. Early in September 2005, the state's attorney told Respondent's attorney that she did not intend to call Dr. Abel, the evaluation report's author, as a witness at the hearing and would only present his report. Respondent's attorney decided that he would need to depose Dr.

Abel and filed the Motion to Continue on September 9th, citing the need for additional time to assess the report and depose Dr. Abel. On September 15, 2005, Respondent's attorney filed a Supplement to the Motion to Continue, informing the Board that Respondent now intends to transfer his representation to another attorney, who will be filing a separate appearance. Respondent's attorney argues that Respondent will be grossly prejudiced if a short continuance of approximately sixty days is not granted.

On September 16, 2005, the state filed a Resistance to Motion to Continue. The state asserts that the requested amendment adds no new facts and Respondent has had sufficient time to prepare all aspects of his defense, including taking depositions and obtaining expert opinions. The state's attorney states that she was first contacted about making her witnesses available for deposition on September 5, 2005 and that it is Respondent's attorney who was not available to take the depositions until September 23, 26 or 27. Finally, the state's attorney asserts that Respondent's decision to change counsel on the eve of the hearing is no basis for granting the continuance.

The pending charges do raise serious concerns about patient health, safety and welfare; such charges should be resolved as swiftly as possible, consistent with due process. Following his guilty plea, Respondent should have expected a new hearing date would be promptly set if the case was not settled. On July 25, 2005, the same date that the BMI report was completed and was presumably sent to the Board, the Board issued its Hearing Order for September 28, 2005.

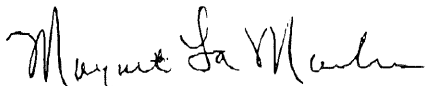
The evaluation report recommended that Respondent receive treatment, as outlined in an enclosed article. It is not known why there was a several week delay before the report was sent to Respondent's attorney. It is reasonable to provide Respondent and his attorney some time to review the report and its recommendations, whether to prepare for hearing or to make a decision regarding informal settlement. While Respondent's attorney could have moved somewhat more quickly to request a deposition of Dr. Abel, it is unrealistic to expect him to do so prior to receiving and initially reviewing the evaluation report. Moreover, it appears that since the new hearing date was set, the parties have been in active settlement discussions and both parties have proceeded on the assumption that the case

would be resolved without hearing. Respondent delayed taking depositions and the state delayed filing its Motion to Amend. Under all of these circumstances¹, a short continuance of the hearing is justified to allow Respondent's attorney the opportunity to depose Dr. Abel. A short continuance may also give the parties sufficient time to reach an informal settlement. A sixty-day continuance, as requested by Respondent, is longer than necessary. The Board should reset the hearing at its earliest available hearing date.

ORDER

IT IS THEREFORE ORDERED that the Respondent's Motion to Continue is hereby GRANTED.

Dated this 23rd day of September, 2005.



Margaret LaMarche
Administrative Law Judge
Department of Inspections and Appeals
Lucas State Office Building-Third Floor
Des Moines, Iowa 50319-0083

cc: Theresa O'Connell Weeg
Office of the Attorney General
Hoover Building
Des Moines, Iowa 50319 and by FAX: (515) 281-7551

Chester Woodburn III
HANSEN, McCLINTOCK & RILEY
8th Floor, Fleming Building
218 6th Ave.
Des Moines, IA 50309-4092 and by FAX: (515) 244-2931

Kent Nebel
Iowa Board of Medical Examiners
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686 and by FAX: (515) 281-8641

¹ It must be noted that Respondent's apparent intent to retain new counsel less than two weeks prior to the scheduled hearing does not justify a continuance and had no bearing on this ruling.

BEFORE THE BOARD OF MEDICAL EXAMINERS OF THE STATE OF IOWA

IN THE MATTER OF STATEMENT OF CHARGES AGAINST

GAYLORD C. NORDINE, M.D., RESPONDENT

FILE No. 02-04-261

STATEMENT OF CHARGES

COMES NOW the Iowa Board of Medical Examiners (the Board), on September 2, 2004, and files this Statement of Charges against Gaylord C. Nordine, M.D., (Respondent), a physician licensed pursuant to Chapter 147 of the 2003 Code of Iowa and alleges:

1. Respondent was issued license number 20489 to practice medicine and surgery in Iowa on January 10, 1977.
2. Respondent's Iowa medical license is active and will next expire on July 1, 2006.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. Respondent, a psychiatrist, is charged under Iowa Code section 147.55(3) (2003) and 653 IAC sections 12.4(3) and 12.4(36) with engaging in unethical or unprofessional conduct and/or practice harmful or detrimental to the public when he engaged in an inappropriate sexual relationship with a psychiatric patient in violation of appropriate physician-patient boundaries.

COUNT II

5. Respondent is charged under Iowa Code section 147.55(3) (2003) and 653 IAC section 12.4(3)(c) with engaging in practice harmful or detrimental to the public when he failed to possess and/or exercise that degree of skill, learning and care expected of a reasonable, prudent physician acting in the same or similar circumstances in this state when he inappropriately permitted his office staff to refill a patient's psychotropic medications and when he failed to ensure that the prescription refills were appropriately documented in the medical records.

CIRCUMSTANCES

6. Respondent has been a practicing psychiatrist at all times relevant hereto.

7. Respondent provided Patient #1 treatment for anxiety and depression from 1990 to April 2004.

8. Respondent engaged in an inappropriate sexual relationship with Patient #1, a psychiatric patient, between November 2002 and April 2004, in

violation of appropriate physician-patient boundaries. Respondent admitted engaging in a sexual relationship with Patient #1.

9. Respondent inappropriately provided Patient #1, a psychiatric patient, personal gifts, including jewelry and clothing, in violation of appropriate physician-patient boundaries between November 2002 and April 2004.

10. Respondent inappropriately had Patient #1, a psychiatric patient, accompany him on numerous trips and he engaged in inappropriate sexual relations with Patient #1 during these trips.

11. Respondent engaged in an inappropriate employment relationship with Patient #1, a psychiatric patient, in violation of appropriate physician-patient boundaries between July 2002 and March 2004. Respondent admitted employing Patient #1 in his office between July 2002 and March 2004.

12. Respondent inappropriately permitted his office staff to refill Patient #1's psychotropic medication refills. Respondent inappropriately permitted his office staff to refill Patient #1's psychotropic medication refills without ensuring that the prescription refills were appropriately documented in the medical records.

On this the 2nd day of September , 2004, the Iowa Board of Medical
Examiners finds probable cause to file this Statement of Charges.



Bruce L. Hughes, M.D., Chairperson
Iowa Board of Medical Examiners
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Des Moines, Iowa 50309-4686