

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

DAVID R. ARCHER, M.D., RESPONDENT

FILE No. 02-10-107

STATEMENT OF CHARGES AND SETTLEMENT AGREEMENT
(Combined)

COMES NOW the Iowa Board of Medicine (Board) and David R. Archer, M.D., (Respondent), on June 3, 2016, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this combined Statement of Charges and Settlement Agreement.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 25222 on November 4, 1985.
2. Respondent's Iowa medical license will next expire on December 1, 2017.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. **Improper Pain Management:** Respondent is charged pursuant to Iowa Code sections 148.6(2)(i) and 653 IAC 13.2 for willfully or repeatedly violating a lawful rule or regulation adopted by the Board when he violated the standards of practice for appropriate pain management.

STATEMENT OF MATTERS ASSERTED

5. **Practice Setting:** Respondent is an Iowa-licensed physician who practices family medicine in Storm Lake, Iowa.

6. **Improper Pain Management:** The Board alleges that Respondent violated the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate pain management to multiple patients in Storm Lake, Iowa, including, but not limited to, the following:

- A. **Patient Evaluation:** The Board alleges that Respondent failed to perform and/or document thorough physical examinations and comprehensive medical histories including the risk of abuse and/or comorbid illness; perform and/or document appropriate diagnostic studies to help confirm the diagnoses; perform and/or document a thorough assessment of the nature, cause, severity and location of patient's pain, past treatment modalities; the effect of the pain on physical and psychological function; history of substance abuse, or the presence of one or more recognized medical indications for the use of controlled substances.
- B. **Treatment Plan:** The Board alleges that Respondent failed to establish and/or document comprehensive treatment plans which included clear treatment objectives to determine the success of the treatment, such as pain relief and/or improved physical and psychological function, and tailored drug therapy to the individual needs of the patient; identify and/or properly document diagnostic testing and/or other treatment modalities and rehabilitation programs.
- C. **Informed Consent:** The Board alleges that Respondent failed to provide and/or properly document education to patients regarding the possible adverse effects of controlled substances.
- D. **Periodic review:** The Board alleges that Respondent failed to periodically review and/or properly document periodic review of the course of the pain treatment and any new information about the etiology of the patient's pain and/or the state of the patient's health, including documenting his decision making process regarding the continuation or modification of the pain treatment, including the use of other therapeutic modalities, based on his evaluation of the patient's progress toward the treatment objectives, including functional improvement.

- E. **Consultation/Referral:** The Board alleges that Respondent failed to obtain and/or document appropriate consultations and/or referrals to specialists for multiple patients.
 - F. **Documentation:** The Board alleges that Respondent failed to maintain accurate, timely, and complete medical records that detail the patient evaluation, diagnostic studies, treatment modalities, treatment plan, informed consent, periodic review, consultation, and any other relevant information about the patient's condition and treatment.
 - G. **Pain Management Agreements:** The Board alleges that Respondent failed to appropriately utilize pain management agreements that specified agreed-upon protocols and procedures for medication use and the consequences for misuse.
 - H. **Substance Abuse History or Comorbid Psychiatric Disorder:** The Board alleges that Respondent failed to address and/or properly document how he addressed substance abuse and/or comorbid psychiatric disorders.
 - I. **Drug Testing:** The Board alleges that Respondent failed to perform and/or document appropriate drug testing for patients with histories of substance abuse or clinical presentations suggestive of abuse.
 - J. **Prescription Monitoring Program:** The Board alleges that Respondent failed to utilize and/or properly document appropriate use of the Iowa Prescription Monitoring Program.
 - K. **Department of Transportation (DOT) Exam:** Respondent failed to perform an appropriate DOT licensure exam on a patient. Respondent filled out the paperwork for a DOT commercial driver's license for a patient despite recent evidence of substance abuse, a positive drug screen for marijuana, without appropriate documentation in the patient's medical record.
7. **Respondent's Answer:** Respondent filed an Answer contemporaneously with

this order denying the allegations. However, Respondent enters into this Settlement Agreement to resolve the contested charges.

SETTLEMENT AGREEMENT

8. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate pain management to multiple patients in Storm Lake, Iowa. Respondent is hereby **WARNED** that such practice in the future may result in further formal disciplinary action, including suspension or revocation of his Iowa medical license.

9. **CIVIL PENALTY:** Respondent shall pay a \$5,000 civil penalty within twenty (20) days of the date of this order. The civil penalty shall be paid by delivery of a check or money order, payable to the Treasurer of Iowa, to the executive director of the Board. The civil penalty shall be deposited into the State General Fund.

10. **PROHIBITION - CHRONIC PAIN MANAGEMENT:** Respondent is prohibited from prescribing, administering or dispensing controlled substances for the treatment of chronic pain under his Iowa medical license. Pursuant to 653 IAC 13.2(1), "*Chronic pain* means persistent or episodic pain of a duration or intensity that adversely affects the functioning or well-being of a patient when (1) no relief or cure for the cause of pain is possible; (2) no relief or cure for the cause of pain has been found; or (3) relief or cure for the cause of pain through other medical procedures would adversely affect the well-being of the patient. If pain persists beyond the anticipated healing period of a few weeks, patients should be thoroughly evaluated for the presence of chronic pain." This prohibition does not prohibit Respondent from prescribing, administering or dispensing controlled substances for the treatment of acute pain under his Iowa medical license.

11. **RECORD KEEPING COURSE:** Respondent shall complete a Board-approved medical record keeping course within ninety (90) days of the date of this Order. Respondent is responsible for all costs associated with the course.

12. **FIVE YEARS PROBATION:** Respondent shall be placed on probation for a period of five (5) years subject to the following terms and conditions:

A. **Board Monitoring Program:** Within thirty days of the date of this Order, Respondent shall establish a Board monitoring program with Mary Knapp, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-5525. Respondent shall fully comply with all requirements of the monitoring program.

B. **Prescribing Audits:** Respondent shall fully comply with Board-approved audits of his controlled substance prescribing during the period of this Order. Respondent shall submit the names of all patients he has prescribed controlled substances for each quarter. From that list, the Board shall select 10 patients quarterly. Respondent shall provide the Board copies of the medical records for each patient selected for review. The Board shall compare this information with information obtained from the Iowa Prescription Monitoring Program.

C. **Quarterly Reports:** Respondent shall file sworn quarterly reports attesting to his compliance with all the terms of this Order no later than 1/10, 4/10, 7/10 and 10/10 of each year for the duration of the period of this Order.

D. **Board Appearances:** Respondent shall appear before the Board annually or upon request of the Board during the period of this order. Respondent shall be given notice of the date, time and location of the appearances. The appearances shall be subject to the waiver provisions of 653 IAC 24.2(5)(e)(3).

E. **Monitoring Fee:** Respondent shall make a payment of \$300 to the Board each quarter for the duration of his probation to cover the Board's monitoring expenses in this matter. The monitoring fee shall be received by the Board with all quarterly reports required during his probation. The monitoring fee shall be sent to: Mary Knapp, Compliance Monitor, 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.

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

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

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

16. Respondent shall submit a written statement to the Board, which demonstrates that he has shared a copy of this order with all hospitals, clinics and/or agencies where Respondent is employed as a physician within thirty (30) days of the date of this order.

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

18. Respondent understands that by entering into the Order he has a right to legal counsel in this matter, voluntarily waives any rights to a contested case hearing on the allegations in the Statement of Charges, and waives any objections to the terms of this Order.

19. Respondent understands that by entering into this combined Statement of Charges and Settlement Agreement, Respondent cannot obtain a copy of the investigative file. Pursuant to Iowa Code section 272C.6(4), a copy of the investigative file may only be provided to a licensee after a Statement of Charges is filed but before the final resolution of those charges.

20. Periods of residence or practice outside the state of Iowa and 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.

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

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

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

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



David R. Archer, M.D., Respondent

Subscribed and sworn to before me on _____, 2016.

Notary Public, State of _____.

This Order is approved by the Board on June 3, 2016.

Diane L. Clark

Diane L. Clark, R.N., M.A., Chairwoman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686