

BEFORE THE IOWA BOARD OF MEDICINE

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

HENRY W. HALLING, M.D., RESPONDENT

**FILE Nos. 02-07-288, 02-07-302, 02-07-556,
02-08-360, 02-08-396 & 02-08-429**

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

COMES NOW the Iowa Board of Medicine (Board), and Henry W. Halling, M.D., (Respondent), on May 6, 2010, 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. 21414 on October 28, 2004.
2. Respondent's Iowa medical license is active and will next expire on January 1, 2011.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged under Iowa Code sections 147.55(2), 148.6(2)(g) and 272C.10(2) and 653 IAC 23.1(2)(f) and 13.2 for failing to conform to the minimal standard of acceptable and prevailing practice of medicine for the treatment of chronic pain in Iowa.

COUNT II

5. Respondent is charged with professional incompetency pursuant to Iowa Code sections 147.55(2), 148.6(2)(g) and (i), and 272C.10(2), and 653 IAC 23.1(2)(c), (d), (e), and (f) by demonstrating one or more of the following:

- A. A substantial lack of knowledge or ability to discharge professional obligations within the scope of the physician's or surgeon's practice;
- B. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other physicians or surgeons in the state of Iowa acting in the same or similar circumstances;
- C. A failure by a physician or surgeon to exercise in a substantial respect that degree of care which is ordinarily exercised by the average physician or surgeon in the state of Iowa acting in the same or similar circumstances; and
- D. A willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery in the state of Iowa.

COUNT III

6. Respondent is charged under Iowa Code section 147.55(3) and 653 IAC 23.1(3) with engaging in practice harmful or detrimental to the public.

STATEMENT OF MATTERS ASSERTED

7. Respondent practices general medicine in Des Moines, Iowa.

8. The Board received information which indicates that Respondent engaged in a pattern of repeated violations of the standards of practice for appropriate pain management placing patients at risk of serious harm when he prescribed excessive controlled substances to numerous patients, including patients who exhibited drug seeking behavior, including but not limited to the following:

- A. Respondent prescribed dangerous amounts and dosages of controlled substances to patients;
- B. Respondent prescribed dangerous combinations of controlled substances to patients;
- C. Respondent prescribed controlled substances to patients without obtaining and/or documenting appropriate patient histories;
- D. Respondent prescribed controlled substances to patients without performing and/or documenting appropriate physical examinations;
- E. Respondent prescribed controlled substances to patients without performing and/or documenting appropriate patient evaluations;

- F. Respondent prescribed controlled substances to patients without performing and/or documenting appropriate diagnostic testing;
- G. Respondent prescribed controlled substances without establishing and/or documenting a physical condition justifying the use of controlled substances;
- H. Respondent prescribed controlled substances to patients without establishing and/or documenting appropriate treatment plans;
- I. Respondent prescribed controlled substances to patients without adequately pursuing and/or documenting other treatments typically used for pain treatment;
- J. Respondent prescribed controlled substances to patients without obtaining and/or documenting appropriate informed consent;
- K. Respondent prescribed controlled substances to patients without discussing and/or documenting the risks and benefits of the prescribed medications;
- L. Respondent prescribed controlled substances to patients without performing and/or documenting appropriate monitoring and periodic review;
- M. Respondent prescribed controlled substances to patients without considering and/or documenting appropriate consultations or referrals;
- N. Respondent prescribed controlled substances to patients without maintaining appropriate documentation;
- O. Respondent prescribed controlled substances to patients without utilizing and/or documenting appropriate physician-patient agreements;

- P. Respondent prescribed controlled substances to patients without recognizing and/or documenting evidence of drug-seeking behavior, drug abuse and drug diversion;
- Q. Respondent prescribed early refills of controlled substances, ignoring evidence of drug seeking behavior, drug abuse and drug diversion;
- R. Respondent abruptly stopped prescribing high doses of controlled substances to patients resulting in dangerous withdrawal symptoms;
- S. Respondent prescribed controlled substances to patients even though other physicians had stopped prescribing controlled substances due to concerns about evidence of drug seeking behavior, drug abuse and drug diversion; and
- T. Respondent prescribed controlled substances to patients without considering and/or documenting termination of care, ignoring evidence of drug seeking behavior, drug abuse and drug diversion.

SETTLEMENT AGREEMENT

9. **CITATION AND WARNING:** Respondent is hereby **CITED** for violating the standards of practice for appropriate pain management, placing patients at risk of serious harm, when he prescribed excessive controlled substances to numerous patients, 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 **\$10,000** civil penalty. 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 - PRESCRIBING CONTROLLED SUBSTANCES:** 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:** Should the Board reinstate Respondent's Iowa medical license, Respondent shall be placed on **probation for a period of five years** subject to the following terms and conditions:

A. **Monitoring Program:** Respondent shall contact Shantel Billington, Compliance Monitor, Iowa Board of Medicine, 400 SW 8th Street, Suite C, Des Moines, IA 50309-4686, Ph.#515-281-3654 to establish a monitoring program. Respondent shall fully comply with 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. Respondent shall pay the Board a \$300 auditing fee each quarter for the audits performed by the Board. The auditing fee shall be submitted to the Board with each quarterly report required below.
- C. **RECORD KEEPING COURSE:** Respondent shall complete a Board-approved record keeping course within ninety (90) days of the date of this Order.
- D. **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.
- E. **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).
- F. **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: Shantel Billington, 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.



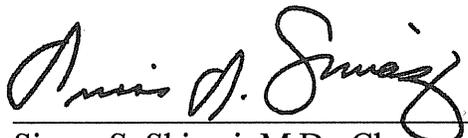
Henry W. Halling, M.D., Respondent

Subscribed and sworn to before me on April 23, 2010.

Notary Public, State of Iowa.



This Order is approved by the Board on May 6, 2010.



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