

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ROBERT E. GARRETT, M.D., RESPONDENT

FILE No. 02-11-036

AMENDED ORDER

COMES NOW the Iowa Board of Medicine (Board) on December 20, 2013, and enters this Amended Order in this matter.

1. Respondent was issued Iowa medical license no. 23090 on July 19, 1982.
2. Respondent's Iowa medical license is active and will next expire on August 1, 2015.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.
4. Respondent is an Iowa-licensed physician who practices general medicine in Iowa City, Iowa.
5. **Disciplinary Action:** On April 19, 2012, Respondent entered into a combined Statement of Charges and Settlement Agreement with the Board. The Board charged Respondent with inappropriately prescribing controlled substances to multiple patients in 2010 and 2011 in Iowa City, Iowa, in violation of the laws and rules governing the practice of medicine in Iowa. Under the terms of the April 19, 2012, combined Statement of Charges

and Settlement Agreement, the Board issued Respondent a Citation and Warning and ordered him to pay a \$2,500 civil penalty. The Board also prohibited Respondent from prescribing, administering or dispensing controlled substances for the treatment of chronic pain under his Iowa medical license. Finally, the Board placed Respondent on probation for a period of three (3) years subject to Board monitoring including audits of his controlled substance prescribing.

6. **Termination of Prescribing Audits:** On December 20, 2013, after careful consideration, the Board voted to terminate the audits of his controlled substance prescribing. The Board determined that Respondent has fully complied with the terms established in the April 19, 2012, combined Statement of Charges and Settlement Agreement and no longer prescribes, administers or dispenses controlled substances for the treatment of chronic pain.

THEREFORE IT IS HEREBY ORDERED: that the audits of Respondent's controlled substance prescribing are hereby **TERMINATED** by the Board. All other provisions established in the April 19, 2012, combined Statement of Charges and Settlement Agreement remain in effect.



Gregory B. Hoversten, D.O., Chairman
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686

December 20, 2013
Date

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

ROBERT E. GARRETT, M.D., RESPONDENT

FILE No. 02-11-036

**STATEMENT OF CHARGES AND SETTLEMENT AGREEMENT
(Combined)**

COMES NOW the Iowa Board of Medicine (Board), and Robert E. Garrett, M.D., (Respondent), on April 19, 2012, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4) enter into this combined Statement of Charges and Settlement Agreement to resolve this matter.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 23090 on July 19, 1982.
2. Respondent's Iowa medical license is active and will next expire on August 1, 2013.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged pursuant to Iowa Code section 148.6(2)(g) and 653 IAC 23.1(2)(f) with failing to conform to the minimal standard of acceptable and prevailing practice of medicine in violation of the laws and rules governing the practice of medicine in Iowa.

STATEMENT OF MATTERS ASSERTED

6. Respondent is an Iowa-licensed physician who practices general medicine in Iowa City, Iowa.

7. The Board alleges that Respondent failed to conform to the minimal standard of acceptable and prevailing practice of medicine in violation of the laws and rules governing the practice of medicine in Iowa when he prescribed excessive controlled substances to multiple patients between 2010 and the present in Iowa City, Iowa. Respondent prescribed dangerous amounts and dosages of controlled substances to patients without obtaining and/or documenting appropriate patient histories; without performing and/or documenting appropriate physical examinations; without performing and/or documenting appropriate diagnostic testing; without establishing and/or documenting appropriate treatment plans; without performing and/or documenting appropriate monitoring and periodic review; without considering and/or documenting appropriate consultations or referrals; without utilizing and/or documenting appropriate physician-patient agreements; and without recognizing and/or documenting evidence of drug-seeking behavior, drug abuse or drug diversion.

SETTLEMENT AGREEMENT

9. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating the standards of practice for appropriate chronic pain management, placing patients at risk of serious harm, when he prescribed excessive controlled substances to multiple patients between 2010 and the present in Iowa City, Iowa, including patients who exhibited drug seeking behavior in violation of the laws and rules governing the practice of medicine in 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.

10. **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.

11. **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."

12. **FIVE YEARS PROBATION:** Respondent shall be placed on **probation for a period of five 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. If Respondent fails to establish a Board monitoring program within thirty days of the date of this Order or fails to fully comply with the Board monitoring plan, the Board will issue a notice to Respondent that the license will be suspended within thirty (30) days of the date the notice is served on Respondent. The suspension shall occur automatically and without further Board action, unless Respondent files with the Board a request for hearing on the notice within ten (10) days of the date the notice is served.
- 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.

- 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)(2).
 - E. **Monitoring Fee:** Respondent shall make a payment of \$100 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. The monitoring fee shall be considered repayment receipts as defined in Iowa Code section 8.2.
13. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.
 14. Respondent voluntarily submits this Order to the Board for consideration.
 15. In the event Respondent fails to comply with any of the terms of this Order, the Board may initiate action to suspend or revoke Respondent's license or to impose other license discipline as authorized in Iowa Code chapters 148 and 272 and 653 IAC 25.

16. By entering into this Order, Respondent 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.

17. 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.

18. 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. 17. This Order constitutes the resolution of a contested case proceeding.

19. Respondent agrees that the State's counsel may present this Order to the Board.

20. 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.

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


Robert E. Garrett, M.D., Respondent

Subscribed and sworn to before me on March 28th, 2012.

Notary Public, State of Iowa.

This Order is approved by the Board on April 19, 2012.

Siroos S. Shirazi

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

Makenzie Donovan

